

CRS Report for Congress

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Statutory Offices of Inspector General: Establishment and Evolution

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Summary

Statutory offices of inspector general consolidate responsibility for auditing and investigations within a federal department, agency, or other organization. Established by public law as permanent, nonpartisan, independent offices, they now exist in nearly 60 federal establishments and entities, including all departments and the largest agencies as well as many smaller boards, commissions, and governmental corporations. Under two major enactments—the Inspector General Act of 1978 and its amendments of 1988—the inspectors general (IGs) have been granted a substantial amount of independence and authority to carry out their basic mandate to combat waste, fraud, and abuse, now including the use of their personnel in counter-terrorism efforts.¹ Recent statutes, moreover, have added a separate IG for Tax Administration in Treasury and one in the new Department of Homeland Security; granted law enforcement powers to offices headed by presidential appointees; and created a Criminal Investigator Academy and an Inspector General Forensic Laboratory. This report will be updated as events require.

¹ 5 U.S.C. Appendix 3. Two other IGs operate under similar statutory guidelines: in the CIA, under the Intelligence Authorization Act of 1990 (103 Stat. 1711), and in the GPO, under the GPO Inspector General Act (44 U.S.C. 3901-3902). See: Frederick M. Kaiser, “The Watchers’ Watchdog: The CIA Inspector General,” *International Journal of Intelligence and Counterintelligence*, vol. 3, 1989, pp. 55-75; Paul C. Light, *Monitoring Government: Inspectors General and the Search for Accountability* (Washington: Brookings Institution, 1993); U.S. Congress, House Subcommittee on Government Management, *The Inspector General Act of 1978: Twenty Years After Passage, Are The Inspectors General Fulfilling Their Mission?*, hearings, 105th Cong., 2nd sess. (Washington: GPO, 1999); U.S. Congress, Senate Committee on Governmental Affairs, *The Inspector General Act: 20 Years Later*, hearings, 105th Cong., 2nd sess. (Washington: GPO, 1998); CRS Report 98-141, *Statutory Offices of Inspector General: A 20th Anniversary Review*; CRS Report RS20944, *Statutory Inspector for the FBI*; CRS Report RS21251, *Analysis of President’s Proposal Concerning the OIG for the Proposed Department of Homeland Security*; and U.S. General Accounting Office, *Inspectors General: Office Consolidation and Related Issues*, GAO Report GAO-02-575 (August 2002).

Responsibilities

Inspectors General have three principal responsibilities under the Inspector General Act of 1978, as amended:

- ! conducting and supervising audits and investigations relating to the programs and operations of the establishment;
- ! providing leadership and coordination and recommending policies for activities designed to promote the economy, efficiency, and effectiveness of such programs and operations, and preventing and detecting fraud and abuse in such programs and operations; and
- ! providing a means for keeping the establishment head and Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations, and the necessity for and progress of corrective action.

Authority and Duties

To carry out the purposes of the Inspector General Act, IGs have been granted broad authority to conduct audits and investigations; access directly all records and information of the agency; request assistance from other federal, state, and local government agencies; subpoena information and documents; administer oaths when taking testimony; hire staff and manage their own resources; and receive and respond to complaints from agency employees, whose confidentiality is to be protected. In addition, the Homeland Security Act of 2002 gave law enforcement powers to criminal investigators in offices headed by presidential appointees. Following the terrorist attacks on the Pentagon and World Trade Center on September 11, 2001, moreover, some IG staff were redeployed to assist in airline security and in terrorist investigations by the FBI and other agencies.

Notwithstanding these powers and duties, IGs are *not* authorized to take corrective action or make any reforms themselves. Indeed, the Inspector General Act, as amended, prohibits the transfer of “program operating responsibilities” to an IG (5 U.S.C. Appendix 3, Section 9(a)(2)). The rationale for this prohibition is that it would be difficult, if not impossible, for IGs to audit or investigate programs and operations impartially and objectively if they were directly involved in carrying them out.

