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

SEP 27 2001

OFFICE OF ADMINISTRATION AND RESOURCES MANAGEMENT

MEMORANDUM

SUBJECT: Temporary Amendment to EPA Delegation of Authority 1-6-A, *Security*
DECISION MEMORANDUM

FROM: David J. O'Connor
Acting Assistant Administrator

TO: The Administrator

ISSUE

The Office of Inspector General is requesting a temporary amendment to EPA Delegation 1-6-A, *Security*.

In light of the recent terrorist attack in Washington, D.C. and New York City, and heightened security concerns, the Inspector General would like the Office of Enforcement and Compliance Assurance's, Office of Criminal Enforcement, Forensics, and Training, to provide protective security measures for the Administrator and Deputy Administrator while traveling in and around the Washington, DC area, on domestic travel, or on international travel.

Section 3 of EPA Delegation 1-6-A provides that the authority to provide protective security measures for the Administrator while traveling in and around the Washington, DC area, on domestic travel, or on international travel is reserved to the Inspector General, in accordance with Section 9(a)(1) of the Inspector General Act of 1978, except to the extent the Inspector General delegates his/her authority to the Agency. On September 27, 2001, the Inspector General delegated that authority to the Agency, for further redelegation by the Administrator.

RECOMMENDATION

I recommend that you approve this temporary amendment to EPA Delegation 1-6-A by signing below and the attached delegation memorandum.

Approved: _____
Christine Todd Whitman

Date: SEP 27 2001

Attachments

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Attachment A

September 27, 2001

MEMORANDUM

SUBJECT: Temporary Amendment to EPA Delegation of Authority 1-6-A, *Security*

TO: Assistant Administrator
Office of Enforcement and Compliance Assurance

EPA Delegation 1-6-A, *Security*, addresses the authority to take appropriate actions required by law, Executive Orders, or regulations with regard to industrial security programs; and the physical protection of classified or privileged information, Agency equipment, building and personnel. Section 3 of Delegation 1-6-A provides that the authority to provide protective security measures for the Administrator while traveling in and around the Washington, DC area, on domestic travel, or on international travel is reserved to the Inspector General, in accordance with Section 9(a)(1) of the Inspector General Act of 1978, except to the extent the Inspector General delegates his/her authority to the Agency. On September 27, 2001, the Inspector General delegated to the Agency, her authority to provide protective security measures for the Administrator.

In accordance with the provisions set forth in that memorandum, EPA Delegation 1-6-A and by this memorandum, you are hereby delegated the authority to provide protective security measures for the Administrator and the Deputy Administrator while traveling in and around the Washington, D.C. area, and on domestic or international travel. This authority is redelegated to the Director of the Office of Criminal Enforcement, Forensics, and Training, and may be further redelegated to specific employees in the personnel category 1811 Series within that Office. This authority may not be further redelegated.

This authority is effective immediately and is in effect until superceded by formal amendment to the EPA Delegations Manual.

/s/
Christine Todd Whitman

Attachment B

MEMORANDUM

FROM: Alexandra Keith, Deputy Counsel to the Inspector General

TO: David Lloyd, Assistant General Counsel, Property and Claims Law Practice Group

SUBJECT: Protective Security Function for the Administrator

This is to memorialize the e-mails between Deputy Chief of Staff, Ray E. Spears, and Counsel to the Inspector General, Mark Bialek, last year, which led to the Administrator's Temporary Amendment to EPA Delegation of Authority 1-6-A, Security, on September 27, 2001. That delegation, *inter alia*, authorized the Assistant Administrator, Office of Enforcement and Compliance Assurance, to provide protective security measures for the Administrator and Deputy Administrator. As you know, this function had been performed by the Office of Inspector General (OIG). When we researched our authority we discovered that a 1982 EPA Order, 1120.22, had assigned that function to the agency, rather than the OIG.

This matter arose when the Office of General Counsel requested a delegation from the Inspector General (IG) to the Agency of the protective security function. The request was premised on the view the IG exercises the function pursuant to section 9(a)(1) of the Inspector General Act of 1978, as amended, 5 U.S.C. app. In 1978, when the IG Act was enacted, Section 9(a)(1) transferred to EPA's OIG the functions of the "Security and Inspection Division."[1] At the time, the Security and Inspection Division held the Agency's internal investigative unit and the personnel security program, including the Administrator's protection program.

