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Description of document: Federal Housing Finance Agency (FHFA) records provided to Senator Charles E. Grassley and Senator Tom Coburn concerning the independence of Inspectors General necessary to promote efficiency and prevent fraud, waste and abuse in agency programs, in response to the Senators' inquiry, 2011-2012

Requested: 15-April-2012

Released date: 08-May-2012

Posted date: 04-July-2012

Source of document: FOIA Officer
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20024
Fax: (202) 649-1073
Email: foia@fhfa.gov

Note: This is one of several files on the same subject for various agencies available on governmentattic.org. See: <http://www.governmentattic.org/6docs/GrassleyCoburn.htm>

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OFFICE OF INSPECTOR GENERAL

Federal Housing Finance Agency

400 7th Street, S.W., Washington DC 20024

May 8, 2012

By Electronic Mail

Re: Freedom of Information Act Request

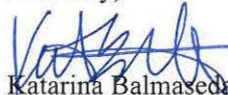
This responds to your April 15, 2012 request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, which the Federal Housing Finance Agency's Office of Inspector General ("FHFA-OIG") received on April 19, 2012,¹ and which has been assigned the tracking number **OIG FOIA #2012-19**. Your request seeks a copy of each biannual response to Senators Grassley and Coburn regarding their April 8, 2010, request to the FHFA-OIG to provide a summary of its non-public management advisories and closed investigations.

FHFA-OIG has determined that it possesses records responsive to your request. These are enclosed. Certain information has been redacted under FOIA exemption (b)(6), which protects information about individuals in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy."

This is the final decision on your request. If you believe this decision denies your request in whole or in part, you may appeal it in writing within 30 days, per 12 C.F.R. § 1202.9, by writing directly to the FOIA Appeals Officer via electronic mail, mail, delivery service, or facsimile. Your appeal must cite the applicable tracking number(s) for the request(s) you contend to have been denied. Your appeal must include a copy of the request(s) you contend to have been denied, a copy of the decision letter, and a statement of circumstances, reasons, or arguments you believe support disclosure of the requested record(s). Your appeal must also be clearly marked "FOIA Appeal: FHFA-OIG." The electronic mail address is: foia@fhfa.gov. For mail or delivery service, the mailing address is: FOIA Appeals Officer, Federal Housing Finance Agency, 400 7th Street, SW, Washington, DC 20024. The facsimile number is: (202) 649-1073.

If you have any questions concerning your request, please contact Bryan Saddler at (202) 730-2824.

Sincerely,



Katarina Balmaseda
FOIA Officer

¹ The Federal Housing Finance Agency ("FHFA") forwarded your request to FHFA-OIG on April 19th for separate processing and response in accordance with FHFA's FOIA regulations at 12 C.F.R. Part 1202.



January 14, 2011

Via Electronic Transmission

The Honorable Steve A. Linick
Inspector General
Federal Housing Finance Agency
Office of the Inspector General
1625 Eye Street, NW
Washington, DC 20006

Dear Inspector General Linick:

Congratulations on your confirmation on September 29, 2010, as Inspector General for the Federal Housing Finance Agency Office of the Inspector General (FHFA). On April 8, 2010, Senator Coburn and I sent a letter to the Associate Director of the Office of Internal Audit (OIA) at the FHFA. We received a response on July 1, 2010, from OIA. The OIA responded that since at that time the OIA was not an independent entity, our inquiry regarding independence was not applicable. Now that you have been confirmed as Inspector General, I ask for your office to respond to the requests made in that earlier letter, which is enclosed.

Thank you in advance for your prompt cooperation with this request. If you have any questions, please do not hesitate to contact (b) (6) on my staff at (b) (6). All written responses should be sent in electronic format to (b) (6).

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley".

Charles E. Grassley
United States Senator

Enclosure

United States Senate

WASHINGTON, DC 20510

April 8, 2010

Via Electronic Transmission

Edward Kelley
Associate Director for Internal Audit
Federal Housing Finance Agency
1625 Eye Street, NW
Washington, DC 20006

Dear Mr. Kelley:

As the Ranking Members of the Senate Committee on Finance and the Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, we have a duty to conduct oversight into the actions of executive branch agencies. Integral to this effort is ensuring that Inspectors General have the independence necessary to carry out audits, evaluations, and investigations within their respective agencies. During our time in Congress, we have sought to protect the independence of Inspectors General and write today in that continued effort.

Recently we learned that several agencies have sought to interfere with, limit, or outright block investigations, evaluations, or audits by, among others, Inspectors General, or otherwise impede their activities. Simply put, Inspectors General cannot get their job done without assistance and cooperation from the agencies they serve. Despite the need for cooperation, agencies are not always forthcoming with assistance required for Inspectors General to achieve their respective goals. In an effort to monitor agency cooperation, we request that your office list and describe any instances when the Department/Agency resisted and/or objected to oversight activities and/or restricted your access to information. Even temporary delays in granting access to information can be unnecessary and frustrate the mission of Inspectors General, so please include descriptions of instances where information was ultimately provided but only after a substantial delay. Where possible, please include the Department/Agency's reasoning for its actions, if any. When responding to this request, please include all applicable information from October 1, 2008 to the date of this letter. In the event a matter occurs subsequent to the date of this letter, please advise the staff members identified below immediately. We would appreciate receiving this information on June 15, 2010.

