



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

FEB 27 2014

DEPUTY ADMINISTRATOR

MEMORANDUM

SUBJECT: Your February 25, 2014, letter to Senator Vitter

FROM: Bob Perciasepe *Bob Perciasepe*

TO: Arthur A. Elkins Jr., Inspector General

Regarding your February 25, 2014, response letter to Senator David Vitter, your efforts to answer the series of narrowly crafted questions unfortunately omitted important context on some critical points. This memorandum's goal is to offer additional information and insight to help ensure an accurate record and a more complete portrait of the issues.

Your responses detail a few very isolated events that have occurred between employees of the Office of the Inspector General and employees in the rest of the agency during the past year; only one bears any relationship to the investigation of John C. Beale. Those events, however, must be seen in the context of a difficult disagreement between your office and the agency over your office's role in legitimate matters relating to national security as opposed to the fraudulent conduct of John C. Beale, for example. While the Inspector General Act provides your office with clear authority to investigate allegations of waste, fraud and abuse, it does not explicitly address the role of the EPA's OIG in matters of national security. Notwithstanding that absence, your office has maintained it has a primary role in investigating national security matters at the EPA, despite the EPA's longstanding practice of using the agency's Office of Homeland Security for that programmatic function and the EPA's agreement with the FBI to deal with OHS in this area. The examples of alleged noncompliance with an OIG request cited in your February 25, 2014, letter must be viewed in the context of that dispute, as each of the employees involved performs or supports a national-security function at the agency.

In an attempt to forge a unified resolution of this issue and in response to a serious incident on October 24, 2013, involving your office staff and other agency employees, Administrator Gina McCarthy wrote to you and the then-head of the Office of Homeland Security asking for your leadership in resolving the longstanding disagreements between those offices so that the work of all EPA employees, including those in OIG, can be done effectively, efficiently and safely. To allow that memorandum to be characterized as an effort to impede an OIG investigation is to allow a misrepresentation of the situation.

As you know, employees from both offices raised serious concerns about the appropriateness of the behavior of the employees of the other office. That is why your office and the EPA both sought the assistance of the Federal Protective Service to investigate the incident. Once FPS concluded its review, our offices again sought the assistance of an outside entity, the Council of Inspectors General on Integrity and Efficiency, to appoint an independent third party to conduct the proper review of the events

of the day. Omitting any reference to our joint effort to secure an independent third party to investigate that incident mistakenly created the impression that the EPA had taken no action whatsoever in response to the complaints.

The EPA is committed to uncovering all of the facts related to each of these instances and to taking all appropriate action in response. However, as you know, the OIG to date has yet to provide the agency with either its final investigative report on the John C. Beale case or the Mark Townsend case. While the OIG has provided the agency with portions of its files related to those matters, it is extraordinarily difficult for the agency to take official disciplinary action without the complete investigative report and file. As you know, federal employees are provided significant rights of due process under federal law, and, therefore, proceeding to a disciplinary action before the OIG completes its final reports is rare and generally discouraged by the OIG.

Finally, I must correct the inappropriate conclusion others have drawn from your letter that EPA employees are anything but the dedicated, professional public servants that they are. The issues raised in your letter involve only a fraction of a percent of the EPA's 16,000 employees. The lack of context in the letter, however, has allowed some members of the media and Congress to draw unfair conclusions about the EPA's work force. I personally remain very proud both of the EPA's achievements in protecting human health and the environment in behalf of the American people and of the EPA employees who work hard every day to make those achievements possible.