Reporting Requirements

IGs also have important obligations concerning their findings, conclusions, and recommendations for corrective action. These include reporting (1) suspected violations of federal criminal law directly and expeditiously to the Attorney General; (2) semiannually to the agency head, who must submit the IG report (along with his or her comments) to Congress within 30 days; and (3) “particularly serious or flagrant problems” immediately to the agency head, who must submit the IG report (along with comments) to Congress within 7 days. The IG for the Central Intelligence Agency (CIA), operating under a different statute, must also report to the House and Senate Select Committees on Intelligence if the Director (or Acting Director) of Central Intelligence is the focus of an investigation, audit, or inspection.

By means of these reports and “otherwise,” IGs are to keep the agency head and Congress fully and currently informed. Other informing activities include testifying at congressional hearings; meeting with legislators, officials, and staff; and responding to congressional requests for information and reports.

Independence

In addition to having their own powers (e.g., to hire staff and issue subpoenas), the IGs’ independent status is reinforced in a number of other ways: protection of their budgets, qualifications on their appointment and removal, prohibitions on interference with their activities and operations, and a proscription on being assigned any program operating responsibilities.

Appropriations. Presidentially appointed IGs in the larger federal agencies have a separate appropriations account (a separate budget account in the case of the CIA) for their offices. This situation prevents agency administrators from limiting, transferring, or otherwise reducing IG funding once it has been specified in law.

Appointment and Removal. Under the Inspector General Act, as amended, IGs are to be selected without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial and management analysis, law, public administration, or investigations. The CIA IG, who operates under a different statute, is to be selected under these criteria as well as prior experience in the field of foreign intelligence and in compliance with the security standards of the agency.

Presidentially appointed IGs in the larger federal establishments who are confirmed by the Senate can be removed only by the President. When so doing, the President must communicate the reasons to Congress. However, IGs in the (usually) smaller, designated federal entities can be removed by the agency head, who must notify Congress in writing when exercising this power. In the U.S. Postal Service, by comparison, the governors appoint the inspector general—the only statutory IG with a set term (seven years). The IG can be removed with the written concurrence of at least seven of the nine governors, but only for cause—again, the only statutory IG having such a qualification governing removal.

Supervision. IGs serve under the “general supervision” of the agency head, reporting exclusively to the head or to the officer next in rank if such authority is delegated. With only a few specified exceptions, neither the agency head nor the officer next in line “shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.”

Under the IG Act, as amended, the heads of only five agencies—the Departments of Defense, Homeland Security, Justice, and Treasury, plus the U.S. Postal Service—may prevent the IG from initiating, carrying out, or completing an audit or investigation, or issuing a subpoena, in order to preserve national security interests or to protect on-going criminal investigations, among other specified reasons. When exercising this power, the department head must transmit an explanatory statement for such action to the House Government Reform Committee, the Senate Governmental Affairs Committee, and other appropriate congressional committees and subcommittees within 30 days. Under the CIA

IG Act, the Director of Central Intelligence may similarly prohibit the CIA IG from conducting investigations, audits, or inspections and, when doing so, must notify the House and Senate Intelligence Committees of the reasons for such action within 7 days.

Coordination and Controls

Several presidential orders have been issued to improve coordination among the IGs and provide a means for investigating charges of wrongdoing by the IGs themselves and other top echelon officers. In early 1981, President Ronald Reagan established the President's Council on Integrity and Efficiency (PCIE) to coordinate and enhance efforts at promoting integrity and efficiency in government programs and to detect and prevent waste, fraud, and abuse (E.O. 12301). Chaired by the Deputy Director of the Office of Management and Budget, the PCIE was composed of the existing statutory IGs plus officials from the Office of Personnel Management, the Federal Bureau of Investigation (FBI), and the Departments of Defense, Justice, and the Treasury, among others. PCIE membership was subsequently expanded to include the Controller of the Office of Federal Financial Management, the Director of the Office of Government Ethics, and the Special Counsel in the Office of Special Counsel. In 1992, following the establishment of new IG offices for various federal entities, a parallel Executive Council on Integrity and Efficiency (ECIE) was created for these new IGs and other appropriate officials. Both the PCIE and the ECIE currently operate under E.O. 12805, issued by President George Bush in 1992.²

