

SPECIAL REVIEW

**Swearing-In Ceremony of
David J. Glawe, DHS Under
Secretary for Intelligence
and Analysis**





DHS OIG HIGHLIGHTS

Swearing-In Ceremony of David J. Glawe, DHS Under Secretary for Intelligence and Analysis

February 28, 2018

Why We Did This Special Review

Department of Homeland Security (DHS) Under Secretary for Intelligence and Analysis (USIA) David J. Glawe used a personal email account to send an invitation to his ceremonial swearing-in event to staff members of the United States Senate Committee on Homeland Security and Governmental Affairs. Because the invitation came from a non-DHS email account and resembled a phishing email, Senator Claire McCaskill asked the DHS Office of Inspector General to review the circumstances surrounding the invitation.

What We Recommend

DHS should develop policies governing when and how to support events involving DHS employees, and ensure that government resources are not used to support unofficial, personal events.

For Further Information:

Contact our Office of Public Affairs at (202) 254-4100, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

USIA Glawe treated his ceremonial swearing-in event as personal in nature, rather than as an official government event. His use of a personal email account to communicate with invited guests was consistent with DHS policy and appropriate under the circumstances. However, our review determined that, contrary to DHS policy and Federal regulations, Office of Intelligence & Analysis resources were used to support the event.

DHS Response

DHS concurred with our recommendations and described the corrective actions it has taken and plans to take. Appendix A includes its response in its entirety.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

February 28, 2018

MEMORANDUM FOR: The Honorable Elaine C. Duke
Deputy Secretary

FROM: John V. Kelly 
Acting Inspector General

SUBJECT: *Swearing-In Ceremony of David J. Glawe, DHS
Under Secretary for Intelligence and Analysis*

For your action is our final special report, *Swearing-In Ceremony of David J. Glawe, DHS Under Secretary for Intelligence and Analysis*, prepared by the Department of Homeland Security (DHS), Office of Inspector General Special Reviews Group.

This special report reflects work undertaken pursuant to our authorities and obligations under Section 2 of the *Inspector General Act of 1978*, as amended. Specifically, this report details potential improper use of government resources in support of an unofficial event for the purpose of keeping the Secretary of DHS and Congress fully and currently informed about problems relating to the administration of DHS programs and operations and the necessity for, and progress of, corrective action. This report is designed to promote the efficient and effective administration of, and to prevent and detect fraud and abuse in, the programs and operations of DHS.

The report contains two recommendations aimed at ensuring that government resources are not misused in support of non-official events. Your office concurred with both recommendations. This final report incorporates the management response provided by your office. Based on the information provided in that response, we consider recommendation 1 open and resolved, and recommendation 2 closed.

As prescribed by DHS Directive 077-01, *Follow-Up and Resolution for Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written update on your corrective action plan and the target completion date for



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the open recommendation. In this update, please identify the parties responsible for implementing the corrective action and provide any other supporting documentation necessary to inform us about the current status of the recommendation. Until your response is received and evaluated, the recommendation will remain open. Please send your written update to Special.Reviews@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act of 1978*, as amended, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over DHS. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Drew Oosterbaan, Counsel to the Inspector General or Diana Shaw, Director of the Special Reviews Group, at (202) 254-4100.

Attachment



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official in nature, and what assistance, if any, Protocol could appropriately provide in either case.

While awaiting a response from OGC, the Head of Protocol instructed Protocol to stop providing any assistance to the Office of Intelligence & Analysis (I&A) for the event. Accordingly, Protocol notified USIA Glawe's Executive Assistant that its support for the swearing-in event had been put on hold "until the front office consults with a few folks." Protocol did not provide I&A with any more specific information, so no one in I&A knew what concern had been raised or that OGC had been asked to weigh in on the matter.

On August 30, 2017, OGC responded to the Head of Protocol's request with a memorandum describing the rules and key considerations concerning special events. OGC posited that USIA Glawe's ceremonial swearing-in event likely did not qualify as an official government event, stating that "a purely ceremonial swearing in for an official who has already taken the official oath of office does not appear to be an official event of the agency." OGC noted, however, that a ceremonial swearing-in might qualify as an official event if "all or most" of three specified circumstances were satisfied:

1. The ceremony is held in the DHS workplace during office hours;
2. A significant number of attendees are employees in the component or office, or are other interested/affected employees; and
3. There is an opportunity for the senior officials who give, receive, or attend the oath of office to make remarks at the event.

