

INSPECTOR GENERAL DESKBOOK

VOLUME 1

*Office of Inspector General
Department of The Treasury*

Inspector General Deskbook Volume 1

TABLE OF CONTENTS

Section 1 - Laws and Legislative History

Current Inspector General Act of 1978, as amended*

Pub. L. No. 95-452; 92 Stat. 1101 (1978).

Senate Committee on Governmental Affairs Report 1978

S. Rep. No. 95-1071 (1978).

House Committee on Government Operations Report 1977

H.R. 8588, H.R. Rep. No. 95-584 (1977).

Senate Congressional Record 1978

123 Cong. Rec. S 6260 (1977);

124 Cong. Rec. S 8357 (1978);

124 Cong. Rec. S 12862 (1978);

124 Cong. Rec. S 15867 (1978).

House Congressional Record 1978

123 Cong. Rec. H 766 (1977);

123 Cong. Rec. H 1550 (1977);

123 Cong. Rec. H 7985 (1977);

123 Cong. Rec. H 8775 (1977);

124 Cong. Rec. H 2840 (1978);

124 Cong. Rec. H 2929 (1978);

124 Cong. Rec. H 2943 (1978);

124 Cong. Rec. H 10918 (1978);

*To find a copy of congressional record, visit www.gpoaccess.gov/crecord/

Inspector General Act Amendments of 1988,

Pub. L. No. 100-504; 102 Stat. 2515 (1988).

Senate Committee on Governmental Affairs Report 1987

S. 908, S. Rep. No. 100-150 (1987).

House Committee on Government Operations Report 1988

H.R. 4054, H.R. Rep. No. 100-771 (1988).

Senate Congressional Record 1988

133 Cong. Rec. S 4562 (1987);

134 Cong. Rec. S 10913 (1988);

134 Cong. Rec. S 14446 (1988);

134 Cong. Rec. S 17263 (1988).

House Congressional Record 1988

134 Cong. Rec. H 5827 (1988);

134 Cong. Rec. H 9607 (1988).

Inspector General Act Amendments of 2008,

Pub. L. No. 110-409; 122 Stat. 4302 (2008).

Senate Committee on Homeland Security and Governmental Affairs Report 2008

S. 2324, S. Rep. No. 110-262 (2008).

House Committee on Oversight and Government Reform 2007

H.R. 928, H.R. Rep. No. 110-354 (2007).

Senate Congressional Record 2008

154 Cong. Rec. S 3323 (2007);

153 Cong. Rec. S 14193 (2007);

154 Cong. Rec. S 9426 (2008);

154 Cong. Rec. S 10054 (2008).

House Congressional Record 2008

154 Cong. Rec. H 9877 (2008);

154 Cong. Rec. H 10222 (2008).

Chronology of Legislation Establishing CIGIE Offices of Inspectors General

Section 2 - Executive Orders

Exec. Order No. 12993 (1996), Administrative Allegations Against Inspectors General.

Exec. Order No. 13519 (2009), Establishment of the Financial Fraud Enforcement Task Force.

Section 1

Laws and Legislative History



1 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
 TITLE 5--APPENDIX
 INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx prec § 1

Preceding § 1

HISTORY:

Act Oct. 12, 1978, P.L. 95-452, 92 Stat. 1101, as amended Oct. 17, 1979, P.L. 96-88, Title V, § 508(n), 93 Stat. 694; Dec. 29, 1981, P.L. 97-113, Title VII, § 705, 95 Stat. 1544; Sept. 8, 1982, P.L. 97-252, Title XI, § 1117(a)-(c), 96 Stat. 750-752; Aug. 16, 1985, P.L. 99-93, Title I, § 150(a), 99 Stat. 427; Aug. 27, 1986, P.L. 99-399, Title IV, § 412(a)(1), (2), 100 Stat. 867; Oct. 18, 1988, P.L. 100-504, Title I, §§ 102(a)-(d), (f), (g), 104(a), 105-107, 109, 110, 102 Stat. 2525-2529; Oct. 25, 1988, P.L. 100-527, § 13(h), 102 Stat. 2643; Aug. 9, 1989, P.L. 101-73, Title V, § 501(b)(1), Title VII, § 702(c), 103 Stat. 393, 415; Dec. 12, 1991, P.L. 102-233, Title III, § 315(a), 105 Stat. 1772; P.L. 103-82, Sept. 21, 1993, Title II, § 202(g)(1), (2)(A), (3)(A), (4), (5), 107 Stat. 889, 890; Dec. 17, 1993, P.L. 103-204, § 23(a), 107 Stat. 2407; Aug. 15, 1994, P.L. 103-296, Title I, § 108(l), 108 Stat. 1488; Sept. 23, 1994, P.L. 103-325, Title I, § 118(a), 108 Stat. 2188; Dec. 29, 1995, P.L. 104-88, Title III, § 319, 109 Stat. 949; Feb. 10, 1996, Div A, Title XV, § 1502(f)(6), Div D, Title XLIII, § 4322(b)(1), (3), 110 Stat. 510, 677; Sept. 30, 1996, P.L. 104-208, Div A, Title I, § 101(f) [Title VI, § 662(b), Title VIII, § 805(c)], 110 Stat. 3009-314, 3009-379, 3009-393; Dec. 2, 1997, P.L. 105-134, Title IV, § 409(a)(1), 111 Stat. 2586; July 22, 1998, P.L. 105-206, Title I, § 1103(a)-(c)(1), (e)(1)-(3), 112 Stat. 705, 708, 709; Oct. 20, 1998, P.L. 105-272, Title VII, § 702(b), 112 Stat. 2415; Oct. 21, 1998, P.L. 105-277, Div C, Title III, § 306(h), as added May 21, 1999, P.L. 106-31, Title I, § 105(a)(5), 113 Stat. 63; Oct. 21, 1998, P.L. 105-277, Div G, Title XIII, § 1314(b), Title XIV, § 1422(b)(2), 112 Stat. 2681-776, 2681-792; Oct. 5, 1999, P.L. 106-65, Div A, Title X, § 1067(17), 113 Stat. 775; Nov. 29, 1999, P.L. 106-113, Div B, § 1000(a)(7) [Title II, § 205], 113 Stat. 1536, 1501A-422; Nov. 1, 2000, P.L. 106-422, § 1(b), 114 Stat. 1872; Dec. 28, 2001, P.L. 107-108, Title III, § 309(b), 115 Stat. 1400; June 14, 2002, P.L. 107-189, § 22(a), (c), (d), 116 Stat. 707, 708; Oct. 29, 2002, P.L. 107-252, Title VIII, § 812(a), 116 Stat. 1727; Nov. 2, 2002, P.L. 107-273, Div A, Title III, § 308, 116 Stat. 1784; Nov. 25, 2002, P.L. 107-296, Title VIII, §§ 811(e), 812(a), Title XI, § 1112(a), title XVII, § 1701, 116 Stat. 2221, 2222, 2275, 2313; Nov. 27, 2002, P.L. 107-306, Title VIII, § 825, 116 Stat. 2429; Feb. 20, 2003, P.L. 108-7, Div L, § 104(b), (c)(2), 117 Stat. 529, 531; July 7, 2004, P.L. 108-271, § 8(b), 118 Stat. 814; Dec. 17, 2004, P.L. 108-458, Title I, § 1078, Title VIII, § 8304, 118 Stat. 3695, 3868; March 9, 2006, P.L. 109-177, Title VI, § 605(e)(3), (4), 120 Stat. 255; Oct. 4, 2006, P.L. 109-295, Title VI, § 612(c), 120 Stat. 1410; Dec. 20, 2006, P.L. 109-435, Title VI, §§ 603(b), 605(a), 120 Stat. 3240, 3242; May 22, 2008, P.L. 110-234, Title XIV, § 14217(c), 122 Stat. 1482; June 18, 2008, P.L. 110-246, § 4(a), Title XIV, § 14217(c), 122 Stat. 1664; July 30, 2008, P.L. 110-289, Div A, Title I, § 1105(c), 122 Stat. 2668; Oct. 14, 2008, P.L. 110-409, §§ 2-4(a)(1), 5, 6(a), (b), 7(a), (d)91, 8, 9, 11-13(a), 14, 122 Stat. 4302, 4305, 4313-4316; Oct. 14, 2008, P.L. 110-417, [Div A,] Title IX, §§ 907, 931(b)(2), 122 Stat. 4569, 4575; April 21, 2009, P.L. 111-13, Title IV, § 4101, 123 Stat. 1597; Oct. 28, 2009, P.L. 111-84, Div A, Title X, § 1042, 123 Stat. 2455

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Section

1. Short title
2. Purpose and establishment of Offices of
Inspector General; departments and agencies involved
3. Appointment of Inspectors General;
supervision; removal; political activities; appointment of
Assistant Inspector General for Auditing and Assistant
Inspector General for Investigations.
4. Duties and responsibilities; report of
criminal violations to Attorney General
5. Semiannual reports; transmittal to
Congress; availability to public; immediate report on
serious or flagrant problems; disclosure of information; definitions
6. Authority of Inspector General;
information and assistance from Federal agencies;
unreasonable refusal; office space and equipment
7. Complaints by employees; disclosure of
identity; reprisals
8. Additional provisions with respect to the
Inspector General of the Department of Defense
- 8A. Special provisions relating to the Agency
for International Development
- 8B. Special provisions concerning the Nuclear
Regulatory Commission
- 8C. Special provisions concerning the Federal
Deposit Insurance Corporation
- 8D. Special provisions concerning the
Department of the Treasury
- 8E. Special provisions concerning the
Department of Justice
- 8F. Special provisions concerning the
Corporation for National and Community Service
- 8G. Requirements for Federal entities and
designated Federal entities
- 8H. Additional provisions with respect to
Inspectors General of the intelligence community
- 8I. Special provisions concerning the
Department of Homeland Security
- 8J. Rule of construction of special provisions
- 8K. Authority to establish Inspector General
of the Office of the Director of National Intelligence
- 8L. Information on websites of Offices of
Inspectors General
9. Transfer of functions
10. [Omitted]
11. Establishment of the Council of the
Inspectors General on Integrity and Efficiency
12. Definitions
13. Effective date

NOTES:

Related Statutes & Rules:

5 USCS Appx prec § 1

This Act is referred to in 2 USCS § 1602; 6 USCS §§ 113, 142; 7 USCS §§ 2270a, 6911; 10 USCS §§ 133, 141, 1034, 2409, 3020, 5020, 8020; 12 USCS § 5231; 20 USCS §§ 761, 3412, 3422; 22 USCS §§ 4861, 6203, 6207; 29 USCS §§ 49h, 2935; 31 USCS §§ 902, 3521, 3565, 3801, 3808, 9105; 38 USCS § 312; 39 USCS §§ 410, 504; 41 USCS §§ 265, 422; 42 USCS §§ 1320a-7a, 1320a-7c, 3515d, 5780a, 12643, 12651e; 44 USCS §§ 3535, 3545; 48 USCS §§ 1422d, 1599, 1668, 1681b; 49 USCS §§ 114, 20109.



2 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
TITLE 5--APPENDIX
INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 1

§ 1. Short title

This Act may be cited as the "Inspector General Act of 1978".

HISTORY:

(Oct. 12, 1978, § 1, 92 Stat. 1101.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Short titles:

Act Oct. 18, 1988, P.L. 100-504, Title I, § 101, 102 Stat. 2515, effective 180 days after enactment as provided by § 113 of such Act, which appears *5 USCS Appx. § 5*, provides: "This title may be cited as the 'Inspector General Act Amendments of 1988'".

Act Oct. 20, 1998, P.L. 105-272, Title VII, § 701(a), 112 Stat. 2413, provides: "This title may be cited as the 'Intelligence Community Whistleblower Protection Act of 1998'". For full classification of such Title, consult USCS Tables volumes.

Act Dec. 20, 2006, P.L. 109-440, § 1, 120 Stat. 3286, provides: "This Act [amending *5 USCS Appx § 8G* note] may be cited as the 'Iraq Reconstruction Accountability Act of 2006'".

Act Oct. 14, 2008, P.L. 110-409, § 1, 122 Stat. 4302, provides: "This Act may be cited as the 'Inspector General Reform Act of 2008'". For full classification of such Act, consult USCS Tables volumes.

Other provisions:

Payment authority subject to appropriations. Act Oct. 18, 1988, P.L. 100-504, Title I, § 112, 102 Stat. 2530, effective 180 days after enactment as provided by § 113 of such Act, which appears as *5 USCS Appx. § 5* note, provides: "Any authority to make payments under this title [generally amending *5 USCS Appx.*; for full classification, consult USCS Tables volumes] shall be effective only to such extent as provided in appropriations Acts."

NOTES:

Research Guide:

Texts:

1 Rapp, Education Law (Matthew Bender), ch 5, Funding, Support and Finances of Education § 5.01.



3 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
TITLE 5--APPENDIX
INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 2

§ 2. Purpose and establishment of Offices of Inspector General; departments and agencies involved

In order to create independent and objective units--

(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 12(2);

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the head of the establishment and the 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;

there is established--

(A) in each of such establishments an office of Inspector General, subject to subparagraph (B); and

(B) in the establishment of the Department of the Treasury--

(i) an Office of Inspector General of the Department of the Treasury; and

(ii) an Office of Treasury Inspector General for Tax Administration.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 2, 92 Stat. 1101; Oct. 17, 1979, P.L. 96-88, Title V, § 508(n)(1), 93 Stat. 694; Dec. 29, 1981, P.L. 97-113, Title VII, § 705(a)(1), 95 Stat. 1544; Sept. 8, 1982, P.L. 97-252, Title XI, § 1117(a)(1), 96 Stat. 750; Aug. 16, 1985, P.L. 99-93, Title I, 150(a)(1), 99 Stat. 427; Aug. 27, 1986, P.L. 99-399, Title IV, § 412(a)(1), 100 Stat. 867; Oct. 18, 1988, P.L. 100-504, Title I, § 102(a), (b), 102 Stat. 2515; Oct. 25, 1988, P.L. 100-527, § 13(h)(1), 102 Stat. 2643; July 22, 1998, P.L. 105-206, Title I, Subtitle B, § 1103(a), 112 Stat. 705; Oct. 14, 2008, P.L. 110-409, § 7(d)(1)(A), 122 Stat. 4313.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

5 USCS Appx § 2

1979. Act Oct. 17, 1979 (effective 5/4/1980, as provided by § 601 of such Act, which appears as 20 USCS § 3401 note), in para. (1), inserted "the Department of Education,".

1981. Act Dec. 29, 1981, in para. (1), inserted "the Agency for International Development,".

1982. Act Sept. 8, 1982, in para. (1), inserted "the Department of Defense,".

1985. Act Aug. 16, 1985, in para. (2), deleted "and" preceding "the Veterans' " and inserted ", and the Department of State".

1986. Act Aug. 27, 1986, in para. (1), inserted "the United States Information Agency,".

1988. Act Oct. 18, 1988 (effective 180 days after enactment as provided by § 113 of such Act, which appears as 5 USCS Appx. § 5 note) substituted para. (1) for one which read: "to conduct and supervise audits and investigations relating to programs and operations of the Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Education, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Transportation, the Agency for International Development, the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, the United States Information Agency, the Veterans' Administration, and the Department of State;"; and in the concluding matter, substituted "there" for "thereby".

Act Oct. 25, 1988 (generally effective 3/15/89, as provided by § 18 of such Act, which appears as 38 USCS § 301 note) purported to amend para. (1) by inserting "the Department of Veterans Affairs," following "Transportation," and by deleting "the Veterans' Administration," following "Information Agency,"; however, since Act Oct. 18, 1988, P.L. 100-504 amended such para. in its entirety, such amendment could not be executed.

1998. Act July 22, 1998 substituted the concluding matter for matter which read: "there is hereby established in each of such establishments an office of Inspector General.".

2008. Act Oct. 14, 2008, in para. (1), substituted "section 12(2)" for "section 11(2)".

NOTES:

Related Statutes & Rules:

This section is referred to in 22 USCS § 4861; 24 USCS § 8262f.

Interpretive Notes and Decisions:

1. Generally
2. Purpose
3. Freedom of information act request
4. Subpoenas

1. Generally

Administrative Medicare audits were within authority granted to inspector general by statute, and challenge to process at its commencement by teaching hospital was unripe and premature, as no final agency action had been taken. *Univ. of Med. & Dentistry v Corrigan* (2003, CA3 NJ) 347 F3d 57, cert den (2004) 542 US 937, 124 S Ct 2907, 159 L Ed 2d 812.

2. Purpose

5 USCS Appx § 2

Purpose of Congress in enacting Inspector General Act (5 USCS Appx) was to establish independent and objective units within each department to conduct audits and investigations of its programs and operations, and to prevent and detect fraud and abuse therein. *Inspector General of Department of Veterans Affairs (9/11/96) Comp. Gen. Dec. No. B-270403, 1996 US Comp Gen LEXIS 437.*

3. Freedom of information act request

While appellee U.S. Department of Agriculture's (USDA) Compliance File could indicate financial makeup of farm's family members, it could also be used to find if farm was eligible for subsidy and if USDA was properly administering its programs, thus, granting summary judgment against appellant, agricultural data vendor, to USDA under Freedom of Information Act Exemption 6, 5 USCS § 552(b)(6), was reversed; importance of ensuring responsible use of subsidy programs' funds was evident under 5 USCS app. § 2. *Multi AG Media LLC v Dep't of Agric. (2008, App DC) 380 US App DC 1, 515 F3d 1224* (criticized in *AT&T Inc. v FCC (2009, CA3) 582 F3d 490, 37 Media L R 2313*).

4. Subpoenas

Subpoena issued by Inspector General of Defense to county crisis center will not be enforced under § 3 of Inspector General Act (5 USCS Appx), where subpoena sought production of documents relating to phone calls received from member of Navy who allegedly disclosed classified information, since § 3 power applies to investigations regarding fraud, inefficiency, waste or general programmatic review of federal funds expenditure, not to security matters. *United States v Montgomery County Crisis Center (1987, DC Md) 676 F Supp 98.*



4 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
 TITLE 5--APPENDIX
 INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 3

§ 3. Appointment of Inspectors General; supervision; removal; political activities; appointment of Assistant Inspector General for Auditing and Assistant Inspector General for Investigations

(a) There shall be at the head of each Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Each Inspector General shall report to and be under the general supervision of the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not report to, or be subject to supervision by, any other officer of such establishment. Neither the head of the establishment nor the officer next in rank below such head 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.

(b) An Inspector General may be removed from office by the President. If an Inspector General is removed from office or is transferred to another position or location within an establishment, the President shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.

(c) For the purposes of *section 7324 of title 5, United States Code*, no Inspector General shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

(d) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service--
 (1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the establishment, and
 (2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

(e) The annual rate of basic pay for an Inspector General (as defined under section 12(3)) shall be the rate payable for level III of the Executive Schedule under *section 5314 of title 5, United States Code*, plus 3 percent.

(f) An Inspector General (as defined under section 8G(a)(6) or 12(3)) may not receive any cash award or cash bonus, including any cash award under chapter 45 of title 5, United States Code [5 USCS §§ 4501 et seq.].

(g) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service, obtain legal advice from a counsel either reporting directly to the Inspector General or another Inspector General.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 3, 92 Stat. 1101; Oct. 14, 2008, P.L. 110-409, §§ 3(a), 4(a)(1), 5, (6)(a), 122 Stat. 4302, 4305.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

2008. Act Oct. 14, 2008, in subsec. (b), substituted the sentences beginning "If an Inspector General is removed . . ." and "Nothing in this subsection . . ." for "The President shall communicate the reasons for any such removal to both Houses of Congress."; and added subsecs. (e)-(g).

Other provisions:

Inspector General of Federal Deposit Insurance Corporation; transition period. Act Dec. 17, 1993, P.L. 103-204, § 23(c), 107 Stat. 2408, provides:

"(1) Current service. Except as otherwise provided by law, the individual serving as the Inspector General of the Federal Deposit Insurance Corporation before the date of enactment of this Act may continue to serve in such position until the earlier of--

"(A) the date on which the President appoints a successor under section 3(a) of the Inspector General Act of 1978; or

"(B) the date which is 6 months after the date of enactment of this Act.

"(2) Definition. For purposes of paragraph (1), the term 'successor' may include the individual holding the position of Inspector General of the Federal Deposit Insurance Corporation on or after the date of enactment of this Act."

Administrative allegations against Inspectors General. Ex. Or. No. 12993 of March 21, 1996, *61 Fed. Reg. 13043*, relating to administrative allegations against Inspectors General, was omitted from the Code pursuant to Act Oct. 14, 2008, P.L. 110-409, § 7(c)(2), 122 Stat. 4313, which appears as *5 USCS Appx § 11* note. Such section provided that Ex. Or. No. 12933 (probably meaning Ex. Or. No. 12993), as in effect before Oct. 14, 2008, was to have no force or effect on and after the earlier of either the date on which the Council of the Inspectors General on Integrity and Efficiency becomes effective and operational or the last day of the 180-day period beginning on Oct. 14, 2008.

Acting Treasury Inspector General for Tax Administration. Act Oct. 21, 1998, P.L. 105-277, Div C, Title I, § 101, 112 Stat. 2681-584; Nov. 29, 1999, P.L. 106-113, Div B, § 1000(a)(5), 113 Stat. 1536 (enacting into law § 239 of Title II of H.R. 3425 (113 Stat. 1501A-302), as introduced on Nov. 17, 1999, effective as if included in the enactment of § 101 of Title I of Division C of Act Oct. 21, 1998, as provided by § 239 of H.R. 3425), provides:

"(a) In general. Notwithstanding any other provision of law, the President may appoint an acting Treasury Inspector General for Tax Administration to serve during the period--

"(1) beginning on the date of the enactment of this section (or, if later, the date of the appointment), and

"(2) ending on the earlier of--

"(A) April 30, 1999, or

"(B) the date on which the first Treasury Inspector General for Tax Administration takes office (other than pursuant to this section).

"(b) Duties before January 18, 1999. The acting Treasury Inspector General for Tax Administration appointed under subsection (a) shall, before January 18, 1999, take only such actions as are necessary to begin operation of the Office of Treasury Inspector General for Tax Administration, including--

"(1) making interim arrangements for administrative support for the Office,

"(2) establishing interim positions in the Office into which personnel will be transferred upon the transfer of functions and duties to the Office on January 18, 1999,

"(3) appointing such acting personnel on an interim basis as may be necessary upon the transfer of functions and duties to the Office on January 18, 1999, and

"(4) providing guidance and input for the fiscal year 2000 budget process for the Office.

"(c) Actions not to limit authority of IG. None of the actions taken by an individual appointed under subsection (a) shall affect the future authority of any Treasury Inspector General for Tax Administration not appointed under subsection (a).

"(d) Limitations.

(1) Nomination. No individual appointed under subsection (a) may serve on or after January 19, 1999, unless on or before such date the President has submitted to the Senate his nomination of an individual to serve as the first Treasury Inspector General for Tax Administration.

"(2) Treasury inspector general may not serve. No individual appointed under subsection (a) may serve during any period such individual is serving as the Inspector General of the Treasury of the United States or the acting Inspector General of the Treasury of the United States.

"(3) Employment restrictions. The provisions of section 8D(j) of the Inspector General Act of 1978 (5 U.S.C. App.) shall not apply to any individual appointed under subsection (a)."

Applicability of certain pay provisions to other Inspectors General. Act Oct. 14, 2008, P.L. 110-409, § 4(a)(3), 122 Stat. 4303; Oct. 7, 2010, P.L. 111-259, Title IV, Subtitle A, § 405(b), 124 Stat. 2719, provides:

"(A) In general. Notwithstanding any other provision of law, the annual rate of basic pay of the Inspector General of the Intelligence Community, the Inspector General of the Central Intelligence Agency, the Special Inspector General for Iraq Reconstruction, and the Special Inspector General for Afghanistan Reconstruction shall be that of an Inspector General as defined under section 12(3) of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by section 7(a) of this Act).

"(B) Prohibition of cash bonus or awards. Section 3(f) of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by section 5 of this Act) shall apply to the Inspectors General described under subparagraph (A)."

Inspectors General of designated Federal entities; savings provisions. Act Oct. 14, 2008, P.L. 110-409, § 4(b)-(d), 122 Stat. 4304, provides:

"(b) Inspectors General of designated Federal entities.

(1) In general. Notwithstanding any other provision of law, the Inspector General of each designated Federal entity (as those terms are defined under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)) shall, for pay and all other purposes, be classified at a grade, level, or rank designation, as the case may be, at or above those of a majority of the senior level executives of that designated Federal entity (such as a General Counsel, Chief Information Officer, Chief Financial Officer, Chief Human Capital Officer, or Chief Acquisition Officer). The pay of an Inspector General of a designated Federal entity (as those terms are defined under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)) shall be not less than the average total compensation (including bonuses) of the senior level executives of that designated Federal entity calculated on an annual basis.

"(2) Limitation on adjustment.

(A) In general. In the case of an Inspector General of a designated Federal entity whose pay is adjusted under paragraph (1), the total increase in pay in any fiscal year resulting from that adjustment may not exceed 25 percent of the average total compensation (including bonuses) of the Inspector General of that entity for the preceding 3 fiscal years.

"(B) Sunset of limitation. The limitation under subparagraph (A) shall not apply to any adjustment made in fiscal year 2013 or each fiscal year thereafter.

"(c) Savings provision for newly Appointed Inspectors General.

(1) In general. The provisions of *section 3392 of title 5, United States Code*, other than the terms 'performance awards' and 'awarding of ranks' in subsection (c)(1) of such section, shall apply to career appointees of the Senior Executive Service who are appointed to the position of Inspector General.

"(2) Nonreduction in pay. Notwithstanding any other provision of law, career Federal employees serving on an appointment made pursuant to statutory authority found other than in *section 3392 of title 5, United States Code*, shall not suffer a reduction in pay, not including any bonus or performance award, as a result of being appointed to the position of Inspector General.

"(d) Savings provision. Nothing in this section shall have the effect of reducing the rate of pay of any individual serving on the date of enactment of this section as an Inspector General of--

"(1) an establishment as defined under section 12(2) of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by section 7(a) of this Act);

"(2) a designated Federal entity as defined under section 8G(2) of the Inspector General Act of 1978 (5 U.S.C. App.);

"(3) a legislative agency for which the position of Inspector General is established by statute; or

"(4) any other entity of the Government for which the position of Inspector General is established by statute."