Upon researching the matter, we have determined that when the Agency implemented the IG Act, by establishing an OIG in EPA, the Administrator divided the functions of the Security

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[1] This view is reflected in Delegation 1-6-A, Security, § 3(a), which states:

> The authority to provide protective security measures for the Administrator while traveling in and around the Washington, DC area, on domestic travel, or on international travel is reserved to the Inspector General, in accordance with Section 9(a)(1) of the Inspector General Act of 1978, as amended, 5 U.S.C. app., except to the extent the Inspector General delegates his/her authority to the Agency. EPA Delegation 1-6-A, 1200 TN 496, dated 01/28/2000.

and Inspection Division between the OIG and the Agency. (See attachment). The Administrator transferred to the OIG only the investigative functions and associated resources from the Security and Inspection Division.[2] He transferred "protection of the Administrator," as well as other personnel security functions, to the Facilities and Support Services Division of the Agency. Accordingly, the authority to protect the Administrator was not transferred to the IG by the agency when the OIG was established administratively and instead was to be maintained by the Agency.

By email to Deputy Chief of Staff Ray E. Spears, dated September 25, 2001, Counsel to the Inspector General Mark Bialek advised that the OIG had no objection to the Administrator's delegation of the protective security function to OECA. I hope this memorandum further clarifies the matter. As a further note, I recommend the Agency correct the problem noted above in the current delegation to avoid further confusion (simply removing § 3(a) would suffice).

Please do not hesitate to call me at (202) 260-5628, if you have any questions.

Attachment (EPA Order 1120.22, dated January 7, 1980)

cc: Marla Diamond, OGC
Bette Ojala, OECA

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[2] This is consistent with the intent of Section 9 of the IG Act, as evidenced by legislative history, which indicates that Congress intended the transfer of functions to apply to the audit and investigative units within the covered agencies. See, H. R. Rep. No. 95-584, 95th Cong., 1st Sess. (1977), on H.R. 8588; S. Rep. No. 95-1071, 95th Cong., 2d Sess. (1978), on H.R. 8588.

1-1-A(9). Security Clearances

1. AUTHORITY.

a. To make determinations required by law, Executive Orders, or regulation with regard to personnel security clearance program and physical protection of classified or privileged information, Agency equipment, buildings, and personnel.

b. To conduct investigations relating to alleged illegal or unethical conduct of Agency personnel or contractors.

2. TO WHOM DELEGATED. Director, Security and Inspection Staff.

3. LIMITATIONS. None.

4. REDELEGATION AUTHORITY. Further redelegation is authorized.

Attachment D

ENVIRONMENTAL PROTECTION AGENCY

ORDER

1120.22

January 7, 1980

ORGANIZATIONS AND FUNCTIONS – FUNCTIONS

ESTABLISHMENT OF THE OFFICE OF THE INSPECTOR GENERAL

1. PURPOSE. Pursuant to the provisions of the Inspector General Act of 1978, this Order establishes an Office of the Inspector General and transfers to it the requisite functions and resources.

2. ESTABLISHMENT. An Office of the Inspector General, reporting to the Administrator, is hereby established.

3. TRANSFER.

a. The Office of Audit is transferred to the Office of the Inspector General:

b. The following investigative functions and associated resources of the Security and Inspection Division are transferred to the Office of the Inspector General.

- Grant and contract investigations
- Internal investigations
- Internal inspections (Travel, T&A, vehicles, etc.)
- Congressional and special inquiries
- Security inspections (CBI, privacy, classified)
- Code of conduct briefings

c. The following functions and associated resources of the Security and Inspection Division are transferred to the Facilities and Support Services Division:

- Employee briefings
- Investigations of personnel (hiring process)
- Investigations of threats
- Protection of the Administrator
- Headquarters Guard
- Federal preparedness
- Emergency evacuation

Dist:

Initiated by:
A-100

4. EFFECTIVE DATE. The establishment of the Office of the Inspector General is effective immediately. The transfers from the Office of Audit and the Security and Inspection Division shall be effective upon approval of the Personnel and Resource Determination by the Assistant Administrator for Planning and Management.

5. MODIFICATION. The EPA Organization and Functions Manual shall be modified to conform to the provisions of this Order.

Administrator