Concerns about the investigation of alleged wrongdoing by IGs themselves or other high-ranking Office of Inspector General officials prompted the establishment of a new mechanism to pursue such charges. In 1996, President Bill Clinton chartered an Integrity Committee, composed of PCIE and ECIE members and chaired by the FBI representative. It is to receive such allegations and, if deemed warranted, to refer them for investigation to an executive agency—including the FBI—with appropriate jurisdiction (E.O. 12993) or a special investigative unit composed of council members.³

Establishment

Statutory offices of inspector general currently exist in 57 federal establishments and designated entities, including all 14 cabinet departments; major executive branch agencies; independent regulatory commissions; various government corporations and foundations; and one legislative branch agency—the Government Printing Office (GPO). All but two of these offices—in the CIA and in the GPO—are directly and explicitly under the Inspector General Act of 1978, as amended.

Each office is headed by an inspector general, who is appointed in one of two ways:

- (1) Nominated by the President and confirmed by the Senate in the federal establishments (i.e., all cabinet departments and the larger agencies). There are 29 of these posts (see **Table 1**); or

² *Federal Register*, vol. 57, May 14, 1992, pp. 20627-20629.

³ *Ibid.*, vol. 61, Mar. 26, 1996, pp. 13043-13045.

- (2) Appointed directly by the head of the entity in the designated federal entities (i.e., usually the smaller foundations, boards, commissions, and other organizations). There are 28 of these posts (see **Table 2**).

Table 1. Statutes Establishing Inspectors General Nominated by the President and Confirmed by the Senate, 1976-Present

(current offices are in **bold**)^a

Year	Statute	Establishment
1976	P.L. 94-505	Health, Education, and Welfare (now Health and Human Services)
1977	P.L. 95-91	Energy
1978	P.L. 95-452	Agriculture, Commerce, Housing and Urban Development, Interior, Labor, Transportation, Environmental Protection Agency, General Services Administration, National Aeronautics and Space Administration, Small Business Administration, Veterans Administration (now the Veterans Affairs Department), Community Services Administration^b
1979	P.L. 96-88	Education
1980	P.L. 96-294	U.S. Synthetic Fuels Corporation ^b
1980	P.L. 96-465	State^c
1981	P.L. 97-113	Agency for International Development^d
1982	P.L. 97-252	Defense
1983	P.L. 98-76	Railroad Retirement Board
1986	P.L. 99-399	U.S. Information Agency ^{b,c}
1987	P.L. 100-213	Arms Control and Disarmament Agency ^{b,c}
1988	P.L. 100-504	Justice, Treasury, Federal Emergency Management Administration,^e Nuclear Regulatory Commission, Office of Personnel Management
1989	P.L. 101-73	Resolution Trust Corporation ^b
1989	P.L. 101-193	Central Intelligence Agency
1993	P.L. 103-82	Corporation for National and Community Service
1993	P.L. 103-204	Federal Deposit Insurance Corporation
1994	P.L. 103-296	Social Security Administration
1994	P.L. 103-325	Community Development Financial Institutions Fund ^b
1998	P.L. 105-206	Treasury Inspector General for Tax Administration^f
2000	P.L. 106-422	Tennessee Valley Authority^g
2002	P.L. 107-296	Homeland Security^e

