



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

THE INSPECTOR GENERAL

DEC - 4 2017

The Honorable Frank Pallone Jr.  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives  
Washington, D.C. 20515

Dear Ranking Member Pallone:

In a letter dated September 26, 2017, you informed me that on August 1, 2017, you requested that the U.S. Government Accountability Office (GAO) provide a legal opinion on whether U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt or his staff violated the Antideficiency Act or certain other appropriations laws, including the anti-lobbying provisions of the Consolidated Appropriations Act of 2017, by urging groups to publicly support the withdrawal of the United States from the Paris climate accord. In your letter to me, you stated that it is necessary to establish a factual record before the GAO conducts such an analysis. You requested that the EPA Office of Inspector General (OIG) “develop a comprehensive factual record for instances where possible legal violations may have occurred, including the April 2017 meeting between Administrator Pruitt and the National Mining Association.”

In determining whether the OIG can undertake requested work, initially we have to find that the matter is within our jurisdiction. But, beyond that threshold question, we have to determine whether we have sufficient resources—people, time and funds—to do a project in a timely fashion, and whether it would preclude our doing other crucial work. The fact is that the OIG has been funded at less than the levels we deem adequate to do all of the work that should be done, and we therefore have to make difficult decisions about whether to accept any given potential undertaking. Many of our projects are statutorily mandated work, with Congress adding new mandates each session. Further, our annual work plan, which is also statutorily mandated, uses a risk-based analysis that identifies dozens of additional high-impact projects. All of this means that for every discretionary review that the OIG decides to undertake, there will be others we cannot.

After analyzing your request in light of these constraints, we have determined that while developing the requested factual record may require extensive work, we can employ a methodology and pursue a scope that will accomplish the project with a manageable level of resources. We have discussed our intended approach with your staff and with officials of the GAO. The GAO officials stated that the OIG approach described below would allow the GAO to analyze and opine on the appropriations law questions you have raised. The OIG would not do the latter. The OIG would compile a factual record and provide it to you. In turn, you can provide the OIG record to the GAO.

The GAO further states that, as the request for OIG work on this matter is from Congress, the OIG can and should define this engagement as we deem appropriate in our response to your request. The GAO

does not view the work the GAO will perform in response to your August 1 letter to the GAO as an engagement with the EPA OIG and, therefore, would not be entering into an engagement letter with the OIG. The GAO, in taking on its work, would be responding to a congressional request that you have made to the GAO.

We will review the single meeting between EPA Administrator Pruitt and the National Mining Association in April 2017 that you identified in your letter to me. The GAO stated to us that it could and would use the factual record regarding that meeting to conduct its analysis.

As you know, we have numerous other pending projects, including some in response to requests from you and your colleagues. Therefore, we are not sure when we can begin this engagement. We will inform you and your staff when we have begun the project, and will provide you with the results as soon as we finish.

We appreciate your interest in the work of the OIG. If you have any questions about this or any other matter, please contact Alan Larsen, Counsel to the Inspector General, at (202) 566-2391.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arthur A. Elkins Jr.", written in black ink.

Arthur A. Elkins Jr.