If all three circumstances are not clearly satisfied, DHS employees are instructed to consult with OGC Ethics officials. Finally, OGC concluded that, if the event was deemed "personal" rather than "official," DHS funds could not be used for the event (though USIA Glawe could personally pay for refreshments) and DHS employees could not be asked to use personal or official time and resources to support the event.



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Despite receiving this guidance from OGC, no one in Protocol appears to have communicated the guidance to anyone in I&A.⁴ Accordingly, in the absence of guidance and support from Protocol, USIA Glawe treated the event as personal and planned the event with his spouse's assistance. Among other things, they created a Gmail email account to send out electronic invitations for the event. The invitation asked invitees to RSVP to the Gmail account or by phone. The invitation also instructed invitees to provide certain identification information — including name, date of birth, Social Security number, citizenship, country of birth, and city and state of residence — which would be needed to obtain access to the EEOB. Individuals could provide the information by replying to the email invitation, which some did. USIA Glawe and his spouse passed along the identification information they received by email to the White House.

USIA Glawe recalled that he deliberately did not ask I&A staff to assist with the event because he did not want to impact I&A's mission. He did not clearly communicate this message to the I&A Acting Chief of Staff (ACOS) or the I&A Deputy Chief of Staff (DCOS), however, who either performed minor tasks associated with the event themselves, or tasked other I&A employees with event-related responsibilities, including:

- The ACOS reviewed the invitation, helped the White House official who presided over the event with her remarks, and inquired whether a U.S. Customs and Border Protection color guard would attend the event;
- The ACOS and DCOS tasked an I&A employee with drafting talking points for USIA Glawe's speech at the swearing-in event; and
- The ACOS solicited assistance from several I&A employees on the morning of the event, stating that she "could really use" help setting up and running the event.

The swearing-in ceremony took place as planned on September 8, 2017. In response to the ACOS' request, three I&A employees assisted at the event from approximately 2:30-6:00 p.m., arranging chairs, showing people to their seats, and handing out programs. The employees stayed

⁴ In fact, Protocol had no further substantive communication with I&A after sending the hold notice.



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for the ceremonial portion of the event, but left before the reception. Each requested 2-2.5 hours of compensatory time for working at the event. The employees' supervisor, the DCOS, approved the compensatory time request. The employees also paid to park at the event.

Analysis

A. USIA Glawe's Conduct

Based on its review of the facts in this matter, DHS OIG determined that USIA Glawe's handling of the swearing-in event — including his use of a commercial email address to correspond with invitees — was reasonable under the circumstances.

In the absence of guidance and/or support from Protocol, USIA Glawe treated the event as personal in nature, rather than as an official government event. Although USIA Glawe never received OGC's guidance, his assessment that the event was personal was consistent with that guidance: the event was not held in the DHS workplace during office hours, and most attendees were not I&A employees or other interested/affected DHS employees.

Given his overall treatment of the swearing-in ceremony as a personal event, USIA Glawe's use of a commercial email account to communicate with invitees was also reasonable. DHS policy permits only limited personal use of DHS email accounts.⁵ Further, the policy provides that a DHS employee using a DHS email account for limited personal use must do so in a way designed to avoid the appearance of acting in an official capacity. Additionally, such use must not give rise to the misperception that the Department endorses the personal activity.⁶

Here, even if sending the email invitation qualified as "limited personal use," sending the invitation from a DHS email account easily could have misled recipients to believe that DHS had sponsored or endorsed the event, and/or that USIA Glawe was acting in an official capacity when

⁵ DHS Management Directive (MD) 4500.1, "DHS E-mail Usage" (March 1, 2003), § VI.A.7; DHS MD 4600.1, "Personal Use of Government Office Equipment" (April 14, 2003), § VI.B; DHS MD 4900 "Individual Use and Operation of DHS Information Systems/Computers" (undated), § 6.B.12.

⁶ DHS MD 4600.1, § VI.F.



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sending the email. Accordingly, USIA Glawe's decision to use a commercial email account to correspond with his invitees was consistent with DHS policy and reasonable under the circumstances.