Construction of amendments by § 6 of Act Oct. 14, 2008. Act Oct. 14, 2008, P.L. 110-409, § 6(c), 122 Stat. 4305, provides: "Nothing in the amendments made by this section [adding subsec. (g) and amending 5 USCS Appx § 8G] shall be construed to alter the duties and responsibilities of the counsel for any establishment or designated Federal entity, except for the availability of counsel as provided under sections 3(g) and 8G(g) of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by this section). The Counsel to the Inspector General shall perform such functions as the Inspector General may prescribe.

NOTES:

Related Statutes & Rules:

This section is referred to in *10 USCS § 141*; *12 USCS §§ 4517, 5231*; *40 USCS § 15704*; *41 USCS § 254d*; *42 USCS §§ 902, 5780a*.

Research Guide:

Am Jur:

53 Am Jur 2d, Military and Civil Defense § 13.

Interpretive Notes and Decisions:

1. Generally
2. Subpoenas

1. Generally

Investigator from agency's Office of Inspector General was representative of agency for purposes of employee's right to union representation during investigatory interview by investigator since agency's OIG performed investigatory role for agency and its components and information determined during course of those investigations could be used by agency to support administrative or disciplinary action against bargaining unit employees, and this interpretation does not conflict with Inspector General Act since none of its provisions suggest that Congress intended to excuse OIG investigators from honoring otherwise applicable federal statutes. *Federal Labor Rels. Auth. v NASA (1997, CA11) 120 F3d 1208, 156 BNA LRRM 2237, 11 FLW Fed C 484* (criticized in *Federal Labor Rels. Auth. v United States DOJ (1997, CA2) 125 F3d 106, 156 BNA LRRM 2390*) and *affd (1999) 527 US 229, 144 L Ed 2d 258, 119 S Ct 1979, 99 CDOS 5179, 99 Daily Journal DAR 6081, 161 BNA LRRM 2513, 1999 Colo J C A R 3480, 12 FLW Fed S 371*.

Investigation agents of Justice Department's Office of Inspector General were representatives of agency for purposes of department employee's request for union representation during interview by agents as part of criminal investigation; there was no merit in Department's attempt to distinguish administrative and criminal investigations for purposes of 5 USCS § 7114(a)(2)(B). *United States DOJ v FLRA (2001, App DC) 347 US App DC 347, 266 F3d 1228, 168 BNA LRRM 2505*.

2. Subpoenas

Inspector General of Interior Department had authority to subpoena documents from defendant federal oil and gas lessee pursuant to power to investigate fraud and abuse in government programs; lessee is not incapable of fraud simply because it accepts no federal funds, since both underpaying lessee and overcharging contractor extract benefit disproportionate to what is received by government. *United States v Chevron U.S.A., Inc. (1999, CA5 Tex) 186 F3d 644, 143 OGR 380*.

In Department of Defense investigation of alleged overcharging by provider of food and food service products, provider's challenge to government's issuance of subpoenas to provider's suppliers and accounting firm under 5 USCS

5 USCS Appx § 3

Appx § 3 was not ripe for review, where government had not yet sought enforcement of subpoenas, which were not self-executing. *United States v Sysco Corp.* (1998, DC Md) 25 F Supp 2d 684.



5 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
TITLE 5--APPENDIX
INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 4

§ 4. Duties and responsibilities; report of criminal violations to Attorney General

(a) It shall be the duty and responsibility of each Inspector General, with respect to the establishment within which his Office is established--

(1) to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of such establishment;

(2) to review existing and proposed legislation and regulations relating to programs and operations of such establishment and to make recommendations in the semiannual reports required by section 5(a) concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by such establishment or the prevention and detection of fraud and abuse in such programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by such establishment for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(4) to recommend policies for, and to conduct, supervise, or coordinate relationships between such establishment and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by such establishment, or (B) the identification and prosecution of participants in such fraud or abuse; and

(5) to keep the head of such establishment and the Congress fully and currently informed, by means of the reports required by section 5 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by such establishment, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(b) (1) In carrying out the responsibilities specified in subsection (a)(1), each Inspector General shall--

(A) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

(B) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

(C) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

(2) For purposes of determining compliance with paragraph (1)(A) with respect to whether internal quality controls are in place and operating and whether established audit standards, policies, and procedures are being followed by Offices of Inspector General of establishments defined under section 12(2), Offices of Inspector General of designated Federal entities defined under section 8F(a)(2), and any audit office established within a Federal entity defined under section 8F(a)(1), reviews shall be performed exclusively by an audit entity in the Federal Government, including the General Accounting Office [Government Accountability Office] or the Office of Inspector General of each establishment defined under section 12(2), or the Office of Inspector General of each designated Federal entity defined under section 8F(a)(2).

(c) In carrying out the duties and responsibilities established under this Act, each Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward avoiding duplication and insuring effective coordination and cooperation.

(d) In carrying out the duties and responsibilities established under this Act, each Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

HISTORY:

(Oct 12, 1978, P.L. 95-452, § 4, 92 Stat. 1102; Oct. 18, 1988, P.L. 100-504, Title I, § 109, 102 Stat. 2529; Sept. 21, 1993, P.L. 103-82, Title II, § 202(g)(5)(A), 107 Stat. 890; Oct. 14, 2008, P.L. 110-409, § 7(d)(1)(A), 122 Stat. 4313.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"Section 8F", referred to in subsec. (b)(2), was renumbered § 8G by Act Dec. 17, 1993, P.L. 103-204, § 23(a)(3), 107 Stat. 2408.

Explanatory notes:

"Government Accountability Office" has been inserted in brackets in subsec. (b)(2) on the authority of § 8 of Act July 7, 2004, P.L. 108-271 (*31 USCS § 702* note), which redesignated the General Accounting Office as the Government Accountability Office, and provided that any reference to the General Accounting Office in any law in force on July 7, 2004, shall be considered to refer and apply to the Government Accountability Office.

Amendments:

1988. Act Oct. 18, 1988 (effective 180 days after enactment as provided by § 113 of such Act, which appears as *5 USCS Appx. § 5* note), in subsec. (b), designated the existing provisions as para. (1), and in such para., redesignated former paras. (1)-(3) as subparas. (A)-(C), respectively, and added para. (2).

1993. Act Sept. 21, 1993 (effective 10/1/93, as provided by 202(i)(1) of such Act, which appears as *42 USCS § 12651* note), in subsec. (b)(2), substituted "section 8F(a)(2), and any" for "section 8E(a)(2), and any", substituted "section 8F(a)(1)" for "section 8E(a)(1)", and substituted "section 8F(a)(2)." for "section 8E(a)(2)."

2008. Act Oct. 14, 2008, in subsec. (b)(2), substituted "section 12(2)" for "section 11(2)" in two places.

Other provisions:

DOT authority. For provision relating to authority of Inspector General of Department of Transportation to conduct investigations of fraudulent or other criminal activity relating to Department programs and operations, which formerly appeared as a note to this section, see *49 USCS § 354*.

NOTES:

Related Statutes & Rules:

This section is referred to in *2 USCS §§ 185, 1808, 1909; 12 USCS § 5231; 38 USCS § 7366; 44 USCS § 3903*.

Interpretive Notes and Decisions:

1. Generally
2. Subpoenas

1. Generally

Inspector General of Department of Transportation acted outside the scope of authority granted under the Inspector General Act (*5 USCS Appx §§ 1 et seq.*) in conducting investigations of motor carriers' compliance with the federal safety regulations; and issue of whether Motor Carrier Safety Improvement Act (MCSIA) (*5 USCS Appx § 4 note*) gave the Inspector General authority to conduct investigations of motor carriers' compliance with the federal safety regulations was not be fit for judicial review. *Truckers United for Safety v Mead (2001, App DC) 346 US App DC 122, 251 F3d 183*.

2. Subpoenas

Inspector General of General Services Administration may obtain claimant's business records in grand jury's possession for use in civil investigation after Justice Department declined to prosecute owner where business records are not subject to *Rule 6(e), Federal Rules of Criminal Procedure*, as they are documents created independently of grand jury investigation and their disclosure will not impinge upon secrecy of grand jury investigation; Inspector General, who had subpoenaed records prior to recommending criminal investigation, has independent legal basis under Inspector General Act to inspect business records. *In re Grand Jury Matter (1986, ED Pa) 640 F Supp 63*.

Law firm must comply with RTC Inspector General's subpoena duces tecum for information regarding firm's clients, where firm has entered into several legal service agreements with FDIC and RTC to provide legal services with respect to number of failed thrift institutions, and allegations surfaced in 1993 that firm had not disclosed actual or potential conflicts of interest, because Inspector General Act authorizes investigation not only into internal operations of federal agencies but also into alleged fraud, abuse, and waste by government contractors and other recipients of government funds. *Adair v Rose Law Firm (1994, DC Dist Col) 867 F Supp 1111*.



6 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
 TITLE 5--APPENDIX
 INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 5

§ 5. Semiannual reports; transmittal to Congress; availability to public; immediate report on serious or flagrant problems; disclosure of information; definitions

(a) Each Inspector General shall, not later than April 30 and October 31 of each year, prepare semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to--

- (1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of such establishment disclosed by such activities during the reporting period;
- (2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);
- (3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;
- (4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;
- (5) a summary of each report made to the head of the establishment under section 6(b)(2) during the reporting period;
- (6) a listing, subdivided according to subject matter, of each audit report, inspection reports [report], and evaluation reports [report] issued by the Office during the reporting period and for each report, where applicable, the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs) and the dollar value of recommendations that funds be put to better use;
- (7) a summary of each particularly significant report;
- (8) statistical tables showing the total number of audit reports, inspection reports, and evaluation reports and the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs), for reports--
 - (A) for which no management decision had been made by the commencement of the reporting period;
 - (B) which were issued during the reporting period;
 - (C) for which a management decision was made during the reporting period, including--
 - (i) the dollar value of disallowed costs; and
 - (ii) the dollar value of costs not disallowed; and
 - (D) for which no management decision has been made by the end of the reporting period;
- (9) statistical tables showing the total number of audit reports, inspection reports, and evaluation reports and the dollar value of recommendations that funds be put to better use by management, for reports--
 - (A) for which no management decision had been made by the commencement of the reporting period;
 - (B) which were issued during the reporting period;

5 USCS Appx § 5

- (C) for which a management decision was made during the reporting period, including--
 - (i) the dollar value of recommendations that were agreed to by management; and
 - (ii) the dollar value of recommendations that were not agreed to by management; and
- (D) for which no management decision has been made by the end of the reporting period;
- (10) a summary of each audit report, inspection reports [report], and evaluation reports [report] issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report;
- (11) a description and explanation of the reasons for any significant revised management decision made during the reporting period;
- (12) information concerning any significant management decision with which the Inspector General is in disagreement;
- (13) the information described under section 05(b) of the Federal Financial Management Improvement Act of 1996;
- (14) (A) an appendix containing the results of any peer review conducted by another Office of Inspector General during the reporting period; or
 - (B) if no peer review was conducted within that reporting period, a statement identifying the date of the last peer review conducted by another Office of Inspector General;
- (15) a list of any outstanding recommendations from any peer review conducted by another Office of Inspector General that have not been fully implemented, including a statement describing the status of the implementation and why implementation is not complete; and
- (16) a list of any peer reviews conducted by the Inspector General of another Office of the Inspector General during the reporting period, including a list of any outstanding recommendations made from any previous peer review (including any peer review conducted before the reporting period) that remain outstanding or have not been fully implemented.

(b) Semiannual reports of each Inspector General shall be furnished to the head of the establishment involved not later than April 30 and October 31 of each year and shall be transmitted by such head to the appropriate committees or subcommittees of the Congress within thirty days after receipt of the report, together with a report by the head of the establishment containing--

- (1) any comments such head determines appropriate;
 - (2) statistical tables showing the total number of audit reports, inspection reports, and evaluation reports and the dollar value of disallowed costs, for audit reports--
 - (A) for which final action had not been taken by the commencement of the reporting period;
 - (B) on which management decisions were made during the reporting period;
 - (C) for which final action was taken during the reporting period, including--
 - (i) the dollar value of disallowed costs that were recovered by management through collection, offset, property in lieu of cash, or otherwise; and
 - (ii) the dollar value of disallowed costs that were written off by management; and
 - (D) for which no final action has been taken by the end of the reporting period;
 - (3) statistical tables showing the total number of audit reports, inspection reports, and evaluation reports and the dollar value of recommendations that funds be put to better use by management agreed to in a management decision, for audit reports--
 - (A) for which final action had not been taken by the commencement of the reporting period;
 - (B) on which management decisions were made during the reporting period;
 - (C) for which final action was taken during the reporting period, including--
 - (i) the dollar value of recommendations that were actually completed; and
 - (ii) the dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed; and
 - (D) for which no final action has been taken by the end of the reporting period; and
 - (4) a statement with respect to audit reports on which management decisions have been made but final action has not been taken, other than audit reports on which a management decision was made within the preceding year, containing--
 - (A) a list of such audit reports and the date each such report was issued;
 - (B) the dollar value of disallowed costs for each report;
 - (C) the dollar value of recommendations that funds be put to better use agreed to by management for each report;
- and

5 USCS Appx § 5

(D) an explanation of the reasons final action has not been taken with respect to each such audit report, except that such statement may exclude such audit reports that are under formal administrative or judicial appeal or upon which management of an establishment has agreed to pursue a legislative solution, but shall identify the number of reports in each category so excluded.

(c) Within sixty days of the transmission of the semiannual reports of each Inspector General to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost. Within 60 days after the transmission of the semiannual reports of each establishment head to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.

(d) Each Inspector General shall report immediately to the head of the establishment involved whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of such establishment. The head of the establishment shall transmit any such report to the appropriate committees or subcommittees of Congress within seven calendar days, together with a report by the head of the establishment containing any comments such head deems appropriate.

(e) (1) Nothing in this section shall be construed to authorize the public disclosure of information which is--

(A) specifically prohibited from disclosure by any other provision of law;

(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

(C) a part of an ongoing criminal investigation.

(2) Notwithstanding paragraph (1)(C), any report under this section may be disclosed to the public in a form which includes information with respect to a part of an ongoing criminal investigation if such information has been included in a public record.

(3) Except to the extent and in the manner provided under *section 6103(f) of the Internal Revenue Code of 1986 [26 USCS § 6103(f)]*, nothing in this section or in any other provision of this Act shall be construed to authorize or permit the withholding of information from the Congress, or from any committee or subcommittee thereof.

(f) As used in this section--

(1) the term "questioned cost" means a cost that is questioned by the Office because of--

(A) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

(B) a finding that, at the time of the audit, such cost is not supported by adequate documentation; or

(C) a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable;

(2) the term "unsupported cost" means a cost that is questioned by the Office because the Office found that, at the time of the audit, such cost is not supported by adequate documentation;

(3) the term "disallowed cost" means a questioned cost that management, in a management decision, has sustained or agreed should not be charged to the Government;

(4) the term "recommendation that funds be put to better use" means a recommendation by the Office that funds could be used more efficiently if management of an establishment took actions to implement and complete the recommendation, including--

(A) reductions in outlays;

(B) deobligation of funds from programs or operations;

(C) withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds;

(D) costs not incurred by implementing recommended improvements related to the operations of the establishment, a contractor or grantee;

(E) avoidance of unnecessary expenditures noted in preaward reviews of contract or grant agreements; or

(F) any other savings which are specifically identified;

(5) the term "management decision" means the evaluation by the management of an establishment of the findings and recommendations included in an audit report and the issuance of a final decision by management concerning its response to such findings and recommendations, including actions concluded to be necessary; and

(6) the term "final action" means--

(A) the completion of all actions that the management of an establishment has concluded, in its management decision, are necessary with respect to the findings and recommendations included in an audit report; and

5 USCS Appx § 5

(B) in the event that the management of an establishment concludes no action is necessary, final action occurs when a management decision has been made.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 5, 92 Stat. 1103; Sept. 8, 1982, P.L. 97-252, Title XI, § 1117(c), 96 Stat. 752; Oct. 18, 1988, P.L. 100-504, Title I, §§ 102(g), 106(a)-(d), 102 Stat. 2521, 2525, 2527; Sept. 30, 1996, P.L. 104-208, Div A, Title I, § 101(f) [Title VIII, § 805(c)], 110 Stat. 3009-393; Oct. 14, 2008, P.L. 110-409, § 12, 122 Stat. 4315.)

(As amended July 21, 2010, P.L. 111-203, Title IX, Subtitle I, § 989C, 124 Stat. 1945.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

The reference in subsec. (a)(13) to "section 05(b) of the Federal Financial Management Improvement Act of 1996" should probably read "section 804(b) of the Federal Financial Management Improvement Act of 1996". Such section appears as *31 USCS § 3512* note.

Explanatory notes:

The bracketed word "report" has been inserted in subsec. (a)(6) and (10) to indicate the word probably intended by Congress.

Amendments:

1982. Act Sept. 8, 1982 added subsec. (e).

1988. Act Oct. 18, 1988, §§ 102(g), 106(c), (d) (effective 180 days after enactment as provided by § 113 of such Act, which appears as *5 USCS Appx. § 5* note), in subsec. (c), added the sentence beginning "Within 60 days after the . . ."; in subsec. (e)(3), substituted "Except to the extent and in the manner provided under *section 6103(f) of the Internal Revenue Code of 1986*, nothing" for "Nothing"; and added subsec. (f).

Section 106(a) and (b) of such Act (effective one year after enactment as provided by § 113 of such Act, which appears as a note to this section), in subsec. (a), in para. (5), deleted "and" following "period;"; deleted para. (6), which read: "a listing of each audit report completed by the Office during the reporting period."; and, in subsec. (b), substituted "head of the establishment containing--" and paras. (1)-(4) for "head of the establishment containing any comments such head deems appropriate."

1996. Act Sept. 30, 1996 (effective as provided by § 807 of such Act, which appears as *31 USCS § 3512* note), in subsec. (a), in para. (11), deleted "and" following the concluding semicolon, in para. (12), substituted "; and" for a concluding period, and added para. (13).

2008. Act Oct. 14, 2008, in subsec. (a), in para. (6), substituted "for each report" for "for each audit report", and in paras. (8) and (9), in the introductory matter, inserted ", inspection reports, and evaluation reports", and substituted "for reports" for "for audit reports"; and, in subsec. (b), in paras. (2) and (3), in the introductory matter, inserted ", inspection reports, and evaluation reports", and substituted "for reports" for "for audit reports".

Such Act further purported to amend subsec. (a), in paras. (6) and (10), by inserting ", inspection reports, and evaluation reports" after "audit reports" the first place it appears; such amendments have been made by inserting the matter after "audit report" the first time it appears in order to effectuate the probable intent of Congress.

2010. Act July 21, 2010 (effective 1 day after enactment, as provided by § 4 of such Act, which appears as *12 USCS § 5301* note), in para. (12), deleted "and" following the concluding semicolon, in para. (13), substituted the concluding semicolon for a period, and added paras. (14)-(16).

Other provisions:

Effective dates of Act Oct. 18, 1988. Act Oct. 18, 1988, P.L. 100-504, Title I, § 113, 102 Stat. 2530, provides: "This title and the amendments made by this title [amending generally 5 USCS Appx.; for full classification, consult USCS Tables volumes] shall take effect 180 days after the date of the enactment of this title, except that section 5(a)(6) through (12) of the Inspector General Act of 1978 (as amended by section 106(a) of this title) and section 5(b)(1) through (4) of the Inspector General Act of 1978 (as amended by section 106(b) of this title) shall take effect 1 year after the date of the enactment of this title."

Prompt management decisions and implementation of audit recommendations. Act Oct. 13, 1994, P.L. 103-355, Title VI, § 6009, 108 Stat. 3367 (effective on enactment as provided by § 10001(a) of such Act, which appears as *41 USCS § 251* note); Feb. 10, 1996, P.L. 104-106, Div A, Title VIII, Subtitle A, § 810, 110 Stat. 394, provides:

"(a) Management decisions.

(1) The head of a Federal agency shall make management decisions on all findings and recommendations set forth in an audit report of the inspector general of the agency within a maximum of six months after the issuance of the report.

"(2) The head of a Federal agency shall make management decisions on all findings and recommendations set forth in an audit report of any auditor from outside the Federal Government within a maximum of six months after the date on which the head of the agency receives the report.

"(b) Completion of final action. The head of a Federal agency shall complete final action on each management decision required with regard to a recommendation in an inspector general's report under subsection (a)(1) within 12 months after the date of the inspector general's report. If the head of the agency fails to complete final action with regard to a management decision within the 12-month period, the inspector general concerned shall identify the matter in each of the inspector general's semiannual reports pursuant to section 5(a)(3) of the Inspector General Act of 1978 (5 U.S.C. App.) [subsec. (a)(3) of this section] until final action on the management decision is completed."

Disclosure of Government contractor audit findings. Act Jan. 28, 2008, P.L. 110-181, Div A, Title VIII, Subtitle D, § 845, 122 Stat. 240, provides:

"(a) Required annex on significant audit findings.

(1) In general. Each Inspector General appointed under the Inspector General Act of 1978 [5 USCS Appx] shall submit, as part of the semiannual report submitted to Congress pursuant to section 5 of such Act [this section], an annex on final, completed contract audit reports issued to the contracting activity containing significant audit findings issued during the period covered by the semiannual report concerned.

"(2) Elements. Such annex shall include--

"(A) a list of such contract audit reports;

"(B) for each audit report, a brief description of the nature of the significant audit findings in the report; and

"(C) for each audit report, the specific amounts of costs identified as unsupported, questioned, or disallowed.

"(3) Information exempt from public disclosure.

(A) Nothing in this subsection shall be construed to require the release of information to the public that is exempt from public disclosure under *section 552(b) of title 5, United States Code*.

"(B) For each element required by paragraph (2), the Inspector General concerned shall note each instance where information has been redacted in accordance with the requirements of *section 552(b) of title 5, United States Code*, and submit an unredacted annex to the committees listed in subsection (d)(2) within 7 days after the issuance of the semiannual report.

"(b) Defense Contract Audit Agency included. For purposes of subsection (a), audits of the Defense Contract Audit Agency shall be included in the annex provided by the Inspector General of the Department of Defense if they include significant audit findings.

"(c) Exception. Subsection (a) shall not apply to an Inspector General if no audits described in such subsection were issued during the covered period.

"(d) Submission of individual audits.

5 USCS Appx § 5

(1) Requirement. The head of each Federal department or agency shall provide, within 14 days after a request in writing by the chairman or ranking member of any committee listed in paragraph (2), a full and unredacted copy of any audit described in subsection (a). Such copy shall include an identification of information in the audit exempt from public disclosure under *section 552(b) of title 5, United States Code*.

"(2) Committees. The committees listed in this paragraph are the following:

"(A) The Committee on Oversight and Government Reform of the House of Representatives.

"(B) The Committee on Homeland Security and Governmental Affairs of the Senate.

"(C) The Committees on Appropriations of the House of Representatives and the Senate.

"(D) With respect to the Department of Defense and the Department of Energy, the Committees on Armed Services of the Senate and House of Representatives.

"(E) The Committees of primary jurisdiction over the agency or department to which the request is made.

"(e) Classified information. Nothing in this section shall be interpreted to require the handling of classified information or information relating to intelligence sources and methods in a manner inconsistent with any law, regulation, executive order, or rule of the House of Representatives or of the Senate relating to the handling or protection of such information.

"(f) Definitions. In this section:

"(1) Significant audit findings. The term 'significant audit findings' includes--

"(A) unsupported, questioned, or disallowed costs in an amount in excess of \$ 10,000,000; or

"(B) other findings that the Inspector General of the agency or department concerned determines to be significant.

"(2) Contract. The term 'contract' includes a contract, an order placed under a task or delivery order contract, or a subcontract."

Corrective responses by heads of certain establishments to deficiencies identified by Inspectors General. Act July 21, 2010, P.L. 111-203, Title IX, Subtitle I, § 989H, 124 Stat. 1948, provides:

"The Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Commodity Futures Trading Commission, the Chairman of the National Credit Union Administration, the Director of the Pension Benefit Guaranty Corporation, and the Chairman of the Securities and Exchange Commission shall each--

"(1) take action to address deficiencies identified by a report or investigation of the Inspector General of the establishment concerned; or

"(2) certify to both Houses of Congress that no action is necessary or appropriate in connection with a deficiency described in paragraph (1)."

NOTES:

Related Statutes & Rules:

This section is referred to in *2 USCS §§ 185, 1808, 1909; 26 USCS § 7803; 39 USCS § 3013; 42 USCS § 1320a-7d; 44 USCS § 3903*.



7 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
TITLE 5--APPENDIX
INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 6

§ 6. Authority of Inspector General; information and assistance from Federal agencies; unreasonable refusal; office space and equipment

(a) In addition to the authority otherwise provided by this Act, each Inspector General, in carrying out the provisions of this Act, is authorized--

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act;

(2) to make such investigations and reports relating to the administration of the programs and operations of the applicable establishment as are, in the judgment of the Inspector General, necessary or desirable;

(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(4) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data in any medium (including electronically stored information, as well as any tangible thing) and documentary evidence necessary in the performance of the functions assigned by this Act, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided*, That procedures other than subpoenas shall be used by the Inspector General to obtain documents and information from Federal agencies;

(5) to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this Act, which oath, affirmation, or affidavit when administered or taken by or before an employee of an Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;

(6) to have direct and prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

(7) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service [5 USCS §§ 3301 et seq.], and the provisions of chapter 51 and subchapter III of chapter 53 of such title [5 USCS §§ 5101 et seq., 5331 et seq.] relating to classification and General Schedule pay rates;

(8) to obtain services as authorized by *section 3109 of title 5, United States Code*, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by *section 5332 of title 5, United States Code*; and

5 USCS Appx § 6

(9) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act.

(b) (1) Upon request of an Inspector General for information or assistance under subsection (a)(3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnished to such Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a)(1) or (a)(3) is, in the judgment of an Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

(c) Each head of an establishment shall provide the Office within such establishment with appropriate and adequate office space at central and field office locations of such establishment, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(d) (1) (A) For purposes of applying the provisions of law identified in subparagraph (B)--

(i) each Office of Inspector General shall be considered to be a separate agency; and

(ii) the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office, have the functions, powers, and duties of an agency head or appointing authority under such provisions.

(B) This paragraph applies with respect to the following provisions of title 5, United States Code:

(i) Subchapter II of chapter 35 [5 USCS §§ 3521 et seq.].

(ii) Sections 8335(b), 8336, 8344, 8414, 8468, and 8425(b) [5 USCS §§ 8335(b), 8336, 8344, 8414, 8468, and 8425(b)].

(iii) All provisions relating to the Senior Executive Service [5 USCS §§ 3131 et seq.] (as determined by the Office of Personnel Management), subject to paragraph (2).

