



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Assistant Secretary for Legislative**  
**and Intergovernmental Affairs**  
 Washington, D.C. 20230

AUG 9 2007

The Honorable Bart Stupak  
 Chairman, Subcommittee on Oversight  
 and Investigations  
 Committee on Energy and Commerce  
 House of Representatives  
 Washington, D.C. 20515

Dear Mr. Chairman:

I write in response to your letter of August 7, 2007, to Secretary Gutierrez. We at the Department of Commerce are committed to, and understand the need for, a well-functioning, independent, and unassailable Office of the Inspector General, and we are working with the White House to ensure that a new Inspector General be nominated and confirmed as soon as possible. The Department is dedicated to responding to your document requests in a thorough and timely manner.

We are searching for documents and will provide them as soon as possible on a rolling basis. However, in order to conduct a thorough search for responsive documents, it appears unlikely that we will be able to meet the requested deadline. We look forward to working with you and your staff to respond to your requests as expeditiously as possible and in a thorough and timely manner.

Additionally, I wanted to take this opportunity to correct what may be some misunderstandings reflected in your letter about the legal and factual situation regarding the Office of the Inspector General. Elizabeth Barlow, the Deputy Inspector General, did not become the Acting Inspector General because the Department "permitted" it or took any "action" to effect that change, nor did "departmental policies and procedures" dictate that result. It is the Vacancies Reform Act of 1998, 5 U.S.C. § 3345(a), that provides that, upon the retirement of the Inspector General, the "first assistant"—the Deputy Inspector General in this case—"shall perform the functions and duties of the [Inspector General] temporarily in an acting capacity."

Furthermore, the Office of Special Counsel did not "recommend corrective relief for Blansitt and Lerner to the Office of General Counsel." The Office of Special Counsel made its recommendation to the Acting Inspector General, who technically has the authority to take appropriate personnel action, although such action would be inadvisable in this situation given what is at least an appearance of a conflict of interest.

Finally, it is not the case that "the Office of General Counsel advised OSC to negotiate any corrective action" with the Acting Inspector General. Quite the opposite occurred. After the Office of Special Counsel recommended corrective action to the Acting Inspector General, the Office of the General Counsel advised her that there was at least the appearance of a conflict of interest and that it would be inappropriate for her to act on the recommendation. The Acting Inspector General had reached the same conclusion herself and sent a letter to the Office of Special Counsel explaining her desire not to act on the recommendation and proposing that the

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next Inspector General, once he or she assumes office, address the recommendation. As I indicated above, the Department is working diligently with the White House to secure the nomination and confirmation of a new Inspector General as soon as possible.

I believe that Department staff has previously discussed much of this information with your staff, but I wanted to make sure that it was communicated to you directly, as well. Thank you for your interest in ensuring that the Department's Office of the Inspector General is as effective as possible, and please do not hesitate to contact me directly or Alicemary Leach at (202) 482-3663 if you have further questions.

Sincerely,



Nathaniel F. Wienecke

cc: The Honorable Ed Whitfield  
Ranking Member, Subcommittee on  
Oversight and Investigations  
Committee on Energy and Commerce