- a. All, except the CIA IG, are directly under the 1978 IG Act, as amended.
- b. CSA, Synfuels Corporation, USIA, ACDA, RTC, and CDFIF have since been abolished or transferred.
- c. The State Department IG had also served as the IG for ACDA. In 1998, P.L. 105-277 abolished ACDA and USIA and transferred their functions and duties to the State Department. The Act also brought the Broadcasting Board of Governors and the International Broadcasting Bureau under the jurisdiction of the State Department IG.
- d. The IG in AID may also conduct reviews, investigations, and inspections of the Overseas Private Investment Corporation (22 U.S.C. 2199(e)).
- e. P.L. 107-296 transfers FEMA to the new Department of Homeland Security, which will then absorb its OIG into the new department OIG. The Act also gives law enforcement powers to criminal investigators in the OIGs in establishments.
- f. The OIG for Tax Administration in Treasury is the only case where a separate office of inspector general exists within an establishment or entity that is otherwise covered by its own office.
- g. P.L. 106-422 also created, in the Treasury Department, a Criminal Investigator Academy to train IG staff and an Inspector General Forensic Laboratory.

Table 2. Designated Federal Entities and Agencies with Statutory IGs Appointed by the Head of the Entity or Agency
(current offices are in **bold**)^a

ACTION ^b	Government Printing Office^f
Amtrak	Interstate Commerce Commission ^g
Appalachian Regional Commission	Legal Services Corporation
Board of Governors of the Federal Reserve System	National Archives and Records Administration
Board for International Broadcasting ^c	National Credit Union Administration
Commodity Futures Trading Commission	National Endowment for the Arts
Consumer Product Safety Commission	National Endowment for the Humanities
Corporation for Public Broadcasting	National Labor Relations Board
Equal Employment Opportunity Commission	National Science Foundation
Farm Credit Administration	Panama Canal Commission ^h
Federal Communications Commission	Peace Corps
Federal Deposit Insurance Corporation ^d	Pension Benefit Guaranty Corporation
Federal Election Commission	Securities and Exchange Commission
Federal Home Loan Bank Board ^e	Smithsonian Institution
Federal Housing Finance Board^e	Tennessee Valley Authority ⁱ
Federal Labor Relations Authority	United States International Trade Commission
Federal Maritime Commission	United States Postal Service^j
Federal Trade Commission	

- a. All, except the GPO, are considered “designated federal entities” and placed directly under the 1978 IG Act by the 1988 Amendments (P.L. 100-504) or subsequent enactments.
- b. In 1993, P.L. 103-82 merged ACTION into the new Corporation for National and Community Service.
- c. The Board for International Broadcasting was abolished by P.L. 103-236 and its functions and authorities transferred to the new International Broadcasting Bureau within USIA, which, in turn, was abolished and its functions transferred to the State Department.
- d. In 1993, P.L. 103-204 made the IG in FDIC a presidential appointee, subject to Senate confirmation.
- e. The FHLBB was abolished in 1989 by P.L. 101-73. The new FHFB was placed under the 1988 IG Act Amendments, also by P.L. 101-73.
- f. Unlike the designated federal entities, the GPO IG is not directly under the 1978 IG Act (P.L. 100-504).
- g. The ICC was abolished in 1995 by P.L. 104-88.
- h. The Panama Canal Commission, replaced by the Panama Canal Commission Transition Authority, was phased out, when United States responsibility for the Canal was transferred to the Republic of Panama (22 U.S.C. 3611).
- i. P.L. 106-422 redesignated TVA as a federal establishment.
- j. In 1996, the U.S. Postal Service Inspector General was separated from the Chief Postal Inspector and now exists as an independent position. The IG is appointed by, and can be removed by, the governors.

Table 3. Tabulation of Existing Federal Establishments, Entities, or Agencies with Statutory IGs

Controlling statute	IGs nominated by President and confirmed by Senate	IGs appointed by head of entity or agency	Total
1978 IG Act, as amended	28	27	55
Other statutes	1 ^a	1 ^b	2
Total	29	28	57

- a. CIA IG, P.L. 101-193.
- b. GPO IG, P.L. 100-504.