(2) For purposes of applying *section 4507(b) of title 5, United States Code*, paragraph (1)(A)(ii) shall be applied by substituting "the Council of the Inspectors General on Integrity and Efficiency (established by section 11 of the Inspector General Act) shall" for "the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office,".

(e) (1) In addition to the authority otherwise provided by this Act, each Inspector General, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to--

(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

(C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that--

(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency,

General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

(5)

(A) Powers authorized for an Office of Inspector General under paragraph (1) may be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

(B) Powers authorized to be exercised by any individual under paragraph (1) may be rescinded or suspended with respect to that individual upon a determination by the Attorney General that such individual has not complied with guidelines promulgated by the Attorney General under paragraph (4).

(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection [enacted Nov. 25, 2002], collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.

(9) In this subsection, the term "Inspector General" means an Inspector General appointed under section 3 or an Inspector General appointed under section 8G.

(f) (1) For each fiscal year, an Inspector General shall transmit a budget estimate and request to the head of the establishment or designated Federal entity to which the Inspector General reports. The budget request shall specify the aggregate amount of funds requested for such fiscal year for the operations of that Inspector General and shall specify the amount requested for all training needs, including a certification from the Inspector General that the amount requested satisfies all training requirements for the Inspector General's office for that fiscal year, and any resources necessary to support the Council of the Inspectors General on Integrity and Efficiency. Resources necessary to support the Council of the Inspectors General on Integrity and Efficiency shall be specifically identified and justified in the budget request.

(2) In transmitting a proposed budget to the President for approval, the head of each establishment or designated Federal entity shall include--

(A) an aggregate request for the Inspector General;

(B) amounts for Inspector General training;

(C) amounts for support of the Council of the Inspectors General on Integrity and Efficiency; and

(D) any comments of the affected Inspector General with respect to the proposal.

(3) The President shall include in each budget of the United States Government submitted to Congress--

(A) a separate statement of the budget estimate prepared in accordance with paragraph (1);

(B) the amount requested by the President for each Inspector General;

(C) the amount requested by the President for training of Inspectors General;

(D) the amount requested by the President for support for the Council of the Inspectors General on Integrity and Efficiency; and

(E) any comments of the affected Inspector General with respect to the proposal if the Inspector General concludes that the budget submitted by the President would substantially inhibit the Inspector General from performing the duties of the office.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 6, 92 Stat. 1104; Oct. 18, 1988, P.L. 100-504, Title I, §§ 107, 110(a), 102 Stat. 2528, 2529; Nov. 25, 2002, P.L. 107-296, Title VIII, Subtitle B, § 812(a), 116 Stat. 2222; Oct. 14, 2008, P.L. 110-409, §§ 8, 9, 11, 14(a), 122 Stat. 4313, 4315, 4316.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1988. Act Oct. 18, 1988 (effective 180 days after enactment, as provided by § 113 of such Act, which appears as 5 *USCS Appx.* § 5 note), in subsec. (a), redesignated former paras. (5)-(8) as paras. (6)-(9), respectively, and added a new para. (5); and added subsec. (d).

2002. Act Nov. 25, 2002 (effective 180 days after enactment, as provided by § 812(c)(1) of such Act, which appears as a note to this section), added subsec. (e).

2008. Act Oct. 14, 2008, in subsec. (a)(4), inserted "in any medium (including electronically stored information, as well as any tangible thing)", and substituted "subpoena" for "subpena"; substituted subsec. (d) for one which read: "(d) For purposes of the provisions of title 5, United States Code, governing the Senior Executive Service, any reference in such provisions to the "appointing authority" for a member of the Senior Executive Service or for a Senior Executive Service position shall, if such member or position is or would be within the Office of an Inspector General, be deemed to be a reference to such Inspector General."; in subsec. (e), in para. (1), in the introductory matter, deleted "appointed under section 3" following "each Inspector General", and added para. (9); and added subsec. (f).

Transfer of functions:

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see 6 *USCS* § 315(a)(1).

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former 6 *USCS* § 313(1) and 6 *USCS* §§ 551(d), 552(d), and 557, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, which appears as 6 *USCS* § 542 note.

Other provisions:

GS 16-18 pay rates. Act Nov. 5, 1990, P.L. 101-509, Title V, § 529 [Title I, § 101(c)-(e)], 104 Stat. 1442, which appears as 5 *USCS* § 5376 note, provides for the construction of references to rates of pay for GS 16-18 employees.

Establishment of Inspectors General Criminal Investigator Academy and Inspectors General Forensic Laboratory. Act Nov. 1, 2000, P.L. 106-422, § 2, 114 Stat. 1873, provides:

"(a) Inspectors General Criminal Investigator Academy.

(1) Establishment. There is established the Criminal Investigator Academy within the Department of the Treasury. The Criminal Investigator Academy is established for the purpose of performing investigator training services for offices of inspectors general created under the Inspector General Act of 1978 (5 U.S.C. App.).

"(2) Executive Director. The Criminal Investigator Academy shall be administered by an Executive Director who shall report to an inspector general for an establishment as defined in section 11 of the Inspector General Act of 1978 (5 U.S.C. App.)--

"(A) designated by the President's Council on Integrity and Efficiency; or

"(B) if that council is eliminated, by a majority vote of the inspectors general created under the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) Inspectors General Forensic Laboratory.

(1) Establishment. There is established the Inspectors General Forensic Laboratory within the Department of the Treasury. The Inspectors General Forensic Laboratory is established for the purpose of performing forensic services for offices of inspectors general created under the Inspector General Act of 1978 (5 U.S.C. App.).

"(2) Executive Director. The Inspectors General Forensic Laboratory shall be administered by an Executive Director who shall report to an inspector general for an establishment as defined in section 11 of the Inspector General Act of 1978 (5 U.S.C. App.)--

"(A) designated by the President's Council on Integrity and Efficiency; or

"(B) if that council is eliminated, by a majority vote of the inspectors general created under the Inspector General Act of 1978 (5 U.S.C. App.).

"(c) [Omitted--This section amended *31 USCS § 1105(a)(33)*.]

"(d) Authorization of appropriations. There are authorized to carry out this section such sums as may be necessary for fiscal year 2001 and each fiscal year thereafter."

Promulgation of initial guidelines under subsec. (e). Act Nov. 25, 2002, P.L. 107-296, Title VIII, Subtitle B, § 812(b), 116 Stat. 2223 (effective on enactment, as provided by § 812(c)(2) of such Act, which appears as a note to this section), provides:

"(1) Definition. In this subsection, the term 'memoranda of understanding' means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App.) (as added by subsection (a) of this section) that--

"(A) are in effect on the date of enactment of this Act; and

"(B) authorize such offices to exercise authority that is the same or similar to the authority under section 6(e)(1) of such Act.

"(2) In general. Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App.) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

"(3) Minimum requirements. The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

"(4) No lapse of authority. The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect."

Effective date of § 812 of Act Nov. 25, 2002. Act Nov. 25, 2002, P.L. 107-296, Title VIII, Subtitle B, § 812(c), 116 Stat. 2224, provides:

"(1) In general. Subsection (a) [adding subsec. (e) of this section] shall take effect 180 days after the date of enactment of this Act.

"(2) Initial guidelines. Subsection (b) [note to this section] shall take effect on the date of enactment of this Act."

NOTES:

Related Statutes & Rules:

This section is referred to in *2 USCS §§ 185, 1808, 1909*; *7 USCS § 2270*; *12 USCS § 5231*; *20 USCS § 1082*; *22 USCS § 3929*; *38 USCS § 7366*; *42 USCS §§ 262a, 1320a-7c*; *44 USCS § 3903*; *49 USCS § 1137*.

Interpretive Notes and Decisions:

1. Generally 2. Relationship with other laws 3. Perjury 4. Subpoenas 5.--Authority to issue found 6.--Authority to issue not found

1. Generally

Administrative Medicare audits were within authority granted to inspector general by statute, and challenge to process at its commencement by teaching hospital was unripe and premature, as no final agency action had been taken. *Univ. of Med. & Dentistry v Corrigan* (2003, CA3 NJ) 347 F3d 57, cert den (2004) 542 US 937, 124 S Ct 2907, 159 L Ed 2d 812.

Inspector General of Department of Transportation had no authority in 1998 to engage in criminal investigations into appellant's record keeping procedures in conjunction with DOT's Office of Motor Carriers; Congress did not intend to grant IG authority to investigate motor carriers' compliance with federal motor carrier safety regulations, which is central to agency's basic operations, rather gave IG authority to investigate DOT's administration of programs and operations. *Truckers United for Safety v Mead* (2001, App DC) 346 US App DC 122, 251 F3d 183.

2. Relationship with other laws

Office of Inspector General of Department of Justice did not commit unfair labor practice, in violation of 5 USCS § 7114(a)(2)(B), when one of its investigators refused to allow union representative to confer privately with employee of Immigration and Naturalization Service (also agency within Department of Justice) during interrogation of employee who was being investigated for selling government-owned ammunition, falsifying time records, gambling and abusing alcohol, because investigator was not acting on behalf of "agency" contemplated by statute, and pursuant to Inspector General Act (5 USCS Appx §§ 1 et seq.), Inspector General has independent authority to conduct investigations that cannot be compromised by unfair labor practice statutes. *United States Dep't of Justice v Federal Labor Relations Auth.* (1994, App DC) 309 US App DC 84, 39 F3d 361, 147 BNA LRRM 2712 (criticized in *Federal Labor Rels. Auth. v NASA* (1997, CA11) 120 F3d 1208, 156 BNA LRRM 2237, 11 FLW Fed C 484).

3. Perjury

Investigators for United States Inspector General are authorized to administer oaths and no particular formalities are required for oath; thus, defendant's false statement to Inspector General could have been considered as perjury. *United States v Anderson* (2003, DC Mass) 260 F Supp 2d 310.

4. Subpoenas

District Court has subject matter jurisdiction here only on basis of Department of Interior Inspector General's counterclaim motion seeking enforcement of subpoena issued to Clerk of Territorial Court of Virgin Islands under § 6(a)(4) of Inspector General Act (5 USCS Appx), where Territorial Court filed suit for declaratory and injunctive relief to prevent audit of its operations, because pre-enforcement review of investigative subpoenas is strongly disfavored and challenges to enforcement should be heard at enforcement hearing. *Territorial Court of Virgin Islands v Richards* (1987, DC VI) 673 F Supp 152, affd (1988, CA3 VI) 847 F2d 108, cert den (1988) 488 US 955, 102 L Ed 2d 380, 109 S Ct 390.

5.--Authority to issue found

Inspector General did not exceed his statutory authority in issuing subpoenas for records, documents, and reports relating to appellants' participation in federal disaster program; without subpoena power, IG would be largely unable to determine whether program and its benefit recipients were operating in appropriate manner and abuse of system, which IG was specifically created to combat, could go undetected. *Inspector Gen. of the United States Dep't of Agric. v Glenn* (1997, CA11 Ga) 122 F3d 1007, 11 FLW Fed C 535.

Administrative subpoenas duces tecum to wool and mohair producers did not exceed IG's statutory authority since they were issued to test efficiency of Consolidated Farm Service Agency's implementation of payment limitations in wool and mohair price support program. *Winters Ranch Pshp. v Viadero* (1997, CA5 Tex) 123 F3d 327, reh, en banc, den (1997, CA5 Tex) 132 F3d 1458.

Summary enforcement of administrative subpoena was proper, where issued by Inspector General of Department of Defense against interstate van lines in conjunction with co-operative price fixing investigation conducted with Justice Department, since Inspector General was authorized to engage in criminal investigations, no statutory or regulatory law restricts Inspector General's ability to co-operate with divisions of Justice Department; use of administrative subpoena instead of grand jury process did not circumvent statutory or any other limitations on Justice Department's investigative powers, especially where Defense Department would be unable to view any information obtained through grand jury process to pursue civil remedies against those who may have defrauded Defense Department; exact degree of Justice Department's guidance or influence regarding investigation and administrative subpoenas is immaterial as long as Inspector General's subpoenas seek information relevant to discharge of Inspector General's duties. *United States v Aero Mayflower Transit Co.* (1987, App DC) 265 US App DC 383, 831 F2d 1142, 1987-2 CCH Trade Cases P 67740.

Virgin Islands Territorial Court's claim to quash subpoena and enjoin Department of Interior Inspector General's audit of its operations is denied, where (1) alleged improper performance of past indirect audits of court are irrelevant at

summary enforcement hearing on subpoena seeking records for direct audit, (2) Inspector General has authority to conduct this audit under § 6 of Inspector General Act (5 USCS Appx) and 48 USCS § 1599, and (3) no part of Virgin Islands government, including judiciary, has power on level of 3 co-equal branches of federal government, because nothing in doctrine of separation of powers, Revised Organic Act of 1954 (48 USCS §§ 1544 and 1611(a)) or Insular Areas Act of 1982 (48 USCS § 1599) precludes Inspector from conducting proposed audit and issuing subpoena. *Territorial Court of Virgin Islands v Richards* (1987, DC VI) 673 F Supp 152, affd (1988, CA3 VI) 847 F2d 108, cert den (1988) 488 US 955, 102 L Ed 2d 380, 109 S Ct 390.

Summary enforcement of Inspector General subpoena is granted under § 6(a)(4) of Inspector General Act (5 USCS Appx), where Office of Inspector General (OIG) is auditing Blue Cross and Blue Shield of Michigan regarding implementation of Medicare secondary payor laws, because subpoena falls within OIG's independent statutory authority, is not too indefinite, seeks reasonably relevant information, and is not attempt to thwart discovery in related civil action. *United States v Blue Cross & Blue Shield* (1989, ED Mich) 726 F Supp 1523.

Deputy Inspector General properly issued subpoena under 5 USCS Appx § 6(a), where Inspector General delegated power to deputy and legislative history does not indicate congressional intent to reject delegation; delegation is impliedly authorized. *United States v Custodian of Records, Southwestern Fertility Center* (1990, WD Okla) 743 F Supp 783.

Inspector General's (IG's) subpoena seeking records of truck driving and secretarial training school will be summarily enforced under § 6(a)(4) of Inspector General Act (5 USCS Appx), despite school's insistence that enforcement of subpoena would be abusive and unduly burdensome, because information sought by subpoena comprises information to which IG is either contractually or statutorily entitled in order to complete investigation of fraud and abuse in federal educational loan and grant programs. *United States v Teeven* (1990, DC Del) 745 F Supp 220.

State Department of Taxation must comply with subpoena issued by Inspector General of U.S. Department of Labor's Office of Inspector General pursuant to § 6(a)(4) of Inspector General Act to provide work records of participants in Department's Job Training Partnership Act, where state claimed that NY Tax L. § 697(e)(1) privileged it from releasing that information, because § 6(a)(4) preempts § 697(e)(1) since privilege obstructs Congress's purpose and objective in providing Inspectors General with subpoena power to find waste and abuse in federal programs. *United States v New York State Dep't of Taxation & Fin.* (1992, ND NY) 807 F Supp 237, 37 Fed Rules Evid Serv 128.

Inspector General subpoena to compel bank to produce certain records pertaining to accounts of 2 corporate customers will be enforced, where subpoena is authorized by § 6(a)(4) of the Inspector General Act and complies with Right to Financial Privacy Act (12 USCS §§ 3401 et seq.), because subpoena need not also comply with Maryland's privacy statute under *Supremacy Clause*. *United States ex rel. Agency for Int'l Dev. v First Nat'l Bank* (1994, DC Md) 866 F Supp 884.

Administrative subpoena issued to law firm hired by RTC shall be enforced summarily, where Office of Inspector General of RTC issued subpoena pursuant to conflict-of-interest investigation, and has narrowed request pursuant to firm's legitimate privacy and confidentiality concerns regarding its client list, because Inspector General has very broad authority to investigate outside contractors for purpose of detecting and preventing fraud and abuse. *United States v Hunton & Williams* (1997, DC Dist Col) 952 F Supp 843.

6.--Authority to issue not found

Inspector General lacks statutory authority to conduct, as part of long-term, continuing plan, regulatory compliance investigations or audits, hence Railroad Retirement Board IG's subpoena issued in aid of such was properly denied enforcement; holding is supported by language and purpose of Inspector General Act of 1978. *Burlington N. R. Co. v Office of Inspector General, R. Retirement Bd.* (1993, CA5 Tex) 983 F2d 631.

Inspector General of Railroad Retirement Board is not entitled to enforcement of subpoena duces tecum directed to private railroad's "Keeper of Records" in connection with audit review relating to compensation and credible service reports for coverage under Railroad Retirement Tax Act and Railroad Unemployment Insurance Act, because Inspector General Act (5 USCS Appx §§ 1 et seq.) grants only limited oversight authority and not authority to conduct audit contemplated. *Burlington N. R. Co. v Office of Inspector General* (1991, ND Tex) 767 F Supp 1379, affd (1993, CA5 Tex) 983 F2d 631.



8 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
TITLE 5--APPENDIX
INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 7

§ 7. Complaints by employees; disclosure of identity; reprisals

(a) The Inspector General may receive and investigate complaints or information from an employee of the establishment concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.

(b) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(c) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 7, 92 Stat. 1105.)

NOTES:

Related Statutes & Rules:

This section is referred to in *2 USCS §§ 185, 1808; 15 USCS § 657; 44 USCS § 3903.*



9 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
TITLE 5--APPENDIX
INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 8

§ 8. Additional provisions with respect to the Inspector General of the Department of Defense

(a) No member of the Armed Forces, active or reserve, shall be appointed Inspector General of the Department of Defense.

(b) (1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Secretary of Defense with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning--

(A) sensitive operational plans;

(B) intelligence matters;

(C) counterintelligence matters;

(D) ongoing criminal investigations by other administrative units of the Department of Defense related to national security; or

(E) other matters the disclosure of which would constitute a serious threat to national security.

(2) With respect to the information described in paragraph (1) the Secretary of Defense may prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena, after the Inspector General has decided to initiate, carry out or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to preserve the national security interests of the United States.

(3) If the Secretary of Defense exercises any power under paragraph (1) or (2), the Inspector General shall submit a statement concerning such exercise within thirty days to the Committees on Armed Services and [Homeland Security and] Governmental Affairs of the Senate and the Committee on Armed Services and the Committee on Government Reform and Oversight of the House of Representatives and to other appropriate committees or subcommittees of the Congress.

(4) The Secretary shall, within thirty days after a submission of a statement under paragraph (3), transmit a statement of the reasons for the exercise of power under paragraph (1) or (2) to the congressional committees specified in paragraph (3) and to other appropriate committees or subcommittees.

(c) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Department of Defense shall--

(1) be the principal adviser to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste, and abuse in the programs and operations of the Department;

5 USCS Appx § 8

(2) initiate, conduct, and supervise such audits and investigations in the Department of Defense (including the military departments) as the Inspector General considers appropriate;

(3) provide policy direction for audits and investigations relating to fraud, waste, and abuse and program effectiveness;

(4) investigate fraud, waste, and abuse uncovered as a result of other contract and internal audits, as the Inspector General considers appropriate;

(5) develop policy, monitor and evaluate program performance, and provide guidance with respect to all Department activities relating to criminal investigation programs;

(6) monitor and evaluate the adherence of Department auditors to internal audit, contract audit, and internal review principles, policies, and procedures;

(7) develop policy, evaluate program performance, and monitor actions taken by all components of the Department in response to contract audits, internal audits, internal review reports, and audits conducted by the Comptroller General of the United States;

(8) request assistance as needed from other audit, inspection, and investigative units of the Department of Defense (including military departments); and

(9) give particular regard to the activities of the internal audit, inspection, and investigative units of the military departments with a view toward avoiding duplication and insuring effective coordination and cooperation.

(d) Notwithstanding section 4(d), the Inspector General of the Department of Defense shall expeditiously report suspected or alleged violations of chapter 47 of title 10, United States Code [*10 USCS §§ 801 et seq.*] (Uniform Code of Military Justice), to the Secretary of the military department concerned or the Secretary of Defense.

(e) For the purposes of section 7, a member of the Armed Forces shall be deemed to be an employee of the Department of Defense, except that, when the Coast Guard operates as a service of another department or agency of the Federal Government, a member of the Coast Guard shall be deemed to be an employee of such department or agency.

(f) (1) Each semiannual report prepared by the Inspector General of the Department of Defense under section 5(a) shall include information concerning the numbers and types of contract audits conducted by the Department during the reporting period. Each such report shall be transmitted by the Secretary of Defense to the Committees on Armed Services and Governmental Affairs of the Senate and the Committee on Armed Services and the Committee on Government Reform and Oversight of the House of Representatives and to other appropriate committees or subcommittees of the Congress.

(2) Any report required to be transmitted by the Secretary of Defense to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified in such section, to the congressional committees specified in paragraph (1).

(g) The provisions of *section 1385 of title 18, United States Code*, shall not apply to audits and investigations conducted by, under the direction of, or at the request of the Inspector General of the Department of Defense to carry out the purposes of this Act.

(h) (1) There is a General Counsel to the Inspector General of the Department of Defense, who shall be appointed by the Inspector General of the Department of Defense.

(2) (A) Notwithstanding *section 140(b) of title 10, United States Code*, the General Counsel is the chief legal officer of the Office of the Inspector General.

(B) The Inspector General is the exclusive legal client of the General Counsel.

(C) The General Counsel shall perform such functions as the Inspector General may prescribe.

(D) The General Counsel shall serve at the discretion of the Inspector General.

(3) There is an Office of the General Counsel to the Inspector General of the Department of Defense. The Inspector General may appoint to the Office to serve as staff of the General Counsel such legal counsel as the Inspector General considers appropriate.

(i) (1) The Inspector General of the Department of Defense is authorized to require by subpoena the attendance and testimony of witnesses as necessary in the performance of functions assigned to the Inspector General by this Act, except that the Inspector General shall use procedures other than subpoenas to obtain attendance and testimony from Federal employees.

(2) A subpoena issued under this subsection, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court.

(3) The Inspector General shall notify the Attorney General 7 days before issuing any subpoena under this section.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 8, 92 Stat. 1105; Sept. 8, 1982, P.L. 97-252, Title XI, § 1117(b), 96 Stat. 751; Oct. 18, 1988, P.L. 100-504, Title I, § 110(b), 102 Stat. 2529; Feb. 10, 1996, P.L. 104-106, Div A, Title XV, § 1502(f)(6), 110 Stat. 510; Oct. 5, 1999, P.L. 106-65, Div A, Title X, Subtitle G, § 1067(17), 113 Stat. 775; Oct. 14, 2008, P.L. 110-417, [Div A,] Title IX, Subtitle A, § 907, 122 Stat. 4569; Oct. 28, 2009, P.L. 111-84, Div A, Title X, Subtitle D, § 1042, 123 Stat. 2455.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

The Committee on Government Reform and Oversight of the House of Representatives, referred to in subsec. (b)(3), was renamed the Committee on Government Reform of the House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. The name was further changed to the Committee on Oversight and Government Reform of the House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Explanatory notes:

The words "Homeland Security and" have been inserted in subsec. (b)(3) on the authority of Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

The bracketed designator "Div A," has been inserted in the credits as such designator appears in the table of contents, but not the text, of Act Oct. 14, 2008, P.L. 110-417.

Amendments:

1982. Act Sept. 8, 1982 substituted this section for one which read:

"§ 8. Semiannual reports of Secretary of Defense on audit, investigative, and inspection units of Department of Defense; availability to public; exclusion of national security material; delegation of duty; submittal of proposed legislation; establishment of task force to study operation of audit, investigative, and inspection units; membership; comprehensive report; final report

"(a)

(1) The Secretary of Defense shall submit to the Congress semiannual reports during the period ending October 1, 1982, summarizing the activities of the audit, investigative and inspection units of the Department of Defense. Such reports shall be submitted within sixty days of the close of the reporting periods ending March 31 and September 30 and shall include, but not be limited to--

"(A) a description of significant instances or patterns of fraud, waste, or abuse disclosed by the audit, investigative, and inspection activities during the reporting period and a description of recommendations for corrective action made with respect to such instances or patterns;

"(B) a summary of matters referred for prosecution and of the results of such prosecutions; and

"(C) a statistical summary, by categories of subject matter, of audit and inspection reports completed during the reporting period.

"(2) Within sixty days of the transmission of the semiannual reports, the Secretary shall make copies of such reports available to the public upon request and at a reasonable cost.

"(3) If the Secretary concludes that compliance with the reporting requirements in paragraphs (1) and (2) of this subsection would require inclusion of material that may constitute a threat to the national security or disclose an intelligence function or activity, the Secretary may exclude such material from the report. If material is excluded from a report

5 USCS Appx § 8

under this subsection, the Secretary shall provide the chairmen and ranking minority members of the appropriate committees and subcommittees with a general description of the nature of the material excluded.

"(4) The Secretary may delegate his responsibilities under paragraphs (1) through (3): *Provided*, That the delegation be to an official within the Office of the Secretary of Defense who is a Presidential appointee confirmed by the Senate. In preparing the reports, the designee of the Secretary shall have the same access to information held by the audit, investigative or inspection units as the Secretary would.

"(5) In order to effectuate the purposes of this Act with respect to the Department of Defense, the Secretary of Defense shall submit, not later than March 31, 1981, proposed legislation to establish appropriate reporting procedures, for the period after October 1, 1982, concerning the audit, investigative and inspection activities of the Department of Defense.

"(b)

(1) The Secretary of Defense shall establish a task force to study the operation of the audit, investigative, and inspection components in the Department of Defense which engage in the prevention and detection of fraud, waste, and abuse. The Secretary shall appoint the Director and other members of the task force: *Provided*, That the Director shall be a person who is not an employee of the Department of Defense. The Director shall have the authority to hire such additional staff as is necessary to complete the study.

"(2) The Director and members of the task force and, upon the request of a member or the Director, the staff of the task force shall have access to all information relevant to the study and held by the audit, investigative, and inspection components in the Department of Defense including reports prepared by such components: *Provided*, That--

"(A) such information or reports may be withheld if a component head determines that disclosure would compromise an active investigation of wrong-doing;

"(B) the Inspectors General of the Military Departments may delete the names of individuals in a report prepared by them if the Inspector General determines that the inclusion of the names would affect the ability of the Inspector General to obtain information in future investigations and inspections; and

"(C) no classified information shall be released to the task force unless the members and staff who will have access to the classified information have the appropriate clearances.

"Upon the request of the Director, the Secretary of Defense and the Secretaries of the Military Departments shall assure that the task force has access to information as provided in this subsection.

"(3) The task force shall prepare a comprehensive report that shall include, but not be limited to--

"(A) a description of the functions of the audit, investigative and inspection components in the Department of Defense and the extent to which such components cooperate in their efforts to detect and prevent fraud, waste and abuse;

"(B) an evaluation of whether such components are sufficiently independent to carry out their responsibilities;

"(C) the relationship between such components and the Criminal Division of the Department of Justice; and

"(D) recommendations for change in organization or functions that may be necessary to improve the effectiveness of such components.