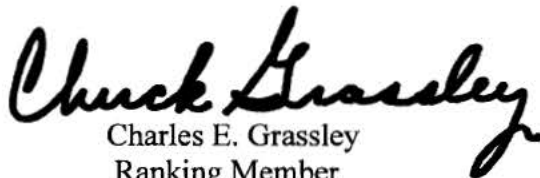
Secondly, we are requesting that you provide our staff with biannual reports on all closed investigations, evaluations, and audits conducted by your office that were not disclosed to the public. For example, this may include findings that resulted in an internal Management Implication Report. We would appreciate this non-public information for the period of January 1, 2009 through April 30, 2010 on June 15, 2010.

Thirdly, section 6(f)(3)(E) of the Inspector General Act states that an Inspector General shall have his/her comments included in the budget of the United States Government submitted to Congress if the Inspector General concludes that the budget would "substantially inhibit" the OIG from performing its respective duties. This requirement is essential if Congress is to ensure that Inspectors General are adequately funded. We were troubled to learn of an allegation that the Office of Management (OMB) and Budget told an Assistant Inspector General that OMB would "make life miserable" for the IG if they chose to communicate with Congress concerning their budget. We are also aware that a survey was done and that the Inspector General community did not identify any other situations of concern. In any event, we request that if any federal official threatens and/or otherwise attempts to impede your office's ability to communicate with Congress, whether that communication concerns the budget or any other matter, we wish to be advised immediately.

Finally, we understand that the Ranking Member of the House Committee on Oversight and Government Reform has requested that you provide information on outstanding recommendations that have not been fully implemented. Please provide a courtesy copy of your reply to us as well.

Thank you in advance for your cooperation with this request. If you have any questions, please do not hesitate to contact (b) (6) on Senator Grassley's staff at (b) (6) (b) (6) or (b) (6) on Senator Coburn's staff at (b) (6). All written responses should be sent in electronic format to (b) (6).

Sincerely,



Charles E. Grassley
Ranking Member
Committee on Finance



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



**OFFICE OF INSPECTOR GENERAL
Federal Housing Finance Agency
1625 Eye Street, NW, Washington DC 20006
Tel: (202) 408-2544 Fax: (202) 408-2972**

March 15, 2011

Honorable Charles E. Grassley
135 Hart Senate Office Building
Washington, DC 20510

Dear Senator Grassley:

Thank you for your January 14, 2011, letter concerning Inspector General independence as well as your words of congratulations on my appointment. I appreciate your support of this Office, and the Inspector General community at large.

Your letter requests information regarding “any instances when the Department/Agency resisted and/or objected to oversight activities and/or restricted [our] access to information.”¹ As you know, the Federal Housing Finance Agency (FHFA/Agency) is a relatively new agency, which was established by the Housing and Economic Recovery Act (HERA) in July 2008. I assumed office in October 2010 as the Agency’s first Inspector General. As such, the information provided here is necessarily limited by my experience to date.

During the first few months of my service as Inspector General, there were several instances (described below) where the Agency initially restricted our access to information and/or objected to our oversight activities. However, most of those instances have since been resolved. Moreover, I take some comfort in the fact that FHFA hired as its liaison to the FHFA-OIG a former Assistant Inspector General for Audit from the Agency for International Development, Bruce Crandlemire. Since his arrival, coordination among FHFA and FHFA-OIG has improved.

¹ Your letter also asks for the following additional items which pre-date the commencement of operations by the Office of Inspector General (“FHFA-OIG”): “biannual reports on all closed investigations, evaluations, and audits conducted by [our] office that were not disclosed to the public;” immediate notification “if any federal official threatens and/or otherwise attempts to impede [our] office’s ability to communicate with Congress;” and a courtesy copy of any response to the March 24, 2010, request of then-Ranking Member Darrell Issa, Committee on Oversight and Government Reform, United States House of Representatives, for all “outstanding recommendations that have not been fully implemented.” We do not have information responsive to these requests.

A. Audit Survey – Receipt, Processing, and Disposition of Complaints

On November 11, 2010, I advised FHFA Acting Director Edward DeMarco that FHFA-OIG was commencing a review of FHFA's internal controls over the receipt, processing, and disposition of complaints of fraud, waste, and abuse. As part of that review, by letter dated January 7, 2011, I advised Fannie Mae and Freddie Mac (the Enterprises) that the FHFA-OIG was commencing an "audit survey" of their receipt, processing, and disposition of complaints of fraud, waste, and abuse.

