
INTELLIGENCE COMMUNITY DIRECTIVE NUMBER 114



COMPTROLLER GENERAL ACCESS TO INTELLIGENCE COMMUNITY INFORMATION (EFFECTIVE: 30 JUNE 2011)

A. AUTHORITY: The National Security Act of 1947, as amended; Executive Order (EO) 12333, as amended, and other applicable provisions of law.

B. PURPOSE

1. This Intelligence Community (IC) Directive addresses the requirement in the Intelligence Authorization Act of 2010 (Public Law 111-259, section 348) to establish policy for access to information in the possession of an IC element by the Comptroller General through the Government Accountability Office (GAO).

2. This Directive provides guidance to the IC elements that is consistent with both the National Security Act of 1947, which provides the oversight structure for intelligence activities, and Chapter 7 of Title 31, which provides GAO the jurisdiction and authority to conduct audits and reviews of government programs and activities.

C. APPLICABILITY

1. This Directive applies to the IC, as defined by the National Security Act of 1947, as amended, and to such other elements of any other department or agency as may be designated by the President, or designated jointly by the Director of National Intelligence (DNI) and the head of the department or agency concerned, as an element of the IC.

2. This Directive shall apply to requests by the Comptroller General for information in the possession of an IC element that is related to intelligence activities and programs. Nothing in this Directive is intended to diminish the scope of support that IC elements have provided to GAO. For IC elements within departments, this Directive complements departmental policies governing GAO access to departmental information to the greatest extent possible. Departmental policies shall have primacy except for requests for national intelligence information related to activities and programs funded wholly or in part by the National Intelligence Program (NIP).

3. Nothing in this Directive shall be construed to authorize the Comptroller General or GAO to audit or examine records and expenditures made under the authority of 22 U.S Code 2396(a)(8), 10 U.S Code 127, 7231, or 50 U.S Code 403j(b).

D. POLICY

1. It is IC policy to cooperate with the Comptroller General, through the GAO, to the fullest extent possible, and to provide timely responses to requests for information.

2. To the extent consistent with national security and the protection of intelligence sources and methods, IC elements shall provide GAO access to information that relates to matters that are the subject of announced GAO reviews.

3. IC element heads are responsible for decisions regarding GAO access to information consistent with the guidelines set forth in this Directive. Those decisions apply only to information or documents originated by that particular IC element.

4. IC elements shall evaluate GAO requests for information on a case-by-case basis.

a. Generally, IC elements shall cooperate with GAO audits or reviews and make information available to appropriately cleared GAO personnel. Finished, disseminated national intelligence information relevant to a GAO review, information relating to the administration of a US government-wide program or activity, and publicly available information shall generally be provided to GAO.

b. Information that falls within the purview of the congressional intelligence oversight committees generally shall not be made available to GAO to support a GAO audit or review of core national intelligence capabilities and activities, which include intelligence collection operations, intelligence analyses and analytical techniques, counterintelligence operations, and intelligence funding. IC elements may on a case-by-case basis provide information in response to any GAO requests not related to GAO audits or reviews of core national intelligence capabilities and activities. Access determinations for all such requests shall be made in a manner consistent with this Directive and applicable Departmental directives.

c. When making access determinations, IC elements shall also consider whether the information is subject to statutory restrictions or executive branch confidentiality interests. Information on intelligence sources and methods, and information related to covert action shall not be provided.

5. IC elements shall not categorically deny GAO access to information, nor shall they withhold information solely because the information relates to a program that is funded by the NIP.

a. IC elements shall carefully consider requests for information based on dialogue with GAO and in a manner consistent with this Directive.

b. IC elements shall work with GAO to explore alternative means to accommodate a request for access to specific information if it is determined that GAO should not have access to the specific information requested.

6. Information provided to GAO shall be made available in a manner consistent with the obligation to protect intelligence sources and methods. Access to information shall be tailored after discussion with GAO to address specific objectives of the particular review. Accordingly,

a. Access by GAO personnel to information held by IC elements shall be consistent with principles of eligibility for access to classified national security information and need-to-know as outlined in EOs 12968 and 13526;

b. Consistent with Section D above, GAO may be afforded access to classified or other sensitive information only after GAO:

(1) Identifies the individuals who will have access to such information and documents; and

(2) Verifies that:

(a) the individuals being granted access possess the appropriate security clearance, or have obtained a limited security approval and have signed an applicable non-disclosure agreement;

(b) if information is to be retained by GAO it has secure facilities accredited to receive and store such information and holds such information, in accordance with classification, dissemination controls, and other special handling requirements;

(c) it has acknowledged and agreed to abide by the classification, dissemination controls, and other special handling requirements of any provided document or information; and

(d) its retention and dissemination of intelligence information shall comply with EO 12333, part 2, as it pertains to US persons information.

7. IC element responses to GAO products.

a. If GAO provides an IC element an opportunity to comment on a GAO product, the IC element is strongly encouraged to provide GAO with a timely response.

b. When a GAO report contains a recommendation concerning an IC element or intelligence activities, the concerned element shall submit a written statement addressing the recommendations within 60 calendar days of the date of the report to the appropriate House and Senate committees in the same manner as provided by 31 US Code 720. A copy of such statement shall also be provided to the ODNI Office of Legislative Affairs (OLA).

E. ROLES AND RESPONSIBILITIES: To ensure that this Directive is fully implemented, each IC element head shall:

1. Engage in dialogue with GAO, as appropriate;

2. Maintain or develop written procedures that detail the element's process for responding to GAO reviews. These procedures shall include at a minimum the following:


a. A presumption of cooperation including a process for exploring alternative means of accommodating GAO requests, to the extent possible, and within a reasonable time;

b. Designation of an appropriate initial point of contact in the element for coordinating GAO reviews. This point of contact shall be responsible for ensuring that GAO is informed of the classification and sensitivity of any information provided as well as any special handling instructions, as appropriate;

c. A process to assess GAO requests for information that provides for access determinations to be made at the lowest possible level consistent with organizational needs;

- d. A requirement that the element respond to GAO requests for access to information within a reasonable timeframe to include notification to GAO of any delays;
 - e. A review process whereby an access issue that is not resolved at the lowest possible level may be elevated within an IC element in an attempt to facilitate resolution;
 - f. A process for documenting formal denials of GAO requests for information; and,
 - g. A method of alerting GAO to the confidentiality obligations and penalties at 31 US Code 716(e) and Section 348(b) of Public Law 111-259.
3. Provide the ODNI Office of Legislative Affairs (OLA) a copy of the procedures issued pursuant to Section E.2.
4. Promptly notify the ODNI OLA of GAO requests for engagement with an IC element and subsequently of IC element decisions on access. ODNI notification shall not delay IC element responses to GAO requests.
5. Determine that information made available to GAO is responsive to the GAO review for which the information or record is requested and is supported by a written GAO request that clearly identifies the purpose of the request.
6. Upon receipt of any request for access to information that may affect the joint equities of other IC elements, coordinate responses with other affected offices and elements of the IC.
7. Ensure that any GAO request for access to another agency's information is referred to that agency or that information responsive to such a request is made available to GAO only after obtaining the documented consent of that agency.
8. If after following procedures developed pursuant to Section E.2, the IC element determines that a GAO request for information cannot be accommodated, the IC element shall promptly advise GAO of the denial of a request for information with a written justification and provide a copy to the ODNI OLA.

F. EFFECTIVE DATE: This ICD becomes effective on June 30, 2011.



Director of National Intelligence



Date