"(4) The task force shall submit its final report to the Secretary of Defense and the Director of the Office of Management and Budget. The Secretary and the Director of the Office of Management and Budget may, in the form of addenda to the report, provide any additional information that they deem necessary. The Secretary shall submit the report and the addenda to the Congress not later than April 1, 1980. The task force shall be disestablished sixty days following such submission.

"(5) Any matter concerning the intelligence or counterintelligence activities of the Department of Defense and assigned by regulation to the Inspector General for Defense Intelligence shall be excluded from the study of the task force."

1988. Act Oct. 18, 1988 (effective 180 days after enactment as provided by § 113 of such Act, which appears as 5 USCS Appx. § 5 note), in subsec. (e), inserted ", except that, when the Coast Guard operates as a service of another department or agency of the Federal Government, a member of the Coast Guard shall be deemed to be an employee of such department or agency".

1996. Act Feb. 10, 1996, in subsec. (b), in para. (3), substituted "Committee on National Security and the Committee on Government Reform and Oversight" for "Committees on Armed Services and Government Operations" and, in para. (4), substituted "congressional committees specified in paragraph (3)" for "Committees on Armed Services and Go-

vernmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives"; and, in subsec. (f), in para. (1), substituted "Committee on National Security and the Committee on Government Reform and Oversight" for "Committees on Armed Services and Government Operations" and, in para. (2), substituted "congressional committees specified in paragraph (1)" for "Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives".

1999. Act Oct. 5, 1999, in subsecs. (b)(3) and (f)(1), substituted "Committee on Armed Services" for "Committee on National Security".

2008. Act Oct. 14, 2008, added subsec. (h).

2009. Act Oct. 28, 2009, added subsec. (i).

Interpretive Notes and Decisions:

1. Generally 2. Subpoenas

1. Generally

Congress intended courts to accept determination of Inspector General of Department of Defense regarding what information is necessary to carry out assigned functions so long as information is relevant to Inspector General function. *United States v Westinghouse Electric Corp.* (1986, CA3 Pa) 788 F2d 164, 33 CCF P 74342.

Although Congress did not intend that inspector general would act as rubber stamp, automatically approving and issuing subpoenas for use of other departments, it did not intend to restrict inspector general's own investigations, intra-departmentally, no matter how they were commenced; Congress intended that if investigation by one agency should kindle interest, duty or even curiosity of inspector general to investigate contractor, he should not be prevented or discouraged; inspector general has independent authority from military board of contract appeals and may obtain subpoena for purposes of investigating military contractor. *United States v Westinghouse Electric Corp.* (1985, WD Pa) 615 F Supp 1163, 33 CCF P 73922, affd (1986, CA3 Pa) 788 F2d 164, 33 CCF P 74342.

2. Subpoenas

Inspector General of Department of Defense had statutory authority to issue subpoena for corporation's internal audit records, at request of Defense Contract Audit Agency which was charged with auditing and assisting in negotiation of defense contracts, so long as Inspector General did so in furtherance of purposes within his statutory authority and exercised some independent judgment in deciding whether to issue subpoena. *United States v Westinghouse Electric Corp.* (1986, CA3 Pa) 788 F2d 164, 33 CCF P 74342.

Summary enforcement of administrative subpoena was proper, where issued by Inspector General of Department of Defense against interstate van lines in conjunction with co-operative price fixing investigation conducted with Justice Department, since Inspector General was authorized to engage in criminal investigations, no statutory or regulatory law restrict Inspector General's ability to co-operate with divisions of Justice Department; use of administrative subpoena instead of grand jury process did not circumvent statutory or any other limitations on Justice Department's investigative powers, especially where Defense Department would be unable to view any information obtained through grand jury process to pursue civil remedies against those who may have defrauded Defense Department; exact degree of Justice Department's guidance or influence regarding investigation and administrative subpoena is immaterial as long as Inspector General's subpoenas seek information relevant to discharge of Inspector General's duties. *United States v Aero Mayflower Transit Co.* (1987, App DC) 265 US App DC 383, 831 F2d 1142, 1987-2 CCH Trade Cases P 67740.

Defense Department Inspector General's investigation to detect price-fixing in Defense Department contracts with moving and storage services is within authority granted to Inspector General under 5 Appx USCS § 8 to prevent and detect waste, fraud, and abuse, where Defense Department economists found that pricing patterns in over \$ 430 million of contracts suggested collusive activity; fact that Inspector General issued more subpoenas against moving and storage

companies involved in investigation in one day than his office had issued in total for more than 3 years does not establish any impropriety in Inspector's investigation. *United States v Aero-Mayflower Transit Co.* (1986, DC Dist Col) 646 F Supp 1467, 1986-2 CCH Trade Cases P 67341, affd (1987, App DC) 265 US App DC 383, 831 F2d 1142, 1987-2 CCH Trade Cases P 67740.



10 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
 TITLE 5--APPENDIX
 INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 8A

§ 8A. Special provisions relating to the Agency for International Development

(a) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Agency for International Development shall supervise, direct, and control all security activities relating to the programs and operations of that Agency, subject to the supervision of the Administrator of that Agency.

(b) In addition to the Assistant Inspector Generals provided for in section 3(d) of this Act, the Inspector General of the Agency for International Development shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Security who shall have the responsibility for supervising the performance of security activities relating to programs and operations of the Agency for International Development.

(c) In addition to the officers and employees provided for in section 6(a)(6) of this Act, members of the Foreign Service may, at the request of the Inspector General of the Agency for International Development, be assigned as employees of the Inspector General. Members of the Foreign Service so assigned shall be responsible solely to the Inspector General and the Inspector General (or his or her designee) shall prepare the performance evaluation reports for such members.

(d) In establishing and staffing field offices pursuant to section 6(c) of this Act, the Administrator of the Agency for International Development shall not be bound by overseas personnel ceilings established under the Monitoring Overseas Direct Employment policy.

(e) The Inspector General of the Agency for International Development shall be in addition to the officers provided for in section 624(a) of the Foreign Assistance Act of 1961 [22 USCS § 2384(a)].

(f) As used in this Act, the term "Agency for International Development" includes any successor agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 [22 USCS §§ 2151 et seq.].

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 8A, as added Dec. 29, 1981, P.L. 97-113, Title VII, § 705(a)(3), 95 Stat. 1544; Oct. 21, 1998, P.L. 105-277, Div G, Subdiv A, Title XIV, Ch 3, § 1422(b)(2), 112 Stat. 2681-792; Nov. 29, 1999, P.L. 106-113, Div B, § 1000(a)(7), 113 Stat. 1536.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

The amendment made by § 1000(a)(7) of Act Nov. 29, 1999, P.L. 106-113, is based on § 205 of Subtitle A of Title II of Division A of H.R. 3427 (113 Stat. 1501A-422), as introduced on Nov. 17, 1999, which was enacted into law by such § 1000(a)(7).

Amendments:

1998. Act Oct. 21, 1998 (effective as provided by § 1401 of Div G of such Act, which appears 22 *USCS* § 6561 note), in subsec. (a), substituted "Development shall" for "Development--

"(1) shall",

substituted the concluding period for "; and", and deleted para. (2), which read: "(2) to the extent requested by the Director of the United States International Development Cooperation Agency (after consultation with the Administrator of the Agency for International Development), shall supervise, direct, and control all audit, investigative, and security activities relating to programs and operations within the United States International Development Cooperation Agency."; deleted subsec. (c), which read: "(c) The semiannual reports required to be submitted to the Administrator of the Agency for International Development pursuant to section 5(b) of this Act shall also be submitted to the Director of the United States International Development Cooperation Agency."; deleted subsec. (f), which read: "(f) The reference in section 7(a) of this Act to an employee of the establishment shall, with respect to the Inspector General of the Agency for International Development, be construed to include an employee of or under the United States International Development Cooperation Agency."; and redesignated subsecs. (d), (e), (g), and (h) as subsecs. (c)-(f), respectively.

1999. Act Nov. 29, 1999 purported to amend subsec. (a) by deleting "and" at the end of paragraph (1), by deleting the period at the end of paragraph (2) and inserting "; and", and by adding a paragraph (3) as follows: "(3) shall supervise, direct, and control audit and investigative activities relating to programs and operations within the Inter-American Foundation and the African Development Foundation."; however, because of prior amendments, these amendments could not be executed.

Such Act further purported to amend subsec. (f) by inserting before the period at the end the following: ", an employee of the Inter-American Foundation, and an employee of the African Development Foundation"; however, because of prior amendments, this amendment was not executed.



11 of 26 DOCUMENTS

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TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
TITLE 5--APPENDIX
INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 8B

§ 8B. Special provisions concerning the Nuclear Regulatory Commission

(a) The Chairman of the Commission may delegate the authority specified in the second sentence of section 3(a) to another member of the Nuclear Regulatory Commission, but shall not delegate such authority to any other officer or employee of the Commission.

(b) Notwithstanding sections 6(a)(7) and (8), the Inspector General of the Nuclear Regulatory Commission is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments and employment, and the obtaining of such services, within the Nuclear Regulatory Commission.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 8B, as added Oct. 18, 1988, P.L. 100-504, Title I, § 102(f), 102 Stat. 2517.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Effective date of section:

This section is effective 180 days after enactment as provided by Act Oct. 18, 1988, P.L. 100-504, Title I, § 113, 102 Stat. 2530, which appears as *5 USCS Appx. § 5* note.



12 of 26 DOCUMENTS

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TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
TITLE 5--APPENDIX
INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 8C

§ 8C. Special provisions concerning the Federal Deposit Insurance Corporation

(a) Delegation. The Chairperson of the Federal Deposit Insurance Corporation may delegate the authority specified in the second sentence of section 3(a) to the Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, but may not delegate such authority to any other officer or employee of the Corporation.

(b) Personnel. Notwithstanding paragraphs (7) and (8) of section 6(a), the Inspector General of the Federal Deposit Insurance Corporation may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the Federal Deposit Insurance Corporation.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 8C, as added Dec. 17, 1993, P.L. 103-204, § 23(a)(2), 107 Stat. 2407.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

A prior § 8C was redesignated § 8D by Act Dec. 17, 1993, P.L. 103-204, § 23(a)(3), 107 Stat. 2408.



13 of 26 DOCUMENTS

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TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
 TITLE 5--APPENDIX
 INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 8D

§ 8D. Special provisions concerning the Department of the Treasury

(a) (1) Notwithstanding the last two sentences of section 3(a) [5 *USCS Appx. § 3(a)*], the Inspector General of the Department of the Treasury shall be under the authority, direction, and control of the Secretary of the Treasury with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning--

(A) ongoing criminal investigations or proceedings;

(B) undercover operations;

(C) the identity of confidential sources, including protected witnesses;

(D) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior;

(E) intelligence or counterintelligence matters; or

(F) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person or property authorized protection by *section 3056 of title 18, United States Code, section 3056A of title 18, United States Code*, or any provision of the Presidential Protection Assistance Act of 1976 (*18 U.S.C. 3056 note; Public Law 94-524*).

(2) With respect to the information described under paragraph (1), the Secretary of the Treasury may prohibit the Inspector General of the Department of the Treasury from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent significant impairment to the national interests of the United States.

(3) If the Secretary of the Treasury exercises any power under paragraph (1) or (2), the Secretary of the Treasury shall notify the Inspector General of the Department of the Treasury in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General of the Department of the Treasury shall transmit a copy of such notice to the Committees on [Homeland Security and] Governmental Affairs and Finance of the Senate and the Committees on Government Operations and Ways and Means of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

(4) The Secretary of the Treasury may not exercise any power under paragraph (1) or (2) with respect to the Treasury Inspector General for Tax Administration.

5 USCS Appx § 8D

(b) (1) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the Tax and Trade Bureau. The head of such office shall promptly report to the Inspector General of the Department of the Treasury the significant activities being carried out by such office.

(2) The Inspector General of the Department of the Treasury shall exercise all duties and responsibilities of an Inspector General for the Department of the Treasury other than the duties and responsibilities exercised by the Treasury Inspector General for Tax Administration.

(3) The Secretary of the Treasury shall establish procedures under which the Inspector General of the Department of the Treasury and the Treasury Inspector General for Tax Administration will--

- (A) determine how audits and investigations are allocated in cases of overlapping jurisdiction; and
- (B) provide for coordination, cooperation, and efficiency in the conduct of such audits and investigations.

(c) Notwithstanding subsection (b), the Inspector General of the Department of the Treasury may initiate, conduct and supervise such audits and investigations in the Department of the Treasury (including the bureau referred to in subsection (b)) as the Inspector General of the Department of the Treasury considers appropriate.

(d) If the Inspector General of the Department of the Treasury initiates an audit or investigation under subsection (c) concerning the bureau referred to in subsection (b), the Inspector General of the Department of the Treasury may provide the head of the office of such bureau referred to in subsection (b) with written notice that the Inspector General of the Department of the Treasury has initiated such an audit or investigation. If the Inspector General of the Department of the Treasury issues a notice under the preceding sentence, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General of the Department of the Treasury and any other audit or investigation of such matter shall cease.

(e) (1) The Treasury Inspector General for Tax Administration shall have access to return information, as defined in *section 6103(b) of the Internal Revenue Code of 1986 [26 USCS § 6103(b)]*, only in accordance with the provisions of section 6103 of such Code [26 USCS § 6103] and this Act.

(2) The Internal Revenue Service shall maintain the same system of standardized records or accountings of all requests from the Treasury Inspector General for Tax Administration for inspection or disclosure of returns and return information (including the reasons for and dates of such requests), and of returns and return information inspected or disclosed pursuant to such requests, as described under *section 6103(p)(3)(A) of the Internal Revenue Code of 1986 [26 USCS § 6103(p)(3)(A)]*. Such system of standardized records or accountings shall also be available for examination in the same manner as provided under *section 6103(p)(3) of the Internal Revenue Code of 1986 [26 USCS § 6103(p)(3)]*.

(3) The Treasury Inspector General for Tax Administration shall be subject to the same safeguards and conditions for receiving returns and return information as are described under *section 6103(p)(4) of the Internal Revenue Code of 1986 [26 USCS § 6103(p)(4)]*.

(f) An audit or investigation conducted by the Inspector General of the Department of the Treasury or the Treasury Inspector General for Tax Administration shall not affect a final decision of the Secretary of the Treasury or his delegate under *section 6406 of the Internal Revenue Code of 1986 [26 USCS § 6406]*.

(g) (1) Any report required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of the Congress under section 5(d) [5 USCS Appx. § 5(d)] shall also be transmitted, within the seven-day period specified under such section, to the Committees on [Homeland Security and] Governmental Affairs and Finance of the Senate and the Committees on Government Reform and Oversight and Ways and Means of the House of Representatives.

(2) Any report made by the Treasury Inspector General for Tax Administration that is required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of Congress under section 5(d) [5 USCS Appx. § 5(d)] shall also be transmitted, within the 7-day period specified under such subsection, to the Internal Revenue Service Oversight Board and the Commissioner of Internal Revenue.

(h) The Treasury Inspector General for Tax Administration shall exercise all duties and responsibilities of an Inspector General of an establishment with respect to the Department of the Treasury and the Secretary of the Treasury on all matters relating to the Internal Revenue Service. The Treasury Inspector General for Tax Administration shall have sole

5 USCS Appx § 8D

authority under this Act to conduct an audit or investigation of the Internal Revenue Service Oversight Board and the Chief Counsel for the Internal Revenue Service.

(i) In addition to the requirements of the first sentence of section 3(a) [5 USCS Appx. § 3(a)], the Treasury Inspector General for Tax Administration should have demonstrated ability to lead a large and complex organization.

(j) An individual appointed to the position of Treasury Inspector General for Tax Administration, the Assistant Inspector General for Auditing of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(1) [5 USCS Appx. § 3(d)(1)], the Assistant Inspector General for Investigations of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(2) [5 USCS Appx. § 3(d)(2)], or any position of Deputy Inspector General of the Office of the Treasury Inspector General for Tax Administration may not be an employee of the Internal Revenue Service--

(1) during the 2-year period preceding the date of appointment to such position; or

(2) during the 5-year period following the date such individual ends service in such position.

(k) (1) In addition to the duties and responsibilities exercised by an inspector general of an establishment, the Treasury Inspector General for Tax Administration--

(A) shall have the duty to enforce criminal provisions under *section 7608(b) of the Internal Revenue Code of 1986* [26 USCS § 7608(b)];

(B) in addition to the functions authorized under section 7608(b)(2) of such Code [26 USCS § 7608(b)(2)], may carry firearms;

(C) shall be responsible for protecting the Internal Revenue Service against external attempts to corrupt or threaten employees of the Internal Revenue Service, but shall not be responsible for the conducting of background checks and the providing of protection to the Commissioner of Internal Revenue; and

(D) may designate any employee in the Office of the Treasury Inspector General for Tax Administration to enforce such laws and perform such functions referred to under subparagraphs (A), (B), and (C).

(2) (A) In performing a law enforcement function under paragraph (1), the Treasury Inspector General for Tax Administration shall report any reasonable grounds to believe there has been a violation of Federal criminal law to the Attorney General at an appropriate time as determined by the Treasury Inspector General for Tax Administration, notwithstanding section 4(d) [5 USCS Appx. § 4(d)].

(B) In the administration of section 5(d) [5 USCS Appx. § 5(d)] and subsection (g)(2) of this section, the Secretary of the Treasury may transmit the required report with respect to the Treasury Inspector General for Tax Administration at an appropriate time as determined by the Secretary, if the problem, abuse, or deficiency relates to--

(i) the performance of a law enforcement function under paragraph (1); and

(ii) sensitive information concerning matters under subsection (a)(1)(A) through (F).

(3) Nothing in this subsection shall be construed to affect the authority of any other person to carry out or enforce any provision specified in paragraph (1).

(l) (1) The Commissioner of Internal Revenue or the Internal Revenue Service Oversight Board may request, in writing, the Treasury Inspector General for Tax Administration to conduct an audit or investigation relating to the Internal Revenue Service. If the Treasury Inspector General for Tax Administration determines not to conduct such audit or investigation, the Inspector General shall timely provide a written explanation for such determination to the person making the request.

(2) (A) Any final report of an audit conducted by the Treasury Inspector General for Tax Administration shall be timely submitted by the Inspector General to the Commissioner of Internal Revenue and the Internal Revenue Service Oversight Board.

(B) The Treasury Inspector General for Tax Administration shall periodically submit to the Commissioner and Board a list of investigations for which a final report has been completed by the Inspector General and shall provide a copy of any such report upon request of the Commissioner or Board.

(C) This paragraph applies regardless of whether the applicable audit or investigation is requested under paragraph (1).

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 8D [8C], as added Oct. 1, 1988, P.L. 100-504, Title I, § 102(f), 102 Stat. 2518; Dec. 17, 1993, P.L. 103-204, § 23(a)(3), 107 Stat. 2408; July 22, 1998, P.L. 105-206, Title I, Subtitle B, § 1103(b), (e)(1),

(2), 112 Stat. 705, 709; Nov. 25, 2002, P.L. 107-296, Title XI, Subtitle B, § 1112(a)(1), 116 Stat. 2276; Feb. 20, 2003, P.L. 108-7, Div L, § 104(c)(2), 117 Stat. 531; March 9, 2006, P.L. 109-177, Title VI, § 605(e)(3), 120 Stat. 255; Oct. 14, 2008, P.L. 110-409, § 14(b), 122 Stat. 4316.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

The Committee on Government Operations of the House of Representatives, referred to in subsec. (a)(3), is to be treated as referring to the Committee on Government Reform and Oversight of the House of Representatives, pursuant to § 1(a) of Act June 3, 1995, P.L. 104-14, which appears as a note preceding 2 *USCS* § 21. The Committee on Government Reform and Oversight of the House of Representatives (see also subsec. (g)(1)) was renamed the Committee on Government Reform of the House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. The name was further changed to the Committee on Oversight and Government Reform of the House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Explanatory notes:

The words "Homeland Security and" have been inserted in subsecs. (a)(3) and (g)(1) on the authority of Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

A prior § 8D was redesignated § 8E by Act Dec. 17, 1993, P.L. 103-204, § 23(a)(3), 107 Stat. 2408.

Effective date of section:

This section became effective 180 days after enactment, pursuant to § 113 of Act Oct. 18, 1988, P.L. 100-504, which appears as 5 *USCS Appx.* § 5 note.

Amendments:

1998. Act July 22, 1998, in subsec. (a), in paras. (1) and (2), inserted "of the Department of the Treasury", in para. (3), inserted "of the Department of the Treasury" in two places, and added para. (4); in subsec. (b), designated the existing provisions as para. (1) and, in such paragraph as so designated, deleted "and the internal audits and internal investigations performed by the Office of Assistant Commissioner (Inspection) of the Internal Revenue Service" following "Secret Service.", and inserted "of the Department of the Treasury" following "report to the Inspector General", and added paras. (2) and (3); in subsecs. (c) and (d), inserted "of the Department of the Treasury" after "Inspector General" whenever appearing; in subsec. (e), in para. (1), substituted "Treasury Inspector General for Tax Administration" for "Inspector General", deleted the introductory matter and subparas. (A) and (B) of para. (2), which read:

"(2) Access by the Inspector General to returns and return information under section 6103(h)(1) of such Code shall be subject to the following additional requirements:

"(A) In order to maintain internal controls over access to returns and return information, the Inspector General, or in the absence of the Inspector General, the Acting Inspector General, the Deputy Inspector General, the Assistant Inspector General for Audits, or the Assistant Inspector General for Investigations, shall provide to the Assistant Commissioner (Inspection) of the Internal Revenue Service written notice of the Inspector General's intent to access returns and return information. If the Inspector General determines that the Inspection Service of the Internal Revenue Service should not be made aware of a notice of access to returns and return information, such notice shall be provided to the Senior Deputy Commissioner of Internal Revenue.

"(B) Such notice shall clearly indicate the specific returns or return information being accessed, contain a certification by the Inspector General, or in the absence of the Inspector General, the Acting Inspector General, the Deputy Inspector General, the Assistant Inspector General for Audits, or the Assistant Inspector General for Investigations, that

5 USCS Appx § 8D

the returns or return information being accessed are needed for a purpose described under *section 6103(h)(1) of the Internal Revenue Code of 1986*, and identify those employees of the Office of Inspector General of the Department of the Treasury who may receive such returns or return information.",

redesignated subparas. (C) and (D) as paras. (2) and (3), respectively, and, in such paragraphs as so designated, substituted "Treasury Inspector General for Tax Administration" for "Inspector General"; in subsec. (f), substituted "Inspector General of the Department of the Treasury or the Treasury Inspector General for Tax Administration" for "Inspector General"; deleted subsec. (g), which read: "(g) Notwithstanding section 4(d), in matters involving chapter 75 of the Internal Revenue Code of 1986, the Inspector General shall report expeditiously to the Attorney General only offenses under section 7214 of such Code, unless the Inspector General obtains the consent of the Commissioner of Internal Revenue to exercise additional reporting authority with respect to such chapter."; redesignated subsec. (h) as para. (1) of subsec. (g) and, in such paragraph as so designated, substituted "and the Committees on Government Reform and Oversight and Ways and Means of the House of Representatives" for "and the Committees on Government Operations and Ways and Means of the House of Representatives", and added para. (2); and added subsecs. (h)-(l).

2002. Act Nov. 25, 2002 (effective 60 days after enactment, as provided by § 4 of such Act, which appears as 6 USCS § 101 note), in subsec. (b)(1), substituted "Tax and Trade Bureau" for "Bureau of Alcohol, Tobacco, and Firearms".

2003. Act Feb. 20, 2003, in subsec. (b)(1), deleted ", the Office of Internal Affairs of the United States Customs Service, and the Office of Inspections of the United States Secret Service," following "Trade Bureau", and deleted "each" following "head of"; in subsec. (c), substituted "bureau" for "bureaus and services"; and, in subsec. (d), substituted "the bureau" for "a bureau or service", and deleted "or service" following "such bureau".

2006. Act March 9, 2006, in subsec. (a)(1)(F), substituted "section 3056A of title 18" for "section 202 of title 3".

2008. Act Oct. 14, 2008, in subsec. (k)(1)(C), substituted "protection to the Commissioner of Internal Revenue" for "physical security".

Redesignation:

This section, enacted as § 8C of Act Oct. 12, 1978, P.L. 95-452, was redesignated § 8D of such Act by Act Dec. 17, 1993, P.L. 103-204, § 23(a)(3), 107 Stat. 2408.



14 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
 TITLE 5--APPENDIX
 INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 8E

§ 8E. Special provisions concerning the Department of Justice

(a) (1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Attorney General with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning--

- (A) ongoing civil or criminal investigations or proceedings;
- (B) undercover operations;
- (C) the identity of confidential sources, including protected witnesses;
- (D) intelligence or counterintelligence matters; or
- (E) other matters the disclosure of which would constitute a serious threat to national security.

(2) With respect to the information described under paragraph (1), the Attorney General may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Attorney General determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent the significant impairment to the national interests of the United States.

(3) If the Attorney General exercises any power under paragraph (1) or (2), the Attorney General shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committees on [Homeland Security and] Governmental Affairs and Judiciary of the Senate and the Committees on Government Operations and Judiciary of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Justice--

(1) may initiate, conduct and supervise such audits and investigations in the Department of Justice as the Inspector General considers appropriate;

(2) except as specified in subsection (a) and paragraph (3), may investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, or may, in the discretion of the Inspector General, refer such allegations to the Office of Professional Responsibility or the internal affairs office of the appropriate component of the Department of Justice;

(3) shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice, allegations of misconduct involving Department attorneys, investigators, or law enforcement personnel, where the allegations relate to the

exercise of the authority of an attorney to investigate, litigate, or provide legal advice, except that no such referral shall be made if the attorney is employed in the Office of Professional Responsibility;

(4) may investigate allegations of criminal wrongdoing or administrative misconduct by a person who is the head of any agency or component of the Department of Justice; and

(5) shall forward the results of any investigation conducted under paragraph (4), along with any appropriate recommendation for disciplinary action, to the Attorney General.

(c) Any report required to be transmitted by the Attorney General to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on the Judiciary and [Homeland Security and] Governmental Affairs of the Senate and the Committees on the Judiciary and Government Operations of the House of Representatives.