Regarding the request for PII included in the email invitation, DHS privacy policies do not govern DHS employees' use of personal email to conduct personal business. Accordingly, while the decision to collect PII from invited guests using a commercial email account may have given rise to cybersecurity risk, the decision did not violate DHS policy.

B. I&A Staff's Conduct

While USIA Glawe's handling of the swearing-in event was consistent with DHS policy and guidance, the same cannot be said for other members of the I&A staff. Specifically, although both the ACOS and DCOS told DHS OIG they believed the event was personal and not official, much of their conduct was inconsistent with that belief.

For instance, the ACOS and DCOS solicited assistance for the event from subordinate members of the I&A staff. They asked one employee to prepare talking points for USIA Glawe's speech, and the ACOS asked several other employees to set up and work the event. By so doing, they risked violating 5 C.F.R. § 2635.705(b), which prohibits an employee from encouraging, directing, coercing, or requesting a subordinate to use official time to perform activities other than those required in the performance of official duties.

When questioned by DHS OIG, the ACOS and DCOS stated that they asked the employee to prepare the talking points in an effort to assess her writing abilities. However, if they wanted an opportunity to evaluate the employee's writing, they could have tasked the employee with a writing assignment that served an official purpose.

The ACOS further explained that she requested "volunteers" to help with the event primarily because she thought it might be interesting and enjoyable for I&A staff to attend an event on White House grounds. She also stated that she believed the employees had finished their respective work days, and thus were attending the event on personal time. DHS OIG does not find this explanation compelling. First, the ACOS' email to I&A employees did not say participation in the event was "voluntary" or "optional," or that employees would have to use annual leave or personal



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time to attend. As a result, some employees reported to DHS OIG that they felt obligated to assist because the request had come from the ACOS.

In addition, the ACOS took no steps to confirm that the employees had finished their work day and were attending the event on personal time. In fact, none of the three employees who attended had finished their work day when they left the office at 2:30 p.m. to set up the event. Moreover, each submitted requests for compensatory hours for the period of time they attended the event beyond their regular work day. This is inconsistent with the claim that their attendance at the event was on personal time, as asserted by the ACOS.

Similarly, despite claiming that he understood the event to be personal and not official, the DCOS approved the employees' requests for compensatory time related to their attendance at the event. The DCOS told DHS OIG that he was not in the office on the day of the event, and that when he approved the requests a week later, he did not realize the requested compensatory time covered attendance at the event. Nevertheless, as the certifying official, the DCOS was responsible for determining whether the request for compensatory time was proper, and should not have approved the request if he did not know what official duties the employees had performed to earn the compensatory hours.

Conclusion

I&A cannot have it both ways. If USIA Glawe's ceremonial swearing-in event was an official government event, a commercial email account should not have been used to invite guests to the event. If, however, the event was personal in nature — as USIA Glawe, the ACOS, and the DCOS seem to agree it was — employee time should not have been used to plan and execute the event.

Much of the confusion about the event — and the subsequent mishandling of certain aspects of the event — could have been avoided if DHS Protocol had written policies delineating the rules and key considerations for these types of events. When DHS OIG asked Protocol leadership whether they consulted any internal policies to guide their decision about whether to assist with USIA Glawe's event, they uniformly reported that they were not aware of any organizational charts, charters, policies, standard operating procedures, or other written documents outlining Protocol's responsibilities.



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It is not simply ironic that the Office of Protocol has no written protocols; the lack of protocols significantly increases the risk that DHS employees will inadvertently run afoul of Department policy — and, possibly, the law — when planning and executing such events in the future.

Additionally, DHS OIG has learned that the I&A employees who attended the event intend to request reimbursement for the charges they incurred to park at the event. Given that USIA Glawe, the ACOS, and the DCOS all have taken the position — supported by OGC’s guidance — that the event was not an official event, these charges, if reimbursed, should not be paid from government funds.

Recommendations

Recommendation 1: The DHS Deputy Chief of Staff should direct the DHS Director of Scheduling and Advance and Chief of Protocol to develop policies outlining the Office of Protocol’s mission, objectives, roles, and responsibilities, including when and how it can support DHS events. These policies should reflect OGC’s [DHS Office of General Counsel] prior guidance on official versus personal events.