In connection with the January 7th letter, the FHFA-OIG requested several categories of records from the Enterprises. The records were due to be produced on January 31, 2011. Nevertheless, Acting Director DeMarco informed me verbally that Fannie Mae and Freddie Mac questioned FHFA-OIG's jurisdiction and the purpose of the records request. To address and mitigate these concerns, on January 28, 2011, I advised Acting Director DeMarco by email that this request for records from the Enterprises was integral to the FHFA-OIG's review of the internal controls over FHFA's receipt, processing, and disposition of complaints relating to fraud, waste, and abuse. On January 31, Acting Director DeMarco responded to my January 28 email and informed me that he had directed the Government Sponsored Enterprises (GSEs) not to produce the requested material because he believed that my request exceeded the statutory authority granted to me – a position with which I disagree. Later, by letter, Fannie Mae corroborated Acting Director DeMarco's assertion that he had instructed Fannie Mae not to comply with the request.

On February 3, I met in-person with Acting Director DeMarco. As a result of that meeting, Acting Director DeMarco permitted Fannie Mae and Freddie Mac to cooperate with the document requests. However, as of this writing, Acting Director DeMarco and I disagree as to the scope of my authority to obtain records from the GSEs directly.

B. Access to xWorks

The xWorks system is an internal document repository for the FHFA's Division of Enterprise Regulation work product. Its contents include Reports of Examination, examination work papers, Examination Procedures, meeting notes, Matters Requiring Attention, and other assorted materials. Initially, FHFA authorized electronic access to xWorks for three FHFA-OIG staff members. Unfortunately, FHFA later rejected access to six additional FHFA-OIG staff and then summarily revoked the permissions granted to the first three FHFA-OIG members. Again, when I met personally with Acting Director DeMarco and explained that authority under the Inspector General Act is not conditioned on FHFA supervising or monitoring FHFA-OIG's review and retrieval of records; he restored the FHFA-OIG's access to xWorks. Nevertheless, the initial revocation impeded progress on the FHFA-OIG's evaluation of FHFA's oversight over Fannie Mae's and Freddie Mac's internal controls over the mortgage loan servicers.

C. Access to Shared Drive

FHFA work papers are also stored on a shared network drive – in this case, it is known as the “S-drive.” The FHFA-OIG staff members who initially had access to xWorks were also given access to the S-drive. However, this access was also revoked around the same time that access to xWorks was rescinded. As was the case with xWorks, and following our meeting on the xWorks matter, Acting Director DeMarco also restored FHFA-OIG staff access to the shared drive.

D. Access to Emails of Former Director

On January 14, 2011, the OIG requested copies of all email messages sent or received by, or on behalf of the, former FHFA Director during the period June 1 to September 30, 2008. These emails related directly to an ongoing evaluation. Instead of producing all messages, as requested, FHFA produced an incomplete subset. Specifically, the FHFA search was limited by the search terms it selected. Efforts by my staff to resolve these issues were not fruitful. Accordingly, as done on other occasions, I met with Acting Director DeMarco. I advised him that the OIG considers inappropriate FHFA’s failure to produce fully the requested messages noting that section 3(a) of the Inspector General Act prohibits FHFA from interfering with OIG’s audit, investigative, and evaluative activities. Thereafter, FHFA produced the balance of the messages.

E. Communicating with the OIG

It was brought to the FHFA-OIG’s attention during the course of an interview, that FHFA employees were instructed that they should not communicate with FHFA-OIG without first apprising FHFA management. Section 7(b) of the Inspector General Act provides, “The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee. . . .” Thus, Federal employees are guaranteed confidentiality when they disclose information to the FHFA-OIG, and the FHFA-OIG is careful to protect confidentiality and to preserve the spirit of the guarantee. FHFA’s requiring employees to disclose their communications with FHFA-OIG unambiguously undermines the confidentiality guarantee. Like in previous instances, I met with Acting Director DeMarco, and he agreed that FHFA staff must be allowed to communicate freely with FHFA-OIG staff, whatever their status.

F. Conclusion

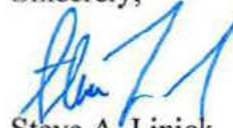
Before closing, I would like to take this opportunity to articulate my vision for the FHFA-OIG. While our codified mandate is the same as that of all agencies covered by the Inspector General Act, the circumstances in which we find ourselves at FHFA are unique. The sheer magnitude of taxpayer obligations associated with the GSEs is, in and of itself an indicator of the need for vigilance in the prevention of fraud, waste, and abuse at these entities.

However, the transformation of Fannie Mae and Freddie Mac under the FHFA conservatorship from government-*sponsored* enterprises to government-*managed* enterprises amplifies the burden on the entities to operate with absolute transparency and accountability. Further, the Nation continues to suffer from the ripple effects of the downturn, and these effects include foreclosure-related issues and mortgage servicer misconduct.

As is well established, the housing finance industry figured prominently in the both the collapse of the housing market, and the lasting after-effects. Accordingly, ensuring transparency and accountability are important goals of the FHFA-OIG, not only to help undo what may have occurred already, but to help ensure that we do not find ourselves in similar circumstances again.

In closing, thank you again for your support of this Office and should you have any questions on the matter discussed in this letter or any other matter, please do not hesitate to contact me directly.

Sincerely,



Steve A. Linick
Inspector General

cc: Ranking Member Coburn
Acting Director DeMarco