(d) The Attorney General shall ensure by regulation that any component of the Department of Justice receiving a non-frivolous allegation of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, except with respect to allegations described in subsection (b)(3), shall report that information to the Inspector General.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 8E [8D], as added Oct. 1, 1988, P.L. 100-504, Title I, § 102(f), 102 Stat. 2520; Dec. 17, 1993, P.L. 103-204, § 23(a)(3), 107 Stat. 2408; Nov. 2, 2002, P.L. 107-273, Div A, Title III, § 308, 116 Stat. 1784.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

The Committee on Government Operations of the House of Representatives, referred to in subsecs. (a)(3) and (c), is to be treated as referring to the Committee on Government Reform and Oversight of the House of Representatives, pursuant to § 1(a) of Act June 3, 1995, P.L. 104-14, which appears as a note preceding 2 *USCS* § 21. The Committee on Government Reform and Oversight of the House of Representatives was renamed the Committee on Government Reform of the House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. The name was further changed to the Committee on Oversight and Government Reform of the House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Explanatory notes:

The words "Homeland Security and" have been inserted in subsecs. (a)(3) and (c) on the authority of Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

A prior § 8E, relating to special provisions concerning the Corporation for National and Community Service, was redesignated § 8F by Act Dec. 17, 1993, P.L. 103-204, § 23(a)(3), 107 Stat. 2408.

Another prior § 8E, relating to requirements for Federal entities and designated Federal entities, was successively renumbered § 8F by Act Sept. 21, 1993, P.L. 103-82, and § 8G by Act Dec. 17, 1993, P.L. 103-204.

Effective date of section:

This section became effective 180 days after enactment, as provided by § 113 of Act Oct. 18, 1988, P.L. 100-504, which appears as 5 *USCS Appx.* § 5 note.

Amendments:

2002. Act Nov. 2, 2002, in subsec. (b), substituted paras. (2)-(5) for former paras. (2) and (3), which read:

5 USCS Appx § 8E

"(2) shall give particular regard to the activities of the Counsel, Office of Professional Responsibility of the Department and the audit, internal investigative, and inspection units outside the Office of Inspector General with a view toward avoiding duplication and insuring effective coordination and cooperation; and

"(3) shall refer to the Counsel, Office of Professional Responsibility of the Department for investigation, information or allegations relating to the conduct of an officer or employee of the Department of Justice employed in an attorney, criminal investigative, or law enforcement position that is or may be a violation of law, regulation, or order of the Department or any other applicable standard of conduct, except that no such referral shall be made if the officer or employee is employed in the Office of Professional Responsibility of the Department.";

and added subsec. (d).

Redesignation:

This section, enacted as § 8D of Act Oct. 12, 1978, P.L. 95-452, was redesignated § 8E of such Act by Act Dec. 17, 1993, P.L. 103-204, § 23(a)(3), 107 Stat. 2408.

Other provisions:

Transfer of 20 investigation positions within the Department of Justice. Act Oct. 18, 1988, P.L. 100-504, Title I, § 102(h), 102 Stat. 2521, effective 180 days after enactment as provided by § 113 of such Act, which appears as *5 USCS Appx. § 5* note, provides: "No later than 90 days after the date of appointment of the Inspector General of the Department of Justice, the Inspector General shall designate 20 full-time investigation positions which the Attorney General may transfer from the Office of Inspector General of the Department of Justice to the Office of Professional Responsibility of the Department of Justice for the performance of functions described under section 8D(b)(3) of the Inspector General Act of 1978. Any personnel who are transferred pursuant to this subsection, and who, at the time of being so transferred, are protected from reduction in classification or compensation under section 9(c) of such Act, shall continue to be so protected for 1 year after the date of transfer pursuant to this subsection."

Alleged civil rights abuses by Department of Justice employees; review and report. Act Oct. 26, 2001, P.L. 107-56, Title X, § 1001, 115 Stat. 391, provides:

"The Inspector General of the Department of Justice shall designate one official who shall--

"(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department of Justice;

"(2) make public through the Internet, radio, television, and newspaper advertisements information on the responsibilities and functions of, and how to contact, the official; and

"(3) submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on a semi-annual basis a report on the implementation of this subsection and detailing any abuses described in paragraph (1), including a description of the use of funds appropriations used to carry out this subsection."

Appointment of oversight official within the Office of Inspector General. Act Nov. 2, 2002, P.L. 107-273, Div A, Title III, § 309(a), 116 Stat. 1784, provides:

"(1) In general. The Inspector General of the Department of Justice shall direct that 1 official from the office of the Inspector General be responsible for supervising and coordinating independent oversight of programs and operations of the Federal Bureau of Investigation until September 30, 2004.

"(2) Continuation of oversight. The Inspector General may continue individual oversight in accordance with paragraph (1) after September 30, 2004, at the discretion of the Inspector General."



15 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
 TITLE 5--APPENDIX
 INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 8F

§ 8F. Special provisions concerning the Corporation for National and Community Service

(a) Notwithstanding the provisions of paragraphs (7) and (8) of section 6(a), it is within the exclusive jurisdiction of the Inspector General of the Corporation for National and Community Service to--

(1) appoint and determine the compensation of such officers and employees in accordance with section 195(b) of the National and Community Service Act of 1990 [42 USCS § 12651f(b)]; and

(2) procure the temporary and intermittent services of and compensate such experts and consultants, in accordance with *section 3109(b) of title 5, United States Code*, as may be necessary to carry out the functions, powers, and duties of the Inspector General.

(b) No later than the date on which the Chief Executive Officer of the Corporation for National and Community Service transmits any report to the Congress under subsection (a) or (b) of section 5, the Chief Executive Officer shall transmit such report to the Board of Directors of such Corporation.

(c) No later than the date on which the Chief Executive Officer of the Corporation for National and Community Service transmits a report described under section 5(b) to the Board of Directors as provided under subsection (b) of this section, the Chief Executive Officer shall also transmit any audit report which is described in the statement required under section 5(b)(4) to the Board of Directors. All such audit reports shall be placed on the agenda for review at the next scheduled meeting of the Board of Directors following such transmittal. The Chief Executive Officer of the Corporation shall be present at such meeting to provide any information relating to such audit reports.

(d) No later than the date on which the Inspector General of the Corporation for National and Community Service reports a problem, abuse, or deficiency under section 5(d) to the Chief Executive Officer of the Corporation, the Chief Executive Officer shall report such problem, abuse, or deficiency to the Board of Directors.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 8F [8E], as added Sept. 21, 1993, P.L. 103-82, Title II, § 202(g)(1), 107 Stat. 889; Dec. 17, 1993, P.L. 103-204, § 23(a)(3), (4), 107 Stat. 2408; April 21, 2009, P.L. 111-13, Title IV, § 4101, 123 Stat. 1597.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

5 USCS Appx § 8F

Explanatory notes:

A prior § 8F was redesignated § 8G by Act Dec. 17, 1993, P.L. 103-204, § 23(a)(3), 107 Stat. 2408.

Effective date of section:

This section took effect on Oct. 1, 1993, as provided by § 202(i) of Act Sept. 21, 1993, P.L. 103-82, which appears as *42 USCS § 12651* note.

Amendments:

1993. Act Dec. 17, 1993 purported to amend subsec. (a)(2) of this section by deleting "the Federal Deposit Insurance Corporation,". Although the amendment could not be executed as directed because the language to be deleted did not appear in such subsection, such amendment was executed to § 8G(a)(2) of the Inspector General Act in order to effectuate the probable intent of Congress.

2009. Act April 21, 2009 (effective on 10/1/2009, as provided by § 6101(a) of such Act, which appears as *42 USCS § 4950* note), in subsec. (a)(1), substituted "National and Community Service Act of 1990" for National and Community Service Trust Act of 1993".

Redesignation:

This section, enacted as § 8E of Act Oct. 12, 1978, P.L. 95-452, was redesignated § 8F of such Act by Act Dec. 17, 1993, P.L. 103-204, § 23(a)(3), 107 Stat. 2408.

NOTES:

Related Statutes & Rules:

This section is referred to in *42 USCS §§ 12651b, 12651d*.

Interpretive Notes and Decisions:

Subpoena duces tecum seeking bank records of former postal employee and his retail store will not be quashed, despite employee's claim that subpoena was signed only by assistant regional chief and not Chief Postal Inspector/Inspector General, because power of Chief to delegate his subpoena authority to subordinates is supported by both underlying purposes of Inspector General Act (5 USCS Appx) and plain language of §§ 4, 6, and 8E (now 8F) of such Act. *Doyle v U.S. Postal Service (1991, ED Va) 771 F Supp 138*.



16 of 26 DOCUMENTS

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TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
 TITLE 5--APPENDIX
 INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 8G

§ 8G. Requirements for Federal entities and designated Federal entities [Caution: See prospective amendment note below.]

(a) Notwithstanding section 12 of this Act, as used in this section--

(1) the term "Federal entity" means any Government corporation (within the meaning of *section 103(1) of title 5, United States Code*), any Government controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the Executive branch of the Government, or any independent regulatory agency, but does not include--

(A) an establishment (as defined under section 12(2) of this Act) or part of an establishment;

(B) a designated Federal entity (as defined under paragraph (2) of this subsection) or part of a designated Federal entity;

(C) the Executive Office of the President;

(D) the Central Intelligence Agency;

(E) the General Accounting Office [Government Accountability Office]; or

(F) any entity in the judicial or legislative branches of the Government, including the Administrative Office of the United States Courts and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol;

(2) the term "designated Federal entity" means Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Defense Intelligence Agency, the Denali Commission, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Election Commission, the Election Assistance Commission, the Federal Housing Finance Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Geospatial-Intelligence Agency, the National Labor Relations Board, the National Reconnaissance Office, the National Security Agency, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, the United States International Trade Commission, the Postal Regulatory Commission, and the United States Postal Service;

(3) the term "head of the Federal entity" means any person or persons designated by statute as the head of a Federal entity, and if no such designation exists, the chief policymaking officer or board of a Federal entity as identified in the list published pursuant to subsection (h)(1) of this section;

5 USCS Appx § 8G

(4) the term "head of the designated Federal entity" means the board or commission of the designated Federal entity, or in the event the designated Federal entity does not have a board or commission, any person or persons designated by statute as the head of a designated Federal entity and if no such designation exists, the chief policymaking officer or board of a designated Federal entity as identified in the list published pursuant to subsection (h)(1) of this section, except that--

(A) with respect to the National Science Foundation, such term means the National Science Board;

(B) with respect to the United States Postal Service, such term means the Governors (within the meaning of *section 102(3) of title 39, United States Code*);

(C) with respect to the Federal Labor Relations Authority, such term means the members of the Authority (described under *section 7104 of title 5, United States Code*);

(D) with respect to the National Archives and Records Administration, such term means the Archivist of the United States;

(E) with respect to the National Credit Union Administration, such term means the National Credit Union Administration Board (described under section 102 of the Federal Credit Union Act (*12 U.S.C. 1752a*));

(F) with respect to the National Endowment of the Arts, such term means the National Council on the Arts;

(G) with respect to the National Endowment for the Humanities, such term means the National Council on the Humanities; and

(H) with respect to the Peace Corps, such term means the Director of the Peace Corps;

(5) the term "Office of Inspector General" means an Office of Inspector General of a designated Federal entity; and

(6) the term "Inspector General" means an Inspector General of a designated Federal entity.

(b) No later than 180 days after the date of the enactment of this section [enacted Oct. 18, 1988], there shall be established and maintained in each designated Federal entity an Office of Inspector General. The head of the designated Federal entity shall transfer to such office the offices, units, or other components, and the functions, powers, or duties thereof, that such head determines are properly related to the functions of the Office of Inspector General and would, if so transferred, further the purposes of this section. There shall not be transferred to such office any program operating responsibilities.

(c) Except as provided under subsection (f) of this section, the Inspector General shall be appointed by the head of the designated Federal entity in accordance with the applicable laws and regulations governing appointments within the designated Federal entity. Each Inspector General shall be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. For purposes of implementing this section, the Chairman of the Board of Governors of the Federal Reserve System shall appoint the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection. The Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection shall have all of the authorities and responsibilities provided by this Act with respect to the Bureau of Consumer Financial Protection, as if the Bureau were part of the Board of Governors of the Federal Reserve System.

(d) (1) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity, but shall not report to, or be subject to supervision by, any other officer or employee of such designated Federal entity. Except as provided in paragraph (2), the head of the designated Federal entity shall not 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.

(2) (A) The Secretary of Defense, in consultation with the Director of National Intelligence, may prohibit the inspector general of an element of the intelligence community specified in subparagraph (D) from initiating, carrying out, or completing any audit or investigation if the Secretary determines that the prohibition is necessary to protect vital national security interests of the United States.

(B) If the Secretary exercises the authority under subparagraph (A), the Secretary shall submit to the committees of Congress specified in subparagraph (E) an appropriately classified statement of the reasons for the exercise of such authority not later than 7 days after the exercise of such authority.

(C) At the same time the Secretary submits under subparagraph (B) a statement on the exercise of the authority in subparagraph (A) to the committees of Congress specified in subparagraph (E), the Secretary shall notify the inspector general of such element of the submittal of such statement and, to the extent consistent with the protection of intelligence sources and methods, provide such inspector general with a copy of such statement. Such inspector general may

5 USCS Appx § 8G

submit to such committees of Congress any comments on a notice or statement received by the inspector general under this subparagraph that the inspector general considers appropriate.

(D) The elements of the intelligence community specified in this subparagraph are as follows:

- (i) The Defense Intelligence Agency.
- (ii) The National Geospatial-Intelligence Agency.
- (iii) The National Reconnaissance Office.
- (iv) The National Security Agency.

(E) The committees of Congress specified in this subparagraph are--

- (i) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and
- (ii) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of

Representatives.

(e) (1) In the case of a designated Federal entity for which a board or commission is the head of the designated Federal entity, a removal under this subsection may only be made upon the written concurrence of a 2/3 majority of the board or commission.

(2) If an Inspector General is removed from office or is transferred to another position or location within a designated Federal entity, the head of the designated Federal entity shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.

(f)

(1) For purposes of carrying out subsection (c) with respect to the United States Postal Service, the appointment provisions of *section 202(e) of title 39, United States Code*, shall be applied.

(2) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service (hereinafter in this subsection referred to as the "Inspector General") shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report the significant activities being carried out by the Postal Inspection Service to such Inspector General.

(3) (A) (i) Notwithstanding subsection (d), the Inspector General shall be under the authority, direction, and control of the Governors with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning--

- (I) ongoing civil or criminal investigations or proceedings;
- (II) undercover operations;
- (III) the identity of confidential sources, including protected witnesses;
- (IV) intelligence or counterintelligence matters; or
- (V) other matters the disclosure of which would constitute a serious threat to national security.

(ii) With respect to the information described under clause (i), the Governors may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Governors determine that such prohibition is necessary to prevent the disclosure of any information described under clause (i) or to prevent the significant impairment to the national interests of the United States.

(iii) If the Governors exercise any power under clause (i) or (ii), the Governors shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committee on [Homeland Security and] Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

(B) In carrying out the duties and responsibilities specified in this Act, the Inspector General--

(i) may initiate, conduct and supervise such audits and investigations in the United States Postal Service as the Inspector General considers appropriate; and

(ii) shall give particular regard to the activities of the Postal Inspection Service with a view toward avoiding duplication and insuring effective coordination and cooperation.

(C) Any report required to be transmitted by the Governors to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committee on [Homeland Security and] Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

5 USCS Appx § 8G

(4) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of either employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code [39 USCS §§ 1201 et seq.], the National Labor Relations Act [29 USCS §§ 151 et seq.], any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

(5) As used in this subsection, the term "Governors" has the meaning given such term by *section 102(3) of title 39, United States Code*.

(6) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.

(g)

(1) Sections 4, 5, 6 (other than subsections (a)(7) and (a)(8) thereof), and 7 of this Act shall apply to each Inspector General and Office of Inspector General of a designated Federal entity and such sections shall be applied to each designated Federal entity and head of the designated Federal entity (as defined under subsection (a)) by substituting--

(A) "designated Federal entity" for "establishment"; and

(B) "head of the designated Federal entity" for "head of the establishment".

(2) In addition to the other authorities specified in this Act, an Inspector General is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the designated Federal entity.

(3) Notwithstanding the last sentence of subsection (d) of this section, the provisions of subsection (a) of section 8C (other than the provisions of subparagraphs (A), (B), (C), and (E) of subsection (a)(1)) shall apply to the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection and the Chairman of the Board of Governors of the Federal Reserve System in the same manner as such provisions apply to the Inspector General of the Department of the Treasury and the Secretary of the Treasury, respectively.

(4) Each Inspector General shall--

(A) in accordance with applicable laws and regulations governing appointments within the designated Federal entity, appoint a Counsel to the Inspector General who shall report to the Inspector General;

(B) obtain the services of a counsel appointed by and directly reporting to another Inspector General on a reimbursable basis; or

(C) obtain the services of appropriate staff of the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.

(h) (1) No later than April 30, 1989, and annually thereafter, the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, shall publish in the Federal Register a list of the Federal entities and designated Federal entities and if the designated Federal entity is not a board or commission, include the head of each such entity (as defined under subsection (a) of this section).

(2) Beginning on October 31, 1989, and on October 31 of each succeeding calendar year, the head of each Federal entity (as defined under subsection (a) of this section) shall prepare and transmit to the Director of the Office of Management and Budget and to each House of the Congress a report which--

(A) states whether there has been established in the Federal entity an office that meets the requirements of this section;

(B) specifies the actions taken by the Federal entity otherwise to ensure that audits are conducted of its programs and operations in accordance with the standards for audit of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States, and includes a list of each audit report completed by a Federal or non-Federal auditor during the reporting period and a summary of any particularly significant findings; and

(C) summarizes any matters relating to the personnel, programs, and operations of the Federal entity referred to prosecutive authorities, including a summary description of any preliminary investigation conducted by or at the request of the Federal entity concerning these matters, and the prosecutions and convictions which have resulted.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 8G [8F] [8E], as added Oct. 18, 1988, P.L. 100-504, Title I, § 104(a), 102 Stat. 2522; Aug. 9, 1989, P.L. 101-73, Title VII, Subtitle A, § 702(c), 103 Stat. 415; Sept. 21, 1993, P.L. 103-82, Title II, § 202(g)(1), (2)(A), 107 Stat. 889; Dec. 17, 1993, P.L. 103-204, § 23(a)(3), (4), 107 Stat. 2408; Dec. 29, 1995, P.L.

104-88, Title III, Subtitle B, § 319, 109 Stat. 949; Sept. 30, 1996, P.L. 104-208, Div A, Title I, § 101(f) [Title VI, § 662(b)], 110 Stat. 3009-379; Dec. 2, 1997, P.L. 105-134, Title IV, § 409(a)(1), 111 Stat. 2586; Oct. 21, 1998, P.L. 105-277, Div C, Title III, § 306(h), as added May 21, 1999, P.L. 106-31, Title I, Ch 1, § 105(a)(5), 113 Stat. 63; Nov. 1, 2000, P.L. 106-422, § 1(b)(1), 114 Stat. 1872; Oct. 29, 2002, P.L. 107-252, Title VIII, Subtitle B, § 812(a), 116 Stat. 1727; Dec. 20, 2006, P.L. 109-435, Title VI, §§ 603(b), 605(a), 120 Stat. 3240, 3242; Oct. 14, 2008, P.L. 110-409, §§ 2, 3(b), 6(b), 7(d)(1), 122 Stat. 4302, 4305, 4313.)

(As amended July 21, 2010, P.L. 111-203, Title IX, Subtitle I, §§ 989B, 989D, Title X, Subtitle H, § 1081, 124 Stat. 1945, 1946, 2080; Oct. 7, 2010, P.L. 111-259, Title IV, Subtitle C, § 431(a), (c), 124 Stat. 2731.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

The Committee on Government Reform and Oversight of the House of Representatives, referred to in subsec. (f)(3)(A)(iii) and (C), was renamed the Committee on Government Reform of the House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. The name was further changed to the Committee on Oversight and Government Reform of the House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Explanatory notes:

The words "Homeland Security and" have been inserted in subsec. (f)(3)(A)(iii) and (C) on the authority of Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

"Government Accountability Office" has been inserted in brackets in subsec. (a)(1)(E) on the authority of § 8 of Act July 7, 2004, P.L. 108-271 (*31 USCS § 702* note), which redesignated the General Accounting Office as the Government Accountability Office, and provided that any reference to the General Accounting Office in any law in force on July 7, 2004, shall be considered to refer and apply to the Government Accountability Office.

A prior § 8G of the Inspector General Act was redesignated § 8J.

Prospective amendment:

Amendment of subsec. (a)(2), effective at beginning of first fiscal year after fiscal year for which Amtrak receives no Federal subsidy. Act Dec. 2, 1997, P.L. 105-134, Title IV, § 409(a), 111 Stat. 2586, provides:

"(1) In general. Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking 'Amtrak,'.

"(2) Effective date. The amendment made by paragraph (1) shall take effect at the beginning of the first fiscal year after a fiscal year for which Amtrak receives no Federal subsidy."

Effective date of section:

This section became effective 180 days after enactment, as provided by § 113 of Act Oct. 18, 1988, P.L. 100-504, which appears as *5 USCS Appx. § 5* note.

Amendments:

1989. Act Aug. 9, 1989, in subsec. (a)(2), substituted "Federal Housing Finance Board," for "Federal Home Loan Bank Board,".

1993. Act Sept. 21, 1993 (effective 18 months after enactment or on such earlier date as the President shall determine to be appropriate, as provided by § 202(g)(2)(B) of such Act), in subsec. (a)(2), deleted "ACTION" preceding "Amtrak".

Act Dec. 17, 1993, purported to amend subsec. (a)(2) of § 8F of the Inspector General Act by deleting "the Federal Deposit Insurance Corporation,". Although the amendment could not be executed as directed because the language to be deleted did not appear in such subsection, such amendment was executed by deleting such language following "the Federal Communications Commission," in subsec. (a)(2) of this section in order to effectuate the probable intent of Congress.

1995. Act Dec. 29, 1995 (effective 1/1/96, as provided by § 2 of such Act, which appears as 49 USCS § 701 note), in subsec. (a)(2), deleted "the Interstate Commerce Commission," following the "Federal Trade Commission,".

1996. Act Sept. 30, 1996, in subsec. (a)(4), substituted "except that--" and subparas. (A) and (B) for "except that with respect to the National Science Foundation, such term means the National Science Board;"; and substituted subsec. (f) for one which read:

"(f)

(1) The Chief Postal Inspector of the United States Postal Service shall also hold the position of Inspector General of the United States Postal Service, and for purposes of this section, shall report to, and be under the general supervision of, the Postmaster General of the United States Postal Service. The Postmaster General, in consultation with the Governors of the United States Postal Service, shall appoint the Chief Postal Inspector. The Postmaster General, in consultation with the Governors of the United States Postal Service, shall appoint the Chief Postal Inspector. The Postmaster General, with the concurrence of the Governors of the United States Postal Service, shall have power to remove the Chief Postal Inspector or transfer the Chief Postal Inspector to another position or location within the United States Postal Service. If the Chief Postal Inspector is removed or transferred in accordance with this subsection, the Postmaster General shall promptly notify both Houses of the Congress in writing of the reasons for such removal or transfer.

"(2) For purposes of paragraph (1), the term 'Governors' has the same meaning as such term is defined under *section 102(3) of title 39, United States Code*."

1998. Act Oct. 21, 1998, as amended by Act May 21, 1999, in subsec. (a)(2), inserted "the Denali Commission,".

1999. Act May 21, 1999 amended Title III of Division C of Act Oct. 21, 1998 by adding § 306(h), which amended this section.

2000. Act Nov. 1, 2000 (effective and applicable as provided by § 1(d) of such Act, which appears as a note to this section), in subsec. (a)(2), deleted "the Tennessee Valley Authority," following "the Smithsonian Institution,".

2002. Act Oct. 29, 2002 (effective 180 days after the appointment of all members of the Election Assistance Commission, as provided by § 812(b) of such Act, which appears as a note to this section), in subsec. (a)(2), inserted "the Election Assistance Commission,".

2006. Act Dec. 20, 2006 (applicable to fiscal years beginning on or after 10/1/2008, as provided by § 603(d) of such Act, which appears as a note to this section), in subsec. (f), redesignated para. (4) as para. (5), redesignated the second para. (3) as para. (4), and added para. (6).

Such Act further, in subsec. (a)(2), inserted "the Postal Regulatory Commission,".

2008. Act Oct. 14, 2008, in subsec. (a), in the introductory matter, substituted "section 12" for "section 11", and in para. (1)(A), substituted "section 12(2)" for "section 11(2)"; in subsec. (c), added the sentence beginning "Each Inspector

General shall be appointed . . ."; and in subsec. (e), substituted "shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal." for "shall promptly communicate in writing the reasons for any such removal or transfer to both Houses of the Congress."; and added subsec. (g)(4).

2010. Act July 21, 2010 (effective 1 day after enactment, as provided by § 4 of such Act, which appears as *12 USCS § 5301* note), in subsec. (a)(4), in the introductory matter, inserted "the board or commission of the designated Federal entity, or in the event the designated Federal entity does not have a board or commission," in subpara. (A), deleted "and" following the concluding semicolon, and added subparas. (C)-(H); in subsec. (e), designated the existing provisions as para. (2) and inserted para. (1); and in subsec. (h)(1), inserted "if the designated Federal entity is not a board or commission, include".

Such Act further (effective on enactment as provided by § 1081 of such Act), in subsec. (a)(2), inserted "and the Bureau of Consumer Financial Protection"; in subsec. (c), added the sentences beginning "For purposes of implementing this section, . . ." and "The Inspector General of the Board of Governors . . ."; and in subsec. (g)(3), inserted "and the Bureau of Consumer Financial Protection".

Act Oct. 7, 2010, in subsec. (a)(2), inserted "the Defense Intelligence Agency," "the National Geospatial-Intelligence Agency," and "the National Reconnaissance Office, the National Security Agency,"; and in subsec. (d), designated the existing provisions as para. (1), substituted "Except as provided in paragraph (2), the head" for "The head", and added para. (2).

Redesignation:

This section, enacted as § 8E of Act Oct. 12, 1978, P.L. 95-452, was redesignated § 8F of such Act by Act Sept. 21, 1993, P.L. 103-82, Title II, § 202(g)(1), 107 Stat. 889 (effective Oct. 1, 1993, as provided by 202(i)(1) of such Act, which appears as *42 USCS § 12651* note).

This section was further redesignated § 8G of such Act by Act Dec. 17, 1993, P.L. 103-204, § 23(a)(3), 107 Stat. 2408.

