



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

Opportunity To Examine Email Access at the National Indian Gaming Commission

This is a revised version of the report prepared for public release.




OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

MAY 28 2020

Memorandum

To: E. Sequoyah Simermeyer
Chairman, National Indian Gaming Commission

From: Mark Lee Greenblatt 
Inspector General

Subject: Management Advisory – *Opportunity To Examine Email Access at the National Indian Gaming Commission*
Case No. OI-VA-19-0123-I

We recently concluded an investigation into allegations that a National Indian Gaming Commission (NIGC) official authorized an employee to violate U.S. Government purchase card rules. Although we did not substantiate this allegation, we found that the official orally requested that an IT manager provide [REDACTED] with the employee's emails informing a Department official on the matter. The IT manager refused this request and asked the official to provide written authorization from the NIGC's Office of General Counsel. The official did not provide this documentation and thus did not gain access to the employee's emails in this case. We learned later, however, that the official had the emails for this employee and at least five other employees forwarded to [REDACTED] in the past. The official said these instances were related to employees who were out of the office or had left the NIGC. We also found that in some cases, the affected employees were unaware that a supervisor had received access to their emails.

We found that the NIGC's internal policy permits authorized senior staff to obtain access to employee emails to ensure "efficient and proper operation of the workplace," or to search for "suspected misconduct." We also found, however, that the NIGC has no systems, processes, or procedures in place to approve, track, or account for internal email queries of employees' emails.¹

While we found no U.S. Department of the Interior (DOI) policy that prohibited such queries, we are concerned with the NIGC's application of its broad policy and the negative effect this practice could have on employees making protected disclosures. The U.S. Office of Special Counsel (OSC) issued a memorandum to all executive departments and agencies in February 2018 urging that policies and practices for monitoring employee communications "do not interfere with or chill employees from lawfully disclosing wrongdoing" (see Attachment).

To avoid a chilling effect on NIGC employees seeking to engage in protected whistleblowing activity and to ensure adequate oversight of its access to individual Government

¹ In contrast, the DOI manages email through its eMail Enterprise Records and Documentation Management System (eERDMS). Individuals request access to eERDMS records by using a standardized form that identifies the requestor, the type of audit and information sought, and an approval chain from the requesting bureau to the eERDMS security administrator or departmental records officer. The requestor must also acknowledge specific rules of behavior, which prohibit viewing or collecting information beyond the scope of authorization.

email accounts, we recommend that the NIGC:

Establish formal policies and procedures for requesting, justifying, and approving requests for access to individual Government email accounts that are consistent with the OSC's February 2018 memorandum and the relevant DOI processes, such as using a standardized form, following a proper approval chain, and acknowledging specific rules of behavior. The measures should also provide a mechanism to track and retain records of all NIGC email audit requests and productions.

Please provide us with a written response to this memorandum within 90 days describing the actions you have taken, or plan to take, to address this issue and our recommendation. You may email your response to doioigreferrals@doioig.gov.

In accordance with the IG Empowerment Act of 2016, we intend to publish this memorandum on our website, in redacted form, no later than 3 days from the date we issue it to you. Within the next 10 business days, a representative from our Office of Investigations will contact you, or your designee, to discuss the memorandum and the status of your response. If you have questions or need further information concerning this matter, please contact Matthew Elliott, Assistant Inspector General for Investigations, at 202-208-5745.

Attachment

cc: Tara Sweeney, Assistant Secretary – Indian Affairs