Recommendation 2: The DHS Chief Financial Officer [CFO] should ensure that government funds are not used to reimburse the I&A employees for charges they incurred to park at USIA Glawe’s ceremonial swearing-in event.

Management Comments and OIG Analysis

DHS concurred with the recommendations and provided comments to the draft report. A summary of the Department’s response and our analysis follows. We have included a copy of the Department’s management response in its entirety in Appendix A. DHS also provided technical comments to the report. We made changes to incorporate these comments, where appropriate.

Response to Recommendation #1: Concur. DHS has already initiated a policy statement, which will outline the Office of Protocol’s mission, objectives, roles, and responsibilities. This statement will describe when and how the Office of Protocol can support DHS events and will reflect OGC’s prior guidance on official versus personal events. DHS agreed to



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issue this policy statement by June 29, 2018, and share it with DHS Headquarters offices and Components.

OIG Analysis of DHS's Response: DHS concurred with our recommendation. This recommendation will remain open and resolved until the Office of Protocol issues the policy statement.

Response to Recommendation #2: Concur. On January 31, 2018, the I&A Chief Financial Officer conducted a review and determined that no government funds were used to reimburse the I&A employees' charges for parking at USIA Glawe's ceremonial swearing-in event. The I&A CFO also instructed the first- and second-level supervisors of the employees that any future requests to reimburse those expenses must be disapproved.

OIG Analysis of DHS's Response: DHS concurred with our recommendation. Based on I&A's actions, we consider this recommendation closed with no further action required.



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Appendix A
DHS Response to the Draft Report


U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

February 13, 2018

MEMORANDUM FOR: John V. Kelly
Acting Inspector General
Office of the Inspector General

FROM: Jim H. Crumacker, CIA, CFE 
Director
Departmental GAO-OIG Liaison Office

SUBJECT: Management's Response to Draft Report: "Swearing-In Ceremony
of David J. Glawe, DHS Under Secretary for Intelligence and
Analysis" (Project No. OIG-18-SRG-002)

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the Office of Inspector General's (OIG) work in conducting its review and issuing this report.

The Department is pleased to note OIG's positive findings that Under Secretary for Intelligence and Analysis (USIA) David J. Glawe's use of commercial email was consistent with the overall treatment of his ceremonial swearing-in ceremony as a personal, and not an official, event; and that this action did not violate DHS policy. A number of factors contributed to confusion and miscommunication regarding the nature of this ceremony; however, it is important to note that those involved acted with the best of intentions to uphold their oath to the American people to conduct themselves in an ethical manner.

The draft report contained two recommendations with which the Department concurs. Attached find our detailed response to each recommendation. Technical comments were previously provided under separate cover.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Attachment



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Attachment: Management Response to Recommendations Contained in OIG-18-SRG-002

Recommendation 1: The DHS Deputy Chief of Staff should direct the DHS Director of Scheduling and Advance and Chief of Protocol to develop policies outlining the Office of Protocol's mission, objectives, roles, and responsibilities, including when and how it can support DHS events. These policies should reflect OGC's [DHS Office of General Counsel] prior guidance on official versus personal events.

Response: Concur. The DHS Director of Protocol has already initiated the development of a policy statement outlining the Office's mission, objectives, roles, and responsibilities, including when and how it can support DHS events. This statement will reflect the DHS OGC's prior guidance on official versus personal events, as appropriate. Once reviewed and cleared by OGC and senior leadership, the statement will be shared with DHS Headquarters offices and Components. Estimated Completion Date: June 29, 2018.

Recommendation 2: The DHS Chief Financial Officer [CFO] should ensure that government funds are not used to reimburse the I&A employees for charges they incurred to park at USIA Glawe's ceremonial swearing-in event.

Response: Concur. At the direction of DHS Office of the Chief Financial Officer staff, on January 31, 2018, the I&A CFO conducted a review and determined that no I&A government funds had been used to reimburse I&A employees for charges they incurred to park at USIA Glawe's ceremonial swearing-in event. The I&A CFO also let the first and second-level supervisors of these employees know that any future requests for reimbursement of parking expenses occurred in conjunction with the event must be disapproved. We request that the OIG consider this recommendation resolved and closed.



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Appendix B
Report Distribution

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