Other provisions:

Report on implementation. Act Oct. 18, 1988, P.L. 100-504, Title I, § 111, 102 Stat. 2529, effective 180 days after enactment as provided by § 113 of such Act, which appears as *5 USCS Appx. § 5* note, provides: "On October 31, 1989, the head of each designated Federal entity (as defined under section 8E(a)(2) of the Inspector General Act of 1978) shall submit to the Director of the Office of Management and Budget and to each House of the Congress a report on the status of the implementation by that designated Federal entity of the requirements of section 8E of such Act. Such report shall identify any area in which implementation is not complete and state the reasons for that failure."

Effective date of Sept. 21, 1993 amendment. Act Sept. 21, 1993, P.L. 103-82, Title II, § 202(g)(2)(B), 107 Stat. 890, provides: "This paragraph [amending this section] shall take effect on the effective date of section 203(c)(2)."

Effective date of Dec. 2, 1997 amendment. Act Dec. 2, 1997, P.L. 105-134, Title IV, § 409(a)(2), 111 Stat. 2586, provides: "The amendment made by paragraph (1) [amending subsec. (a)(2) of this section] shall take effect at the beginning of the first fiscal year after a fiscal year for which Amtrak receives no Federal subsidy."

Amtrak not Federal entity. Act Dec. 2, 1997, P.L. 105-134, Title IV, § 409(b), 111 Stat. 2587, provides: "Amtrak shall not be considered a Federal entity for purposes of the Inspector General Act of 1978 [5 USCS Appx]. The preceding sentence shall apply for any fiscal year for which Amtrak receives no Federal subsidy."

Amtrak; requirements for Federal assistance. Act Dec. 2, 1997, P.L. 105-134, Title IV, § 409(c), 111 Stat. 2587, provides:

"(1) Assessment. In any fiscal year for which Amtrak requests Federal assistance, the Inspector General of the Department of Transportation shall review Amtrak's operations and conduct an assessment similar to the assessment required by section 202(a) [*49 USCS § 24101* note]. The Inspector General shall report the results of the review and assessment to--

"(A) the President of Amtrak;

5 USCS Appx § 8G

"(B) the Secretary of Transportation;

"(C) the United States Senate Committee on Appropriations;

"(D) the United States Senate Committee on Commerce, Science, and Transportation;

"(E) the United States House of Representatives Committee on Appropriations; and

"(F) the United States House of Representatives Committee on Transportation and Infrastructure.

"(2) Report. The report shall be submitted, to the extent practicable, before any such committee reports legislation authorizing or appropriating funds for Amtrak for capital acquisition, development, or operating expenses.

"(3) Special effective date. This subsection takes effect 1 year after the date of enactment of this Act."

Inspectors General; congressional findings. Act Nov. 1, 2000, P.L. 106-422, § 1(a), 114 Stat. 1872, provides:

"Congress finds that--

"(1) Inspectors General serve an important function in preventing and eliminating fraud, waste, and abuse in the Federal Government; and

"(2) independence is vital for an Inspector General to function effectively."

Effective date and application of Nov. 1, 2000 amendments. Act Nov. 1, 2000, P.L. 106-422, § 1(d), 114 Stat. 1872, provides:

"(1) In general. The amendments made by this section [amending 5 USCS Appx §§ 8G(a)(2), 11(1),(2), and 5 USCS § 5315] and shall take effect 30 days after the date of enactment of this Act.

"(2) Inspector General. The person serving as Inspector General of the Tennessee Valley Authority on the effective date of this section--

"(A) may continue such service until the President makes an appointment under section 3(a) of the Inspector General Act of 1978 (5 U.S.C. App.) consistent with the amendments made by this section [amending 5 USCS Appx §§ 8G(a)(2), 11(1),(2), and 5 USCS § 5315]; and

"(B) shall be subject to section 8G(c) and (d) of the Inspector General Act of 1978 (5 U.S.C. App.) as applicable to the Board of Directors of the Tennessee Valley Authority, unless that person is appointed by the President, by and with the advice and consent of the Senate, to be Inspector General of the Tennessee Valley Authority."

Inspector General of Chemical Safety and Hazard Investigation Board. Act Nov. 26, 2001, P.L. 107-73, Title III, 115 Stat. 679, provides: "Hereafter, there shall be an Inspector General at the [Chemical Safety and Hazard Investigation] Board who shall have the duties, responsibilities, and authorities specified in the Inspector General Act of 1978 [5 USCS Appx], as amended: *Provided further*, That an individual appointed to the position of Inspector General of the Federal Emergency Management Agency (FEMA) shall, by virtue of such appointment, also hold the position of Inspector General of the Board: *Provided further*, That the Inspector General of the Board shall utilize personnel of the Office of Inspector General of FEMA in performing the duties of the Inspector General of the Board, and shall not appoint any individuals to positions within the Board."

Similar provisions were contained in Act Oct. 27, 2000, P.L. 106-377, § 1(a)(1), 114 Stat. 1441 (enacting into law Title III of H.R. 5482 (114 Stat. 1441A-36), as introduced on Oct. 18, 2000).

Effective date of Oct. 29, 2002 amendment. Act Oct. 29, 2002, P.L. 107-252, Title VIII, Subtitle B, § 812(b), 116 Stat. 1727, provides: "The amendment made by subsection (a) [amending subsec. (a)(2) of this section] shall take effect 180 days after the appointment of all members of the Election Assistance Commission under section 203 [42 USCS § 15323]."

Inspector General; FEMA and Chemical Safety and Hazard Investigation Board. Act Feb. 20, 2003, P.L. 108-7, Div K, Title III, 117 Stat. 515, provides: "Notwithstanding any other provision of law, the Inspector General of the Federal Emergency Management Agency shall hereafter also serve as the Inspector General of the Chemical Safety and Hazard Investigation Board."

Similar provisions were contained in Act Oct. 27, 2000, P.L. 106-377, § 1(a)(1), 114 Stat. 1441 (enacting into law Title III of H.R. 5482 (114 Stat. 1441A-46), as introduced on Oct. 18, 2000); Nov. 26, 2001, P.L. 107-73, Title III, 115 Stat. 688.

Special Inspector General for Iraq Reconstruction. Act Nov. 6, 2003, P.L. 108-106, Title III, § 3001, 117 Stat. 1234; Oct. 28, 2004, P.L. 108-375, Title XII, Subtitle A, § 1203(a), (c)-(j), 118 Stat. 2078, 2079; Nov. 14, 2005, P.L. 109-102, Title V, § 599, 119 Stat. 2240; Oct. 17, 2006, P.L. 109-364, Div A, Title X, Subtitle F, § 1054(b), Subtitle H, § 1071(g)(13) (effective 10/28/2004, and as if included in Act Oct. 28, 2004), 120 Stat. 2397, 2403; Dec. 20, 2006, P.L. 109-440, § 2, 120 Stat. 3286; May 25, 2007, P.L. 110-28, Title III, Ch. 8, § 3801, 121 Stat. 147; Jan. 28, 2008, P.L. 110-181, Div A, Title XII, Subtitle B, § 1221, 122 Stat. 371, provides:

"(a) Purposes. The purposes of this section are as follows:

5 USCS Appx § 8G

"(1) To provide for the independent and objective conduct and supervision of audits and investigations relating to the programs and operations funded with amounts appropriated or otherwise made available for the reconstruction of Iraq.

"(2) To provide for the independent and objective leadership and coordination of, and recommendations on, policies designed to--

"(A) promote economy efficiency, and effectiveness in the administration of such programs and operations; and

"(B) prevent and detect waste, fraud, and abuse in such programs and operations.

"(3) To provide for an independent and objective means of keeping the Secretary of State and the Secretary of Defense fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress for corrective action.

"(b) Office of Inspector General. There is hereby established the Office of the Special Inspector General for Iraq Reconstruction.

"(c) Appointment of Inspector General; removal.

(1) The head of the Office of the Special Inspector General for Iraq Reconstruction is the Special Inspector General for Iraq Reconstruction (in this section referred to as the 'Inspector General'), who shall be appointed by the Secretary of Defense, in consultation with the Secretary of State.

"(2) The appointment of Inspector General shall be made solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

"(3) The nomination of an individual as Inspector General shall be made not later than 30 days after the date of the enactment of this Act.

"(4) The Inspector General shall be removable from office in accordance with the provisions of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).

"(5) For purposes of *section 7324 of title 5, United States Code*, the Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of Federal law.

"(6) The annual rate of basic pay of the Inspector General shall be the annual rate of basic pay provided for positions at level IV of the Executive Schedule under *section 5315 of title 5, United States Code*.

"(d) Assistant Inspectors General. The Inspector General shall, in accordance with applicable laws and regulations governing the civil service--

"(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations supported by amounts appropriated or otherwise made available for the reconstruction of Iraq; and

"(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

"(e) Supervision.

(1) Except as provided in paragraph (2), the Inspector General shall report directly to, and be under the general supervision of, the Secretary of State and the Secretary of Defense.

"(2) No officer of the Department of Defense, the Department of State, or the United States Agency for International Development shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation related to amounts appropriated or otherwise made available for the reconstruction of Iraq or from issuing any subpoena during the course of any such audit or investigation.

"(f) Duties.

(1) It shall be the duty of the Inspector General to conduct, supervise, and coordinate audits and investigations of the treatment, handling, and expenditure of amounts appropriated or otherwise made available for the reconstruction of Iraq, and of the programs, operations, and contracts carried out utilizing such funds, including--

"(A) the oversight and accounting of the obligation and expenditure of such funds;

"(B) the monitoring and review of reconstruction activities funded by such funds;

"(C) the monitoring and review of contracts funded by such funds;

"(D) the monitoring and review of the transfer of such funds and associated information between and among departments, agencies, and entities of the United States and private and nongovernmental entities; and

"(E) the maintenance of records on the use of such funds to facilitate future audits and investigations of the use of such funds.

"(2) The Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Inspector General considers appropriate to discharge the duty under paragraph (1).

5 USCS Appx § 8G

"(3) In addition to the duties specified in paragraphs (1) and (2), the Inspector General shall also have the duties and responsibilities of inspectors general under the Inspector General Act of 1978 [5 USCS Appx.].

"(4) In carrying out the duties, responsibilities, and authorities of the Inspector General under this section, the Inspector General shall coordinate with, and receive the cooperation of, each of the following:

"(A) The Inspector General of the Department of State.

"(B) The Inspector General of the Department of Defense.

"(C) The Inspector General of the United States Agency for International Development.

"(g) Powers and authorities.

(1) In carrying out the duties specified in subsection (f), the Inspector General shall have the authorities provided in section 6 of the Inspector General Act of 1978 [5 USCS Appx.], including the authorities under subsection (e) of such section.

"(2) The Inspector General shall carry out the duties specified in subsection (f)(1) in accordance with section 4(b)(1) of the Inspector General Act of 1978 [5 USCS Appx.].

"(h) Personnel, facilities, and other resources.

(1) The Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such *title* [5 USCS §§ 5101 et seq., 5331 et seq.], relating to classification and General Schedule pay rates, and may exercise the authorities of subsections (b) through (i) of *section 3161 of title 5, United States Code* (without regard to subsection (a) of such section).

"(2) The Inspector General may obtain services as authorized by *section 3109 of title 5, United States Code*, at daily rates not to exceed the equivalent rate prescribed for grade GS-15 of the General Schedule by section 5332 of such *title*.

"(3) To the extent and in such amounts as may be provided in advance by appropriations Acts, the Inspector General may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Inspector General.

"(4)

(A) Upon request of the Inspector General for information or assistance from any department, agency, or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Inspector General, or an authorized designee.

"(B) Whenever information or assistance requested by the Inspector General is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Secretary of State or Secretary of Defense, as appropriate, and to the appropriate committees of Congress without delay.

"(5) The Secretary of State or Secretary of Defense, as appropriate, shall provide the Inspector General with appropriate and adequate office space within the Department of Defense or at appropriate locations of the Department of State in Iraq, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

"(i) Reports.

(1) Not later than 30 days after the end of each fiscal-year quarter, the Inspector General shall submit to the appropriate committees of Congress a report summarizing, for the period of that quarter and, to the extent possible, the period from the end of such quarter to the time of the submission of the report, the activities during such period of the Inspector General and the activities under programs and operations funded with amounts appropriated or otherwise made available for the reconstruction of Iraq. Each report shall include, for the period covered by such report, a detailed statement of all obligations, expenditures, and revenues associated with reconstruction and rehabilitation activities in Iraq, including the following:

"(A) Obligations and expenditures of appropriated funds.

"(B) A project-by-project and program-by-program accounting of the costs incurred to date for the reconstruction of Iraq, together with the estimate of the Department of Defense, the Department of State, and the United States Agency for International Development, as applicable, of the costs to complete each project and each program.

"(C) Revenues attributable to or consisting of funds provided by foreign nations or international organizations, and any obligations or expenditures of such revenues.

"(D) Revenues attributable to or consisting of foreign assets seized or frozen, and any obligations or expenditures of such revenues.

"(E) Operating expenses of agencies or entities receiving amounts appropriated or otherwise made available for the reconstruction of Iraq.

"(F) In the case of any contract described in paragraph (2)--

"(i) the amount of the contract or other agreement;

"(ii) a brief discussion of the scope of the contract or other agreement;

"(iii) a discussion of how the contracting department or agency identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers; and

"(iv) the justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

"(2) A contract described in this paragraph is any major contract or other agreement that is entered into by any department or agency of the United States Government that involves the use of amounts appropriated or otherwise made available for the reconstruction of Iraq with any public or private sector entity for any of the following purposes:

"(A) To build or rebuild physical infrastructure of Iraq.

"(B) To establish or reestablish a political or societal institution of Iraq.

"(C) To provide products or services to the people of Iraq.

"(3) The Inspector General shall submit to the appropriate committees of Congress semiannual reports meeting the requirements of section 5 of the Inspector General Act of 1978 [5 USCS Appx.]. The first such report for a year, covering the first six months of the year, shall be submitted not later than July 31 of that year, and the second such report, covering the second six months of the year, shall be submitted not later than January 31 of the following year.

"(4) The Inspector General shall publish each report under this subsection in both English and Arabic on the Internet website of the Department of State and of the Department of Defense.

"(5) Each report under this subsection may include a classified annex if the Inspector General considers it necessary.

"(6) Nothing in this subsection shall be construed to authorize the public disclosure of information that is--

"(A) specifically prohibited from disclosure by any other provision of law;

"(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

"(C) a part of an ongoing criminal investigation.

"(j) Report coordination.

(1) The Inspector General shall also submit each report under subsection (i) to the Secretary of State and the Secretary of Defense.

"(2)

(A) Not later than 30 days after receipt of a report under paragraph (1), the Secretary of State or the Secretary of Defense may submit to the appropriate committees of Congress any comments on the matters covered by the report as the Secretary of State or the Secretary of Defense, as the case may be, considers appropriate.

"(B) A report under this paragraph may include a classified annex if the Secretary of State or the Secretary of Defense, as the case may be, considers it necessary.

"(k) Transparency.

(1) Not later than 60 days after the date of the submittal to Congress of a report under subsection (i), the Secretary of State and the Secretary of Defense shall jointly make copies of such report available to the public upon request, and at a reasonable cost.

"(2) Not later than 60 days after the date of the submittal to Congress under subsection (j)(2) of comments on a report under subsection (i), the Secretary of State and the Secretary of Defense shall jointly make copies of such comments available to the public upon request, and at a reasonable cost.

"(l) Waiver.

(1) The President may waive the requirement under paragraph (1) or (3) of subsection (i) for the inclusion in a report under such paragraph of any element otherwise provided for under such paragraph if the President determines that the waiver is justified for national security reasons.

"(2) The President shall publish a notice of each waiver made under this subsection in the Federal Register no later than the date on which the reports required under paragraph (1) or (3) of subsection (i) are submitted to Congress. The reports required under paragraph (1) or (3) of subsection (i) shall specify whether waivers under this subsection were made and with respect to which elements.

"(m) Definitions. In this section--

"(1) the term 'appropriate committees of Congress' means--

"(A) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

"(B) the Committees on Appropriations, Armed Services, Foreign Affairs, and Oversight and Government Reform of the House of Representatives; and

"(2) the term 'amounts appropriated or otherwise made available for the reconstruction of Iraq' means amounts appropriated or otherwise made available for any fiscal year--

"(A) to the Iraq Relief and Reconstruction Fund, the Iraq Security Forces Fund, and the Commanders' Emergency Response Program authorized under section 1202 of the National Defense Authorization for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3455-3456); or

"(B) for assistance for the reconstruction of Iraq under--

"(i) the Economic Support Fund authorized under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.);

"(ii) the International Narcotics Control and Law Enforcement account authorized under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291); or

"(iii) any other provision of law.

"(n) Funding.

(1) Of the amounts appropriated for fiscal year 2004 for the Operating Expenses of the Coalition Provisional Authority in title II of this Act, \$ 75,000,000 shall be available to carry out this section.

"(2) The amount available under paragraph (1) shall remain available until expended.

"(o) Termination.

(1) The Office of the Inspector General shall terminate 180 days after the date on which amounts appropriated or otherwise made available for the reconstruction of Iraq that are unexpended are less than \$ 250,000,000.

"(2) The Special Inspector General for Iraq Reconstruction shall, prior to the termination of the Office of the Special Inspector General under paragraph (1), prepare a final forensic audit report on all amounts appropriated or otherwise made available for the reconstruction of Iraq."

Inspector General of Coalition Provisional Authority; continuation in office. Act Oct. 28, 2004, P.L. 108-375, Div A, Title XII, Subtitle A, § 1203(b), 118 Stat. 2079, provides: "The individual serving as the Inspector General of the Coalition Provisional Authority as of the date of the enactment of this Act may continue to serve in that position after that date without reappointment under paragraph (1) of section 3001(c) of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 [§ 3001(c) of Act Nov. 6, 2003, P.L. 108-106 (note to this section)], but remaining subject to removal as specified in paragraph (4) of that section."

Applicability of amendments made by § 603 of Act Dec. 20, 2006; savings provision. Act Dec. 20, 2006, P.L. 109-435, Title VI, § 603(d), 120 Stat. 3241, provides:

"(1) In general. The amendments made by this section [amending this section and 39 USCS §§ 504, 2003, and 2009] shall apply with respect to fiscal years beginning on or after October 1, 2008.

"(2) Savings provision. The provisions of title 39, United States Code, and the Inspector General Act of 1978 (5 U.S.C. App.) that are amended by this section shall, for purposes of any fiscal year before the first fiscal year to which the amendments made by this section apply, continue to apply in the same way as if this section had never been enacted."

Inspector General of the Postal Regulatory Commission; deadline. Act Dec. 20, 2006, P.L. 109-435, Title VI, § 605(c), 120 Stat. 3242, provides:

"No later than 180 days after the date of the enactment of this Act--

"(1) the first Inspector General of the Postal Regulatory Commission shall be appointed; and

"(2) the Office of Inspector General of the Postal Regulatory Commission shall be established."

Special Inspector General for Afghanistan Reconstruction. Act Jan. 28, 2008, P.L. 110-181, Div A, Title XII, Subtitle B, § 1229, 122 Stat. 378; Oct. 14, 2008, P.L. 110-417, [Div A,] Title X, Subtitle F, § 1061(b)(11), 122 Stat. 4613 (effective as of 1/28/2008 and as if included in Act Jan. 28, 2008 as enacted, as provided by § 1061(b) of such Act, which appears as 5 USCS § 6382 note); June 30, 2009, P.L. 111-38, § 1, 123 Stat. 1932, provides:

"(a) Purposes. The purposes of this section are as follows:

"(1) To provide for the independent and objective conduct and supervision of audits and investigations relating to the programs and operations funded with amounts appropriated or otherwise made available for the reconstruction of Afghanistan.

"(2) To provide for the independent and objective leadership and coordination of, and recommendations on, policies designed to--

"(A) promote economy efficiency, and effectiveness in the administration of the programs and operations described in paragraph (1); and

"(B) prevent and detect waste, fraud, and abuse in such programs and operations.

"(3) To provide for an independent and objective means of keeping the Secretary of State and the Secretary of Defense fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress on corrective action.

"(b) Office of Inspector General. There is hereby established the Office of the Special Inspector General for Afghanistan Reconstruction to carry out the purposes of subsection (a).

"(c) Appointment of Inspector General; removal.

(1) Appointment. The head of the Office of the Special Inspector General for Afghanistan Reconstruction is the Special Inspector General for Afghanistan Reconstruction (in this section referred to as the 'Inspector General'), who shall be appointed by the President. The President may appoint the Special Inspector General for Iraq Reconstruction to serve as the Special Inspector General for Afghanistan Reconstruction, in which case the Special Inspector General for Iraq Reconstruction shall have all of the duties, responsibilities, and authorities set forth under this section with respect to such appointed position for the purpose of carrying out this section.

"(2) Qualifications. The appointment of the Inspector General shall be made solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

"(3) Deadline for appointment. The appointment of an individual as Inspector General shall be made not later than 30 days after the date of the enactment of this Act.

"(4) Compensation. The annual rate of basic pay of the Inspector General shall be the annual rate of basic pay provided for positions at level IV of the Executive Schedule under *section 5315 of title 5, United States Code*.

"(5) Prohibition on political activities. For purposes of *section 7324 of title 5, United States Code*, the Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of Federal law.

"(6) Removal. The Inspector General shall be removable from office in accordance with the provisions of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).

"(d) Assistant Inspectors General. The Inspector General shall, in accordance with applicable laws and regulations governing the civil service--

"(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations supported by amounts appropriated or otherwise made available for the reconstruction of Afghanistan; and

"(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

"(e) Supervision.

(1) In general. Except as provided in paragraph (2), the Inspector General shall report directly to, and be under the general supervision of, the Secretary of State and the Secretary of Defense.

"(2) Independence to conduct investigations and audits. No officer of the Department of Defense, the Department of State, or the United States Agency for International Development shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation related to amounts appropriated or otherwise made available for the reconstruction of Afghanistan or from issuing any subpoena during the course of any such audit or investigation.

"(f) Duties.

(1) Oversight of Afghanistan reconstruction. It shall be the duty of the Inspector General to conduct, supervise, and coordinate audits and investigations of the treatment, handling, and expenditure of amounts appropriated or otherwise made available for the reconstruction of Afghanistan, and of the programs, operations, and contracts carried out utilizing such funds, including--

"(A) the oversight and accounting of the obligation and expenditure of such funds;

"(B) the monitoring and review of reconstruction activities funded by such funds;

"(C) the monitoring and review of contracts funded by such funds;

"(D) the monitoring and review of the transfer of such funds and associated information between and among departments, agencies, and entities of the United States and private and nongovernmental entities;

"(E) the maintenance of records on the use of such funds to facilitate future audits and investigations of the use of such fund;

"(F) the monitoring and review of the effectiveness of United States coordination with the Government of Afghanistan and other donor countries in the implementation of the Afghanistan Compact and the Afghanistan National Development Strategy; and

5 USCS Appx § 8G

"(G) the investigation of overpayments such as duplicate payments or duplicate billing and any potential unethical or illegal actions of Federal employees, contractors, or affiliated entities and the referral of such reports, as necessary, to the Department of Justice to ensure further investigations, prosecutions, recovery of further funds, or other remedies.

"(2) Other duties related to oversight. The Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Inspector General considers appropriate to discharge the duties under paragraph (1).

"(3) Duties and responsibilities under Inspector General Act of 1978. In addition to the duties specified in paragraphs (1) and (2), the Inspector General shall also have the duties and responsibilities of inspectors general under the Inspector General Act of 1978.

"(4) Coordination of efforts. In carrying out the duties, responsibilities, and authorities of the Inspector General under this section, the Inspector General shall coordinate with, and receive the cooperation of each of the following:

"(A) The Inspector General of the Department of Defense.

"(B) The Inspector General of the Department of State.

"(C) The Inspector General of the United States Agency for International Development.

"(g) Powers and authorities.

(1) Authorities under Inspector General Act of 1978. In carrying out the duties specified in subsection (f), the Inspector General shall have the authorities provided in section 6 of the Inspector General Act of 1978, including the authorities under subsection (e) of such section.

"(2) Audit standards. The Inspector General shall carry out the duties specified in subsection (f)(1) in accordance with section 4(b)(1) of the Inspector General Act of 1978.

"(h) Personnel, facilities, and other resources.

(1) Personnel.

(A) In general. The Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such *title [5 USCS §§ 5101 et seq. and 5331 et seq.]*, relating to classification and General Schedule pay rates.

"(B) Additional authorities.

(i) In general. Subject to clause (ii), the Inspector General may exercise the authorities of subsections (b) through (i) of *section 3161 of title 5, United States Code* (without regard to subsection (a) of that section).

"(ii) Periods of appointments. In exercising the employment authorities under subsection (b) of *section 3161 of title 5, United States Code*, as provided under clause (i) of this subparagraph--

"(I) paragraph (2) of that subsection (relating to periods of appointments) shall not apply; and

"(II) no period of appointment may exceed the date on which the Office of the Special Inspector General for Afghanistan Reconstruction terminates under subsection (o).

"(2) Employment of experts and consultants. The Inspector General may obtain services as authorized by *section 3109 of title 5, United States Code*, at daily rates not to exceed the equivalent rate prescribed for grade GS-15 of the General Schedule by section 5332 of such title.

"(3) Contracting authority. To the extent and in such amounts as may be provided in advance by appropriations Acts, the Inspector General may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Inspector General.

"(4) Resources. The Secretary of State or the Secretary of Defense, as appropriate, shall provide the Inspector General with appropriate and adequate office space at appropriate locations of the Department of State or the Department of Defense, as the case may be, in Afghanistan, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

"(5) Assistance from Federal agencies.

(A) In general. Upon request of the Inspector General for information or assistance from any department, agency, or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Inspector General, or an authorized designee.

"(B) Reporting of refused assistance. Whenever information or assistance requested by the Inspector General is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Secretary of State or the Secretary of Defense, as appropriate, and to the appropriate congressional committees without delay.

5 USCS Appx § 8G

"(6) Use of personnel, facilities, and other resources of the office of the special inspector general for Iraq reconstruction. Upon the request of the Inspector General, the Special Inspector General for Iraq Reconstruction--

"(A) may detail, on a reimbursable basis, any of the personnel of the Office of the Special Inspector General for Iraq Reconstruction to the Office of the Inspector General for Afghanistan Reconstruction for the purpose of carrying out this section; and

"(B) may provide, on a reimbursable basis, any of the facilities or other resources of the Office of the Special Inspector General for Iraq Reconstruction to the Office of the Inspector General for Afghanistan Reconstruction for the purpose of carrying out this section.

"(i) Reports.

