

Overcoming Barriers to Information Access

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Discussion Overview

- Law and legislative history of OIG access to records
- Three recent cases of OIG access issues: OIGs for DOJ, Peace Corps, and EPA
- Suggested approaches for dealing with access issues
- Considerations for the future of OIG access

Why does access to records matter?

*Without timely and complete access,
IGs simply can't do their jobs*

Law of OIG Access to Records

- Broad access to records authority has been a cornerstone of the IG Act since 1978—over 35 years
- Legislative history of IG Act: access to records is a “broad mandate” that is “obviously critical”
- IG Act provides OIGs with access to “all records”—and all means *all*

Three Recent Cases of OIG Access Issues

- Peg Gustafson, SBA IG: timely access is one of the “principal challenges” facing IGs today
- Not much has changed in 35 years!
- Three OIGs have recently faced significant access issues: DOJ, Peace Corps, and EPA

Three Recent Cases of OIG Access Issues

- All three OIGs were denied access to records based on claims that law outside of the IG Act prohibited the agency from turning over records
 - DOJ cited Grand Jury Secrecy and FISA
 - Peace Corps cited a federal statute governing sexual assaults against Peace Corps volunteers
 - Chemical Safety Board cited attorney-client privilege

How did the three OIGs respond?

- DOJ OIG has sought an opinion from the Office of Legal Counsel
- Peace Corps OIG testified at a Jan. 2014 hearing along with DOJ OIG and EPA OIG
- EPA OIG issued a “seven-day letter”

What did Congress do?

- After the Peace Corps IG's testimony, the Senate held up Peace Corp nominees until the issue was resolved with an MOU
- After EPA OIG's seven-day letter, Congress issued a public report in June 2014, calling for a change of leadership at the CSB

What did Congress have to say?

Suggestions for Dealing with Access Issues

- Educate
- Be diligent—develop a disciplined approach, set clear expectations
- If agency is not timely, escalate—quickly
- If escalation fails, consider your options carefully

The future of OIG access issues

- What effect may evolving technology have on OIG access to records?
- Big data and data overload
- Will cloud computing open new avenues for OIG access?

Questions?