(1) Quarterly reports. Not later than 30 days after the end of each fiscal-year quarter, the Inspector General shall submit to the appropriate congressional committees a report summarizing, for the period of that quarter and, to the extent possible, the period from the end of such quarter to the time of the submission of the report, the activities during such period of the Inspector General and the activities under programs and operations funded with amounts appropriated or otherwise made available for the reconstruction of Afghanistan. Each report shall include, for the period covered by such report, a detailed statement of all obligations, expenditures, and revenues associated with reconstruction and rehabilitation activities in Afghanistan, including the following:

"(A) Obligations and expenditures of appropriated funds.

"(B) A project-by-project and program-by-program accounting of the costs incurred to date for the reconstruction of Afghanistan, together with the estimate of the Department of Defense, the Department of State, and the United States Agency for International Development, as applicable, of the costs to complete each project and each program.

"(C) Revenues attributable to or consisting of funds provided by foreign nations or international organizations to programs and projects funded by any department or agency of the United States Government, and any obligations or expenditures of such revenues.

"(D) Revenues attributable to or consisting of foreign assets seized or frozen that contribute to programs and projects funded by any department or agency of the United States Government, and any obligations or expenditures of such revenues.

"(E) Operating expenses of agencies or entities receiving amounts appropriated or otherwise made available for the reconstruction of Afghanistan.

"(F) In the case of any contract, grant, agreement, or other funding mechanism described in paragraph (2)--

"(i) the amount of the contract, grant, agreement, or other funding mechanism;

"(ii) a brief discussion of the scope of the contract, grant, agreement, or other funding mechanism;

"(iii) a discussion of how the department or agency of the United States Government involved in the contract, grant, agreement, or other funding mechanism identified, and solicited offers from, potential individuals or entities to perform the contract, grant, agreement, or other funding mechanism, together with a list of the potential individuals or entities that were issued solicitations for the offers; and

"(iv) the justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

"(2) Covered contracts, grants, agreements, and funding mechanisms. A contract, grant, agreement, or other funding mechanism described in this paragraph is any major contract, grant, agreement, or other funding mechanism that is entered into by any department or agency of the United States Government that involves the use of amounts appropriated or otherwise made available for the reconstruction of Afghanistan with any public or private sector entity for any of the following purposes:

"(A) To build or rebuild physical infrastructure of Afghanistan.

"(B) To establish or reestablish a political or societal institution of Afghanistan.

"(C) To provide products or services to the people of Afghanistan.

"(3) Public availability. The Inspector General shall publish on a publicly-available Internet website each report under paragraph (1) of this subsection in English and other languages that the Inspector General determines are widely used and understood in Afghanistan.

"(4) Form. Each report required under this subsection shall be submitted in unclassified form, but may include a classified annex if the Inspector General considers it necessary.

"(5) Rule of construction. Nothing in this subsection shall be construed to authorize the public disclosure of information that is--

"(A) specifically prohibited from disclosure by any other provision of law;

"(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

"(C) a part of an ongoing criminal investigation.

"(j) Report coordination.

(1) Submission to secretaries of state and defense. The Inspector General shall also submit each report required under subsection (i) to the Secretary of State and the Secretary of Defense.

"(2) Submission to Congress. Not later than 30 days after receipt of a report under paragraph (1), the Secretary of State or the Secretary of Defense may submit to the appropriate congressional committees any comments on the matters covered by the report as the Secretary of State or the Secretary of Defense, as the case may be, considers appropriate. Any comments on the matters covered by the report shall be submitted in unclassified form, but may include a classified annex if the Secretary of State or the Secretary of Defense, as the case may be, considers it necessary.

"(k) Transparency.

(1) Report. Not later than 60 days after submission to the appropriate congressional committees of a report under subsection (i), the Secretary of State and the Secretary of Defense shall jointly make copies of the report available to the public upon request, and at a reasonable cost.

"(2) Comments on matters covered by report. Not later than 60 days after submission to the appropriate congressional committees under subsection (j)(2) of comments on a report under subsection (i), the Secretary of State and the Secretary of Defense shall jointly make copies of the comments available to the public upon request, and at a reasonable cost.

"(l) Waiver.

(1) Authority. The President may waive the requirement under paragraph (1) or (2) of subsection (k) with respect to availability to the public of any element in a report under subsection (i), or any comment under subsection (j)(2), if the President determines that the waiver is justified for national security reasons.

"(2) Notice of waiver. The President shall publish a notice of each waiver made under this subsection in the Federal Register no later than the date on which a report required under subsection (i), or any comment under subsection (j)(2), is submitted to the appropriate congressional committees. The report and comments shall specify whether waivers under this subsection were made and with respect to which elements in the report or which comments, as appropriate.

"(m) Definitions. In this section:

"(1) Amounts appropriated or otherwise made available for the reconstruction of Afghanistan. The term 'amounts appropriated or otherwise made available for the reconstruction of Afghanistan' means--

"(A) amounts appropriated or otherwise made available for any fiscal year--

"(i) to the Afghanistan Security Forces Fund; or

"(ii) to the program to assist the people of Afghanistan established under subsection (a)(2) of section 1202 of the National Defense Authorization for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3455-3456) [unclassified]; and

"(B) amounts appropriated or otherwise made available for any fiscal year for the reconstruction of Afghanistan under--

"(i) the Economic Support Fund;

"(ii) the International Narcotics Control and Law Enforcement account; or

"(iii) any other provision of law.

"(2) Appropriate congressional committees. The term 'appropriate congressional committees' means--

"(A) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

"(B) the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives.

"(n) Authorization of appropriations.

(1) In general. There is authorized to be appropriated \$ 20,000,000 for fiscal year 2008 to carry out this section.

"(2) Offset. The amount authorized to be appropriated by section 1513 [unclassified] for the Afghanistan Security Forces Fund is hereby reduced by \$ 20,000,000.

"(o) Termination.

(1) In general. The Office of the Special Inspector General for Afghanistan Reconstruction shall terminate 180 days after the date on which amounts appropriated or otherwise made available for the reconstruction of Afghanistan that are unexpended are less than \$ 250,000,000.

"(2) Final report. The Inspector General shall, prior to the termination of the Office of the Special Inspector General for Afghanistan Reconstruction under paragraph (1), prepare and submit to the appropriate congressional committees a final forensic audit report on programs and operations funded with amounts appropriated or otherwise made available for the reconstruction of Afghanistan."

Inspector General of EPA to hold position of Inspector General of Chemical Safety and Hazard Investigation Board. Act Oct. 30, 2009, P.L. 111-88, Div A, Title III, 123 Stat. 2950, provides: "Notwithstanding any other provision

of law, the individual appointed to the position of Inspector General of the Environmental Protection Agency (EPA) shall, by virtue of such appointment, also hold the position of Inspector General of the [Chemical Safety and Hazard Investigation] Board: *Provided further*, That notwithstanding any other provision of law, the Inspector General of the Board shall utilize personnel of the Office of Inspector General of EPA in performing the duties of the Inspector General of the Board, and shall not appoint any individuals to positions within the Board."

Similar provisions were contained in Acts Jan. 23, 2004, P.L. 108-199, Div G, Title III, 118 Stat. 399; Dec. 8, 2004, P.L. 108-447, Div I, Title III, 118 Stat. 3322; Aug. 2, 2005, P.L. 109-54, Title III, 119 Stat. 543; Dec. 26, 2007, P.L. 110-161, Div F, Title III, 121 Stat. 2139; March 11, 2009, P.L. 111-8, Div E, Title III, 123 Stat. 739.

Effective date of July 21, 2010 amendment. Act July 21, 2010, P.L. 111-203, Title X, Subtitle H, § 1081, 124 Stat. 2080, provides that the amendments made by such section to subsecs. (a)(2), (c), and (g)(3) of this section are effective on enactment.

NOTES:

Related Statutes & Rules:

This section is referred to in *31 USCS § 3801*; *39 USCS §§ 202, 1003, 2003, 2009*; *41 USCS § 254d*; *42 USCS §§ 5780a, 8262f, 12651b, 12651d, 12651f*.

17 of 26 DOCUMENTS

UNITED STATES CODE SERVICE
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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
 TITLE 5--APPENDIX
 INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 8H

§ 8H. Additional provisions with respect to Inspectors General of the intelligence community

(a)

(1) (A) An employee of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, or the National Security Agency, or of a contractor of any of those Agencies, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the Department of Defense (or designee).

(B) An employee of the Federal Bureau of Investigation, or of a contractor of the Bureau, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the Department of Justice (or designee).

(C) Any other employee of, or contractor to, an executive agency, or element or unit thereof, determined by the President under *section 2302(a)(2)(C)(ii) of title 5, United States Code*, to have as its principal function the conduct of foreign intelligence or counterintelligence activities, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the appropriate Inspector General (or designee) under this Act [*5 USCS Appx. §§ 1 et seq.*] or *section 17 of the Central Intelligence Agency Act of 1949 [50 USCS § 403q]*.

(2) If a designee of an Inspector General under this section receives a complaint or information of an employee with respect to an urgent concern, that designee shall report the complaint or information to the Inspector General within 7 calendar days of receipt.

(3) The Inspectors General of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the National Security Agency shall be designees of the Inspector General of the Department of Defense for purposes of this section.

(b) Not later than the end of the 14-calendar day period beginning on the date of receipt of an employee complaint or information under subsection (a), the Inspector General shall determine whether the complaint or information appears credible. Upon making such a determination, the Inspector General shall transmit to the head of the establishment notice of that determination, together with the complaint or information.

(c) Upon receipt of a transmittal from the Inspector General under subsection (b), the head of the establishment shall, within 7 calendar days of such receipt, forward such transmittal to the intelligence committees, together with any comments the head of the establishment considers appropriate.

5 USCS Appx § 8H

(d) (1) If the Inspector General does not find credible under subsection (b) a complaint or information submitted to the Inspector General under subsection (a), or does not transmit the complaint or information to the head of the establishment in accurate form under subsection (b), the employee (subject to paragraph (2)) may submit the complaint or information to Congress by contacting either or both of the intelligence committees directly.

(2) The employee may contact the intelligence committees directly as described in paragraph (1) only if the employee--

(A) before making such a contact, furnishes to the head of the establishment, through the Inspector General, a statement of the employee's complaint or information and notice of the employee's intent to contact the intelligence committees directly; and

(B) obtains and follows from the head of the establishment, through the Inspector General, direction on how to contact the intelligence committees in accordance with appropriate security practices.

(3) A member or employee of one of the intelligence committees who receives a complaint or information under paragraph (1) does so in that member or employee's official capacity as a member or employee of that committee.

(e) The Inspector General shall notify an employee who reports a complaint or information under this section of each action taken under this section with respect to the complaint or information. Such notice shall be provided not later than 3 days after any such action is taken.

(f) An action taken by the head of an establishment or an Inspector General under subsections (a) through (e) shall not be subject to judicial review.

(g) (1) The Inspector General of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the National Security Agency shall each submit to the congressional intelligence committees each year a report that sets forth the following:

(A) The personnel and funds requested by such Inspector General for the fiscal year beginning in such year for the activities of the office of such Inspector General in such fiscal year.

(B) The plan of such Inspector General for such activities, including the programs and activities scheduled for review by the office of such Inspector General during such fiscal year.

(C) An assessment of the current ability of such Inspector General to hire and retain qualified personnel for the office of such Inspector General.

(D) Any matters that such Inspector General considers appropriate regarding the independence and effectiveness of the office of such Inspector General.

(2) The submittal date for a report under paragraph (1) each year shall be the date provided in section 507 of the National Security Act of 1947 [50 USCS § 415b].

(3) In this subsection, the term "congressional intelligence committees" shall have the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(h) In this section:

(1) The term "urgent concern" means any of the following:

(A) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operations of an intelligence activity involving classified information, but does not include differences of opinions concerning public policy matters.

(B) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

(C) An action, including a personnel action described in *section 2302(a)(2)(A) of title 5, United States Code*, constituting reprisal or threat of reprisal prohibited under section 7(c) [5 USCS Appx. § 7(c)] in response to an employee's reporting an urgent concern in accordance with this section.

(2) The term "intelligence committees" means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 8H, as added Oct. 20, 1998, P.L. 105-272, Title VII, § 702(b)(1), 112 Stat. 2415; Dec. 28, 2001, P.L. 107-108, Title III, § 309(b), 115 Stat. 1400; Nov. 27, 2002, P.L. 107-306, Title VIII, Subtitle C, § 825, 116 Stat. 2429; Oct. 14, 2008, P.L. 110-417, [Div A,] Title IX, Subtitle D, § 931(b)(2), 122 Stat. 4575.)

(As amended Oct. 7, 2010, P.L. 111-259, Title IV, Subtitle C, § 431(b), 124 Stat. 2731.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

The bracketed designator "Div A," has been inserted in the credits as such designator appears in the table of contents, but not the text, of Act Oct. 14, 2008, P.L. 110-417.

A prior § 8H of the Inspector General Act was redesignated § 8J.

Amendments:

2001. Act Dec. 28, 2001, in subsec. (b), substituted the sentence beginning "Upon making . . ." for "If the Inspector General determines that the complaint or information appears credible, the Inspector General shall, before the end of such period, transmit the complaint or information to the head of the establishment."; and, in subsec. (d)(1), substituted "does not find credible under subsection (b) a complaint or information submitted to the Inspector General under subsection (a), or does not transmit the complaint or information to the head of the establishment in accurate form under subsection (b)," for "does not transmit, or does not transmit in an accurate form, the complaint or information described in subsection (b),".

2002. Act Nov. 27, 2002, in subsec. (f), substituted "subsections (a) through (e)" for "this section"; redesignated subsec. (g) as subsec. (h); and inserted new subsec. (g).

2008. Act Oct. 14, 2008, in subsecs. (a)(1)(A) and (g)(1), substituted "National Geospatial-Intelligence Agency" for "National Imagery and Mapping Agency".

2010. Act Oct. 7, 2010, in subsec. (a), added para. (3).

Other provisions:

Intelligence Community Whistleblower Protection Act of 1998; congressional findings. Act Oct. 20, 1998, P.L. 105-272, Title VII, § 701(b), 112 Stat. 2413, provides:

"The Congress finds that--

"(1) national security is a shared responsibility, requiring joint efforts and mutual respect by Congress and the President;

"(2) the principles of comity between the branches of Government apply to the handling of national security information;

"(3) Congress, as a co-equal branch of Government, is empowered by the Constitution to serve as a check on the executive branch; in that capacity, it has a 'need to know' of allegations of wrongdoing within the executive branch, including allegations of wrongdoing in the Intelligence Community;

"(4) no basis in law exists for requiring prior authorization of disclosures to the intelligence committees of Congress by employees of the executive branch of classified information about wrongdoing within the Intelligence Community;

"(5) the risk of reprisal perceived by employees and contractors of the Intelligence Community for reporting serious or flagrant problems to Congress may have impaired the flow of information needed by the intelligence committees to carry out oversight responsibilities; and

5 USCS Appx § 8H

"(6) to encourage such reporting, an additional procedure should be established that provides a means for such employees and contractors to report to Congress while safeguarding the classified information involved in such reporting."

NOTES:

Related Statutes & Rules:

This section is referred to in *50 USCS § 415b*.



18 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
 TITLE 5--APPENDIX
 INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 8I

§ 8I. Special provisions concerning the Department of Homeland Security

(a) (1) Notwithstanding the last two sentences of section 3(a), the Inspector General of the Department of Homeland Security shall be under the authority, direction, and control of the Secretary of Homeland Security with respect to audits or investigations, or the issuance of subpoenas, that require access to sensitive information concerning--

- (A) intelligence, counterintelligence, or counterterrorism matters;
- (B) ongoing criminal investigations or proceedings;
- (C) undercover operations;
- (D) the identity of confidential sources, including protected witnesses;
- (E) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to the protection of any person or property authorized protection by *section 3056 of title 18, United States Code*, section 3056A of title 18 of such Code, or any provision of the Presidential Protection Assistance Act of 1976 (*18 U.S.C. 3056 note*); or
- (F) other matters the disclosure of which would constitute a serious threat to national security.

(2) With respect to the information described in paragraph (1), the Secretary of Homeland Security may prohibit the Inspector General of the Department of Homeland Security from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described in paragraph (1), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

(3) If the Secretary of Homeland Security exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General of the Department of Homeland Security in writing within seven days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit to the President of the Senate, the Speaker of the House of Representatives, and appropriate committees and subcommittees of Congress the following:

- (A) A copy of such notice.
- (B) A written response to such notice that includes a statement regarding whether the Inspector General agrees or disagrees with such exercise, and the reasons for any disagreement.

(b) The exercise of authority by the Secretary described in paragraph (2) should not be construed as limiting the right of Congress or any committee of Congress to access any information it seeks.

5 USCS Appx § 8I

(c) Subject to the conditions established in subsections (a) and (b) above, in carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Homeland Security may initiate, conduct, and supervise such audits and investigations in the Department of Homeland Security as the Inspector General considers appropriate.

(d) Any report required to be transmitted by the Secretary of Homeland Security to the appropriate committees or subcommittees of Congress under section 5(d) shall be transmitted, within the seven-day period specified under such section, to the President of the Senate, the Speaker of the House of Representatives, and appropriate committees and subcommittees of Congress.

(e) Notwithstanding any other provision of law, in carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Homeland Security shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the United States Customs Service, the Office of Inspections of the United States Secret Service, the Bureau of Border Security, and the Bureau of Citizenship and Immigration Services. The head of each such office or bureau shall promptly report to the Inspector General the significant activities being carried out by such office or bureau.

(f) (1) The Inspector General of the Department of Homeland Security shall designate a senior official within the Office of Inspector General, who shall be a career member of the civil service at the equivalent to the GS-15 level or a career member of the Senior Executive Service, to perform the functions described in paragraph (2).

(2) The senior official designated under paragraph (1) shall--

(A) coordinate the activities of the Office of Inspector General with respect to investigations of abuses of civil rights or civil liberties;

(B) receive and review complaints and information from any source alleging abuses of civil rights and civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

(C) initiate investigations of alleged abuses of civil rights or civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

(D) ensure that personnel within the Office of Inspector General receive sufficient training to conduct effective civil rights and civil liberties investigations;

(E) consult with the Officer for Civil Rights and Civil Liberties regarding--

(i) alleged abuses of civil rights or civil liberties; and

(ii) any policy recommendations regarding civil rights and civil liberties that may be founded upon an investigation by the Office of Inspector General;

(F) provide the Officer for Civil Rights and Civil Liberties with information regarding the outcome of investigations of alleged abuses of civil rights and civil liberties;

(G) refer civil rights and civil liberties matters that the Inspector General decides not to investigate to the Officer for Civil Rights and Civil Liberties;

(H) ensure that the Office of the Inspector General publicizes and provides convenient public access to information regarding--

(i) the procedure to file complaints or comments concerning civil rights and civil liberties matters; and

(ii) the status of corrective actions taken by the Department in response to Office of the Inspector General reports; and

(I) inform the Officer for Civil Rights and Civil Liberties of any weaknesses, problems, and deficiencies within the Department relating to civil rights or civil liberties.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 8I, as added Feb. 20, 2003, P.L. 108-7, Div L, § 104(b)(3), 117 Stat. 529; Dec. 17, 2004, P.L. 108-458, Title VIII, Subtitle C, § 8304, 118 Stat. 3868; March 9, 2006, P.L. 109-177, Title VI, § 605(e)(4), 120 Stat. 255.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

5 USCS Appx § 8I

References in text:

"GS-15", referred to in subsec. (f)(1), is contained in the General Schedule, which appears as 5 USCS § 5332 note.

Explanatory notes:

A prior § 8I was redesignated § 8J by Act Feb. 20, 2003, P.L. 108-7, Div L, § 104(b)(2), 117 Stat. 529.

Amendments:

2004. Act Dec. 17, 2004, added subsec. (f).

2006. Act March 9, 2006, in subsec. (a)(1)(E), substituted "section 3056A of title 18" for "section 202 of title 3".

Other provisions:

Classified report on data collected by National Applications Office. Act Sept. 30, 2008, P.L. 110-329, Div D, Title V, § 518(b), 122 Stat. 3684, provides: "The Inspector General shall provide to the Committees on Appropriations of the Senate and the House of Representatives, starting six months after the date of enactment of this Act, and quarterly thereafter, a classified report containing a review of the data collected by the National Applications Office, including a description of the collection purposes and the legal authority under which the collection activities were authorized: *Provided*, That the report shall also include a listing of all data collection activities carried out on behalf of the National Applications Office by any component of the National Guard."



19 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
TITLE 5--APPENDIX
INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 8J

§ 8J. Rule of construction of special provisions

The special provisions under section 8, 8A, 8B, 8C, 8D, 8E, 8F, or 8H of this Act relate only to the establishment named in such section and no inference shall be drawn from the presence or absence of a provision in any such section with respect to an establishment not named in such section or with respect to a designated Federal entity as defined under section 8G(a).

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 8J [8I] [8H] [8G] [8F], as added Oct. 18, 1988, P.L. 100-504, Title I, § 105, 102 Stat. 2525; Sept. 21, 1993, P.L. 103-82, Title II, § 202(g)(1), (5)(B), 107 Stat. 889, 890; Sept. 30, 1996, P.L. 104-208, Div A, Title I, § 101(f) [Title VI, § 662(b)(3)], 110 Stat. 3009-380; July 22, 1998, P.L. 105-206, Title I, Subtitle B, § 1103(e)(3), 112 Stat. 709; Oct. 20, 1998, P.L. 105-272, Title VII, § 702(b)(1), (2), 112 Stat. 2415, 2417; Feb. 20, 2003, P.L. 108-7, Div L, § 104(b)(2), 117 Stat. 529.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

A former § 8J of Act Oct. 12, 1978, P.L. 95-452, was repealed by Act Feb. 20, 2003, P.L. 108-7, Div L, § 104(b)(1), 117 Stat. 529. It related to special provisions concerning the Department of Homeland Security.

Effective date of section:

This section became effective 180 days after enactment as provided by § 113 of Act Oct. 18, 1988, P.L. 100-504, which appears as *5 USCS Appx. § 5* note.

Amendments:

5 USCS Appx § 8J

1993. Act Sept. 21, 1993 (effective 10/1/93, as provided by 202(i)(1) of such Act, which appears as *42 USCS § 12651* note) substituted "8D, or 8E" for "or 8D" and "section 8F(a)" for "section 8E(a)".

1998. Act July 22, 1998 substituted "8E or 8F" for "or 8E" and substituted "section 8G(a)" for "section 8F(a)".

Such Act further purported to substitute "Sec. 8H" for "Sec. 8G"; however, because of a prior amendment, this amendment could not be executed.

Act Oct 20, 1998 purported to amend this section by striking out "or 8E" and inserting in lieu thereof "8E, or 8H"; however, the amendment was executed by substituting ", 8F, or 8H" for "or 8F" in order to effectuate the probable intent of Congress.

Redesignation:

This section, enacted as § 8F of Act Oct. 12, 1978, P.L. 95-452, was redesignated § 8G of such Act by Act Sept. 21, 1993, P.L. 103-82, Title II, § 202(g)(1), 107 Stat. 889; it was further redesignated § 8H of Act Oct. 12, 1978, P.L. 95-452, by Act Sept. 30, 1996, P.L. 104-208, Div A, Title I, § 101(f) [Title VI, § 662(b)(3)], 110 Stat. 3009-380; it was further redesignated § 8I of Act Oct. 12, 1978, P.L. 95-452, by Act Oct. 20, 1998, P.L. 105-272, Title VII, § 702(b)(1), 112 Stat. 2415; it was further redesignated § 8J of Act Oct. 12, 1978, P.L. 95-452, by Act Feb. 20, 2003, P.L. 108-7, Div L, § 104(b)(2), 117 Stat. 529.



20 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
TITLE 5--APPENDIX
INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 8K

§ 8K. Authority to establish Inspector General of the Office of the Director of National Intelligence [Caution: See prospective amendment note below.]

If the Director of National Intelligence determines that an Office of Inspector General would be beneficial to improving the operations and effectiveness of the Office of the Director of National Intelligence, the Director of National Intelligence is authorized to establish, with any of the duties, responsibilities, and authorities set forth in this Act, an Office of Inspector General.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 8K, as added Dec. 17, 2004, P.L. 108-458, Title I, Subtitle G, § 1078, 118 Stat. 3695.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Prospective amendment:

Repeal of section on date Inspector General for the Intelligence Community assumes duties. Act Oct. 7, 2010, P.L. 111-259, Title IV, Subtitle A, § 405(d), 124 Stat. 2719, provides: "Section 8K of the Inspector General Act of 1978 (5 U.S.C. App.) shall be repealed on the date that the President appoints, with the advice and consent of the Senate, the first individual to serve as Inspector General for the Intelligence Community pursuant to section 103H of the National Security Act of 1947 [50 USCS § 403-5h], as added by subsection (a), and such individual assumes the duties of the Inspector General."

Effective date of section:

This section is effective not later than six months after enactment, pursuant to § 1097 of Act Dec. 17, 2004, P.L. 108-458, which appears as 50 USCS § 401 note. For Determination by the President that the section takes effect on April 21, 2005, see Pres. Memorandum of April 20, 2005, 70 Fed. Reg. 23925, which appears as 50 USCS § 401 note.



21 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
TITLE 5--APPENDIX
INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 8L

§ 8L. Information on websites of Offices of Inspectors General

(a) Direct links to Inspectors General Offices.

(1) In general. Each agency shall establish and maintain on the homepage of the website of that agency, a direct link to the website of the Office of the Inspector General of that agency.

(2) Accessibility. The direct link under paragraph (1) shall be obvious and facilitate accessibility to the website of the Office of the Inspector General.

(b) Requirements for Inspectors General websites.

(1) Posting of reports and audits. The Inspector General of each agency shall--

(A) not later than 3 days after any report or audit (or portion of any report or audit) is made publicly available, post that report or audit (or portion of that report or audit) on the website of the Office of Inspector General; and

(B) ensure that any posted report or audit (or portion of that report or audit) described under subparagraph (A)--

(i) is easily accessible from a direct link on the homepage of the website of the Office of the Inspector General;

(ii) includes a summary of the findings of the Inspector General; and

(iii) is in a format that--

(I) is searchable and downloadable; and

(II) facilitates printing by individuals of the public accessing the website.

(2) Reporting of fraud, waste, and abuse.

(A) In general. The Inspector General of each agency shall establish and maintain a direct link on the homepage of the website of the Office of the Inspector General for individuals to report fraud, waste, and abuse. Individuals reporting fraud, waste, or abuse using the direct link established under this paragraph shall not be required to provide personally identifying information relating to that individual.

(B) Anonymity. The Inspector General of each agency shall not disclose the identity of any individual making a report under this paragraph without the consent of the individual unless the Inspector General determines that such a disclosure is unavoidable during the course of the investigation.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 8L, as added Oct. 14, 2008, P.L. 110-409, § 13(a), 122 Stat. 4315.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Other provisions:

Link to website of Office of Inspector General on DoD website. Act Nov. 13, 2007, P.L. 110-116, Div A, Title VIII, § 8121, 121 Stat. 1341, provides: "Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish and maintain on the homepage of the Internet website of the Department of Defense a direct link to the Internet website of the Office of Inspector General of the Department of Defense."

Offices of Inspectors General websites. Act Dec. 26, 2007, P.L. 110-161, Div D, Title VII, § 746, 121 Stat. 2034; Oct. 14, 2008, P.L. 110-409, § 13(b), 122 Stat. 4316, provides:

"(a) Each executive department and agency shall establish and maintain on the homepage of its website, an obvious, direct link to the website of its respective Inspector General.

"(b) [Repealed]".

Link to website of Office of Inspector General on Homeland Security website. Act Dec. 26, 2007, P.L. 110-161, Div E, Title V, § 555, 121 Stat. 2082, provides:

"Not later than 30 days after the date of enactment of this Act--

"(1) the Secretary of Homeland Security shall establish and maintain on the homepage of the website of the Department of Homeland Security, a direct link to the website of the Office of Inspector General of the Department of Homeland Security; and

"(2) the Inspector General of the Department of Homeland Security shall establish and maintain on the homepage of the website of the Office of Inspector General a direct link for individuals to anonymously report waste, fraud, or abuse."

Link to websites of Offices of Inspector General on certain websites. Act Dec. 26, 2007, P.L. 110-161, Div G, Title V, § 522, 121 Stat. 2211, provides:

"Not later than 30 days after the date of enactment of this Act, the Departments, agencies, and commissions funded under this Act [Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008], shall establish and maintain on the homepages of their Internet websites--

"(1) a direct link to the Internet websites of their Offices of Inspectors General; and

"(2) a mechanism on the Offices of Inspectors General website by which individuals may anonymously report cases of waste, fraud, or abuse with respect to those Departments, agencies, and commissions."

Link to website of Office of Inspector General on Veterans Affairs website. Act Dec. 26, 2007, P.L. 110-161, Div I, Title II, § 226, 121 Stat. 2272, provides:

"(a) Not later than 30 days after the date of the enactment of this Act, the Inspector General of the Department of Veterans Affairs shall establish and maintain on the homepage of the Internet website of the Office of Inspector General a mechanism by which individuals can anonymously report cases of waste, fraud, or abuse with respect to the Department of Veterans Affairs.

"(b) Not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall establish and maintain on the homepage of the Internet website of the Department of Veterans Affairs a direct link to the Internet website of the Office of Inspector General of the Department of Veterans Affairs."

Link to website of Office of Inspector General on State Department website. Act Dec. 26, 2007, P.L. 110-161, Div J, Title I, § 115, 121 Stat. 2288, provides:

"(a) Link to Office of Inspector General from homepage of Department of State. Not later than 30 days after the date of the enactment of this Act, the Secretary of State shall establish and maintain on the homepage of the Internet website of the Department of State a direct link to the Internet website of the Office of Inspector General of the Department of State.

"(b) Anonymous reporting of waste, fraud, or abuse. Not later than 30 days after the date of the enactment of this Act, the Inspector General of the Department of State shall establish and maintain on the homepage of the Internet website of the Office of Inspector General a mechanism by which individuals can anonymously report cases of waste, fraud, or abuse with respect to the Department of State."

Link to website of Office of Inspector General on Department of Transportation website. Act Dec. 26, 2007, P.L. 110-161, Div K, Title I, § 195, 121 Stat. 2408, provides:

"Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall establish and maintain on the homepage of the Internet website of the Department of Transportation--

"(1) a direct link to the Internet website of the Office of Inspector General of the Department of Transportation; and

"(2) a mechanism by which individuals may anonymously report cases of waste, fraud, or abuse with respect to the Department of Transportation."

Link to website of Office of Inspector General on HUD website. Act Dec. 26, 2007, P.L. 110-161, Div K, Title II, § 234, 121 Stat. 2439, provides:

"Not later than 30 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall establish and maintain on the homepage of the Internet website of the Department of Housing and Urban Development--

"(1) a direct link to the Internet website of the Office of Inspector General of the Department of Housing and Urban Development; and

"(2) a mechanism by which individuals may anonymously report cases of waste, fraud, or abuse with respect to the Department of Housing and Urban Development."

Implementation. Act Oct. 14, 2008, P.L. 110-409, § 13(c), 122 Stat. 4316, provides: "Not later than 180 days after the date of enactment of this Act, the head of each agency and the Inspector General of each agency shall implement the amendment made by this section [adding this section]."

Link to Offices of Inspectors General on Department, agency, and commission websites. Act March 11, 2009, P.L. 111-8, Div B, Title V, § 526, 123 Stat. 599, provides: "The Departments, agencies, and commissions funded under this Act [this Division], shall establish and maintain on the homepages of their Internet websites--

"(1) a direct link to the Internet websites of their Offices of Inspectors General; and

"(2) a mechanism on the Offices of Inspectors General website by which individuals may anonymously report cases of waste, fraud, or abuse with respect to those Departments, agencies, and commissions."

Link to Offices of Inspector General on executive department and agency websites. Act March 11, 2009, P.L. 111-8, Div D, Title VII, § 744, 123 Stat. 693, provides:

"(a) Each executive department and agency shall establish and maintain on the homepage of its website, an obvious, direct link to the website of its respective Inspector General.

"(b) Each Office of Inspector General shall: (1) post on its website any public report or audit or portion of any report or audit issued within one day of its release; (2) provide a service on its website to allow an individual to request automatic receipt of information relating to any public report or audit or portion of that report or audit and which permits electronic transmittal of the information, or notice of the availability of the information without further request; and (3) establish and maintain a direct link on its website for individuals to anonymously report waste, fraud and abuse."

Link to websites of Offices of Inspectors General on certain websites. Act Dec. 16, 2009, P.L. 111-117, Div B, Title V, § 526, 123 Stat. 3154, provides:

"The Departments, agencies, and commissions funded under this Act [Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010], shall establish and maintain on the homepages of their Internet websites--

"(1) a direct link to the Internet websites of their Offices of Inspectors General; and

"(2) a mechanism on the Offices of Inspectors General website by which individuals may anonymously report cases of waste, fraud, or abuse with respect to those Departments, agencies, and commissions."

Similar provisions were contained in Act Dec. 26, 2007, P.L. 110-161, Div B, Title V, § 534, 121 Stat. 1932.



22 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
 TITLE 5--APPENDIX
 INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 9

§ 9. Transfer of functions

(a) There shall be transferred--

(1) to the Office of Inspector General--

(A) of the Department of Agriculture, the offices of that department referred to as the "Office of Investigation" and the "Office of Audit";

(B) of the Department of Commerce, the offices of that department referred to as the "Office of Audits" and the "Investigations and Inspections Staff" and that portion of the office referred to as the "Office of Investigations and Security" which has responsibility for investigation of alleged criminal violations and program abuse;

(C) of the Department of Defense, the offices of that department referred to as the "Defense Audit Service" and the "Office of Inspector General, Defense Logistics Agency", and that portion of the office of that department referred to as the "Defense Investigative Service" which has responsibility for the investigation of alleged criminal violations;

(D) of the Department of Education, all functions of the Inspector General of Health, Education, and Welfare or of the Office of Inspector General of Health, Education, and Welfare relating to functions transferred by section 301 of the Department of Education Organization Act [20 USCS § 3441];

(E) of the Department of Energy, the Office of Inspector General (as established by section 208 of the Department of Energy Organization Act [former 42 USCS § 7138]);

(F) of the Department of Health and Human Services, the Office of Inspector General (as established by title II of Public Law 94-505 [former 42 USCS §§ 3521 et seq.]);

(G) of the Department of Housing and Urban Development, the office of that department referred to as the "Office of Inspector General";

(H) of the Department of the Interior, the office of that department referred to as the "Office of Audit and Investigation";

(I) of the Department of Justice, the offices of that Department referred to as (i) the "Audit Staff, Justice Management Division", (ii) the "Policy and Procedures Branch, Office of the Comptroller, Immigration and Naturalization Service", the "Office of Professional Responsibility, Immigration and Naturalization Service", and the "Office of Program Inspections, Immigration and Naturalization Service", (iii) the "Office of Internal Inspection, United States Marshals Service", (iv) the "Financial Audit Section, Office of Financial Management, Bureau of Prisons" and the "Office of Inspections, Bureau of Prisons", and (v) from the Drug Enforcement Administration, that portion of the "Office of Inspections" which is engaged in internal audit activities, and that portion of the "Office of Planning and Evaluation" which is engaged in program review activities;

(J) of the Department of Labor, the office of that department referred to as the "Office of Special Investigations";

(K) of the Department of Transportation, the offices of that department referred to as the "Office of Investigations and Security" and the "Office of Audit" of the Department, the "Offices of Investigations and Security, Federal Aviation Administration", and "External Audit Divisions, Federal Aviation Administration", the "Investigations Division and the External Audit Division of the Office of Program Review and Investigation, Federal Highway Administration", and the "Office of Program Audits, Urban Mass Transportation Administration";

(L) (i) of the Department of the Treasury, the office of that department referred to as the "Office of Inspector General", and, notwithstanding any other provision of law, that portion of each of the offices of that department referred to as the "Office of Internal Affairs, Tax and Trade Bureau", the "Office of Internal Affairs, United States Customs Service", and the "Office of Inspections, United States Secret Service" which is engaged in internal audit activities; and

(ii) of the Treasury Inspector General for Tax Administration, effective 180 days after the date of the enactment of the Internal Revenue Service Restructuring and Reform Act of 1998 [enacted July 22, 1998], the Office of Chief Inspector of the Internal Revenue Service;

(M) of the Environmental Protection Agency, the offices of that agency referred to as the "Office of Audit" and the "Security and Inspection Division";

(N) of the Federal Emergency Management Agency, the office of that agency referred to as the "Office of Inspector General";

(O) of the General Services Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations";

(P) of the National Aeronautics and Space Administration, the offices of that agency referred to as the "Management Audit Office" and the "Office of Inspections and Security";

(Q) of the Nuclear Regulatory Commission, the office of that commission referred to as the "Office of Inspector and Auditor";

(R) of the Office of Personnel Management, the offices of that agency referred to as the "Office of Inspector General", the "Insurance Audits Division, Retirement and Insurance Group", and the "Analysis and Evaluation Division, Administration Group";

(S) of the Railroad Retirement Board, the Office of Inspector General (as established by section 23 of the Railroad Retirement Act of 1974 [former 45 USCS § 231v]);

(T) of the Small Business Administration, the office of that agency referred to as the "Office of Audits and Investigations";

(U) of the Veterans' Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations"; [and]

(V) of the Corporation for National and Community Service, the Office of Inspector General of ACTION; [and]

(W) of the Social Security Administration, the functions of the Inspector General of the Department of Health and Human Services which are transferred to the Social Security Administration by the Social Security Independence and Program Improvements Act of 1994 (other than functions performed pursuant to section 105(a)(2) of such Act [42 USCS § 901 note]), except that such transfers shall be made in accordance with the provisions of such Act and shall not be subject to subsections (b) through (d) of this section; and

(2) to the Office of the Inspector General, such other offices or agencies, or functions, powers, or duties thereof, as the head of the establishment involved may determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this Act,

except that there shall not be transferred to an Inspector General under paragraph (2) program operating responsibilities.

(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorization, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (a) are hereby transferred to the applicable Office of Inspector General.

(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(d) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this Act [effective Oct. 1, 1978], held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed

in an Office of Inspector General to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 9, 92 Stat. 1107; Oct. 17, 1979, P.L. 96-88, Title V, § 508(n)(2), 93 Stat. 694; Sept. 8, 1982, P.L. 97-252, Title XI, § 1117(a)(2), (3), 96 Stat. 750; Oct. 18, 1988, P.L. 100-504, Title I, § 102(d), 102 Stat. 2516; Sept. 21, 1993, P.L. 103-82, Title II, § 202(g)(3)(A), 107 Stat. 890; Aug. 15, 1994, P.L. 103-296, Title I, § 108(l)(1), 108 Stat. 1488; July 22, 1998, P.L. 105-206, Title I, Subtitle B, § 1103(c)(1), 112 Stat. 708; June 14, 2002, P.L. 107-189, § 22(c), 116 Stat. 708; Nov. 25, 2002, P.L. 107-296, Title XI, Subtitle B, § 1112(a)(2), 116 Stat. 2276.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

The Veterans' Administration, referred to in subsec. (a)(1)(U), is deemed to refer to the Department of Veteran Affairs pursuant to § 10 of Act Oct. 25, 1988, P.L. 100-527, which appears as *38 USCS § 301* note.

With respect to the reference in this section to the Urban Mass Transportation Administration, § 3004(b) of Act Dec. 18, 1991, P.L. 102-240, which appears as *49 USCS § 107* note, provides that such a reference shall be deemed to be a reference to the Federal Transit Administration.

The "Social Security Independence and Program Improvements Act of 1994", referred to in this section is Act Aug. 15, 1994, P.L. 103-296, which amended this section, among other things; for full classification, consult USCS Tables volumes.

Explanatory notes:

The word "and" in subsec. (a)(1)(U) has been enclosed in brackets and the bracketed word "and" has been added in subsec. (a)(1)(V) to indicate the probable intent of Congress to delete such word in the first location and add it in the second.

Amendments:

1979. Act Oct. 17, 1979 (effective 5/4/1980, as provided by § 601 of such Act, which appears as *20 USCS § 3401* note), in subsec. (a)(1), redesignated subparas. (C)-(L) as subparas. (D)-(M), respectively, and added a new subpara. (C).

1982. Act Sept. 8, 1982, redesignated former subparas. (C)-(M) as subparas. (D)-(N), respectively; and added a new subpara. (C).

1988. Act Oct. 18, 1988 (effective 180 days after enactment as provided by § 113 of such Act, which appears as *5 USCS Appx § 5* note), in subsec. (a)(1), redesignated former subparas. (E), (F), (G), (H), (J), (K), (L), (M), and (N) as subparas. (G), (H), (J), (K), (M), (O), (P), (T), and (U), respectively, added new subparas. (E), (F), (L), (N), and (Q)-(S), and substituted subpara. (I) for one which read: "of the Community Services Administration, the offices of that agency referred to as the 'Inspections Division', the 'External Audit Division', and the 'Internal Audit Division';".

1993. Act Sept. 21, 1993 (effective as provided by § 202(g)(3)(B), which appears as a note to this section), in subsec. (a)(1)(T), deleted "and" following "Investigations";, and added subpara. (V).

1994. Act Aug. 15, 1994 (effective 3/31/95, as provided by § 110(a) of such Act, which appears as *42 USCS § 401* note), in subsec. (a)(1)(V), deleted "and" following "ACTION;", and added subpara. (W).

1998. Act July 22, 1998, in subsec. (a)(1), in subpara. (L), designated the existing provisions as cl. (i) and, in such clause, added "and" after the concluding semicolon, and added cl. (ii).

2002. Act June 14, 2002 (effective 10/1/2002, as provided by § 22(e) of such Act, which appears as *5 USCS § 5315* note), in subsec. (a)(2), inserted "to the Office of the Inspector General,".

Act Nov. 25, 2002 (effective 60 days after enactment, as provided by § 4 of such Act, which appears as *6 USCS § 101* note), in subsec. (a)(1)(L)(i), substituted "Tax and Trade Bureau" for "Bureau of Alcohol, Tobacco, and Firearms".

Transfer of functions:

For abolition of the Immigration and Naturalization Service, transfer of functions, and treatment of related references, see transfer of functions note under *8 USCS § 1551*.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see *6 USCS §§ 203(l), 551(d), 552(d), 557*, and the Department of Homeland Security Reorganization Plan of Nov. 25, 2002, which appears as *6 USCS § 542* note.

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see *6 USCS §§ 381, 551(d), 552(d), and 557*, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, which appears as *6 USCS § 542* note.

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see *6 USCS § 315(a)(1)*.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former *6 USCS § 313(1)* and *6 USCS §§ 551(d), 552(d), and 557*, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, which appears as *6 USCS § 542* note.

Other provisions:

Audit positions for the Inspector General of the Department of Defense. Act Sept. 8, 1982, P.L. 97-252, Title XI, § 1117(e), 96 Stat. 753, provided: "In addition to the positions transferred to the Office of the Inspector General of the Department of Defense, pursuant to the amendments made by subsection (a) of this section [amending *5 USCS Appx §§ 2, 9, and 11*], the Secretary of Defense shall transfer to the Office of Inspector General of the Department of Defense not less than one hundred additional audit positions. The Inspector General of the Department of Defense shall fill such positions with persons trained to perform contract audits."

Continuation provisions. Act Oct. 18, 1988, P.L. 100-504, Title I, § 102(e)(4), 102 Stat. 2517, provides: "Any individual who, on the date of enactment of this Act, is serving as the Inspector General of the Department of Energy, the Department of Health and Human Services, or the Railroad Retirement Board, shall continue to serve in such position until such individual dies, resigns, or is removed from office in accordance with section 3(b) of the Inspector General Act of 1978 [*5 USCS Appx. § 3(b)*]."

Effective date of 1993 amendment. Act Sept. 21, 1993, P.L. 103-82, Title II, § 202(g)(3)(B), 107 Stat. 890, provides: "This paragraph [amending subsec. (a)(1) of this section] shall take effect on the effective date of section 203(c)(2) [effective 18 months after enactment or on such earlier date as the President shall determine to be appropriate, as provided by § 203(d)(1) of such Act, which appears as *42 USCS § 12651* note]."

Termination of Office of Chief Inspector of the Internal Revenue Service. Act July 22, 1998, P.L. 105-206, Title I, Subtitle B, § 1103(c)(2), 112 Stat. 708, provides: "Effective upon the transfer of functions under the amendment made by paragraph (1) [amending subsec. (a)(1)(L) of this section], the Office of Chief Inspector of the Internal Revenue Service is terminated."

Retention by IRS of internal audit personnel. Act July 22, 1998, P.L. 105-206, Title I, Subtitle B, § 1103(c)(3), 112 Stat. 708, provides: "In making the transfer under the amendment made by paragraph (1) [amending subsec. (a)(1)(L) of this section], the Commissioner of Internal Revenue shall designate and retain an appropriate number (not in excess of 300) of internal audit full-time equivalent employee positions necessary for management relating to the Internal Revenue Service."

Office of the Treasury Inspector General for Tax Administration; additional personnel transfers. Act July 22, 1998, P.L. 105-206, Title I, Subtitle B, § 1103(c)(4), 112 Stat. 708, provides: "Effective 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall transfer 21 full-time equivalent positions from the Office of the Inspector General of the Department of the Treasury to the Office of the Treasury Inspector General for Tax Administration."

NOTES:

Related Statutes & Rules:

This section is referred to in 7 *USCS* § 2270.

Research Guide:

Am Jur:

27 *Am Jur 2d, Energy and Power Sources* § 17.



23 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
TITLE 5--APPENDIX
INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 10

§ 10. [Omitted]

HISTORY; ANCILLARY LAWS AND DIRECTIVES

This section (Act Oct. 12, 1978, P.L. 95-452, § 10, 92 Stat. 1108) has been omitted as executed. The section amended *5 USCS §§ 5315 and 5316* and *42 USCS § 3522*.



24 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
 TITLE 5--APPENDIX
 INSPECTOR GENERAL ACT OF 1978

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5 USCS Appx § 11

§ 11. Establishment of the Council of the Inspectors General on Integrity and Efficiency

(a) Establishment and mission.

(1) Establishment. There is established as an independent entity within the executive branch the Council of the Inspectors General on Integrity and Efficiency (in this section referred to as the "Council").

(2) Mission. The mission of the Council shall be to--

- (A) address integrity, economy, and effectiveness issues that transcend individual Government agencies; and
- (B) increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General.

(b) Membership.

(1) In general. The Council shall consist of the following members:

- (A) All Inspectors General whose offices are established under--
 - (i) section 2; or
 - (ii) section 8G.
- (B) The Inspectors General of the Office of the Director of National Intelligence and the Central Intelligence Agency.
- (C) The Controller of the Office of Federal Financial Management.
- (D) A senior level official of the Federal Bureau of Investigation designated by the Director of the Federal Bureau of Investigation.
- (E) The Director of the Office of Government Ethics.
- (F) The Special Counsel of the Office of Special Counsel.
- (G) The Deputy Director of the Office of Personnel Management.
- (H) The Deputy Director for Management of the Office of Management and Budget.
- (I) The Inspectors General of the Library of Congress, Capitol Police, Government Printing Office, Government Accountability Office, and the Architect of the Capitol.

(2) Chairperson and Executive Chairperson.

(A) Executive Chairperson. The Deputy Director for Management of the Office of Management and Budget shall be the Executive Chairperson of the Council.

(B) Chairperson. The Council shall elect 1 of the Inspectors General referred to in paragraph (1)(A) or (B) to act as Chairperson of the Council. The term of office of the Chairperson shall be 2 years.

(3) Functions of Chairperson and Executive Chairperson.

5 USCS Appx § 11

- (A) Executive Chairperson. The Executive Chairperson shall--
- (i) preside over meetings of the Council;
 - (ii) provide to the heads of agencies and entities represented on the Council summary reports of the activities of the Council; and
 - (iii) provide to the Council such information relating to the agencies and entities represented on the Council as assists the Council in performing its functions.
- (B) Chairperson. The Chairperson shall--
- (i) convene meetings of the Council--
 - (I) at least 6 times each year;
 - (II) monthly to the extent possible; and
 - (III) more frequently at the discretion of the Chairperson;
 - (ii) carry out the functions and duties of the Council under subsection (c);
 - (iii) appoint a Vice Chairperson to assist in carrying out the functions of the Council and act in the absence of the Chairperson, from a category of Inspectors General described in subparagraph (A)(i), (A)(ii), or (B) of paragraph (1), other than the category from which the Chairperson was elected;
 - (iv) make such payments from funds otherwise available to the Council as may be necessary to carry out the functions of the Council;
 - (v) select, appoint, and employ personnel as needed to carry out the functions of the Council subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such *title* [5 USCS §§ 5101 et seq. and 5331 et seq.], relating to classification and General Schedule pay rates;
 - (vi) to the extent and in such amounts as may be provided in advance by appropriations Acts, made available from the revolving fund established under subsection (c)(3)(B), or as otherwise provided by law, enter into contracts and other arrangements with public agencies and private persons to carry out the functions and duties of the Council;
 - (vii) establish, in consultation with the members of the Council, such committees as determined by the Chairperson to be necessary and appropriate for the efficient conduct of Council functions; and
 - (viii) prepare and transmit a report annually on behalf of the Council to the President on the activities of the Council.

(c) Functions and duties of Council.

- (1) In general. The Council shall--
- (A) continually identify, review, and discuss areas of weakness and vulnerability in Federal programs and operations with respect to fraud, waste, and abuse;
 - (B) develop plans for coordinated, Governmentwide activities that address these problems and promote economy and efficiency in Federal programs and operations, including interagency and interentity audit, investigation, inspection, and evaluation programs and projects to deal efficiently and effectively with those problems concerning fraud and waste that exceed the capability or jurisdiction of an individual agency or entity;
 - (C) develop policies that will aid in the maintenance of a corps of well-trained and highly skilled Office of Inspector General personnel;
 - (D) maintain an Internet website and other electronic systems for the benefit of all Inspectors General, as the Council determines are necessary or desirable;
 - (E) maintain 1 or more academies as the Council considers desirable for the professional training of auditors, investigators, inspectors, evaluators, and other personnel of the various offices of Inspector General;
 - (F) submit recommendations of individuals to the appropriate appointing authority for any appointment to an office of Inspector General described under subsection (b)(1)(A) or (B);
 - (G) make such reports to Congress as the Chairperson determines are necessary or appropriate; and
 - (H) perform other duties within the authority and jurisdiction of the Council, as appropriate.
- (2) Adherence and participation by members. To the extent permitted under law, and to the extent not inconsistent with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions, each member of the Council, as appropriate, shall--
- (A) adhere to professional standards developed by the Council; and
 - (B) participate in the plans, programs, and projects of the Council, except that in the case of a member described under subsection (b)(1)(I), the member shall participate only to the extent requested by the member and approved by the Executive Chairperson and Chairperson.
- (3) Additional administrative authorities.

(A) Interagency funding. Notwithstanding *section 1532 of title 31, United States Code*, or any other provision of law prohibiting the interagency funding of activities described under subclause (I), (II), or (III) of clause (i), in the performance of the responsibilities, authorities, and duties of the Council--

(i) the Executive Chairperson may authorize the use of interagency funding for--

(I) Governmentwide training of employees of the Offices of the Inspectors General;

(II) the functions of the Integrity Committee of the Council; and

(III) any other authorized purpose determined by the Council; and

(ii) upon the authorization of the Executive Chairperson, any department, agency, or entity of the executive branch which has a member on the Council shall fund or participate in the funding of such activities.

(B) Revolving fund.

(i) In general. The Council may--

(I) establish in the Treasury of the United States a revolving fund to be called the Inspectors General Council Fund; or

(II) enter into an arrangement with a department or agency to use an existing revolving fund.

(ii) Amounts in revolving fund.

(I) In general. Amounts transferred to the Council under this subsection shall be deposited in the revolving fund described under clause (i)(I) or (II).

(II) Training. Any remaining unexpended balances appropriated for or otherwise available to the Inspectors General Criminal Investigator Academy and the Inspectors General Auditor Training Institute shall be transferred to the revolving fund described under clause (i)(I) or (II).

(iii) Use of revolving fund.

(I) In general. Except as provided under subclause (II), amounts in the revolving fund described under clause (i)(I) or (II) may be used to carry out the functions and duties of the Council under this subsection.

(II) Training. Amounts transferred into the revolving fund described under clause (i)(I) or (II) may be used for the purpose of maintaining any training academy as determined by the Council.

(iv) Availability of funds. Amounts in the revolving fund described under clause (i)(I) or (II) shall remain available to the Council without fiscal year limitation.

(C) Superseding provisions. No provision of law enacted after the date of enactment of this subsection shall be construed to limit or supersede any authority under subparagraph (A) or (B), unless such provision makes specific reference to the authority in that paragraph [subparagraph].

(4) Existing authorities and responsibilities. The establishment and operation of the Council shall not affect--

(A) the role of the Department of Justice in law enforcement and litigation;

(B) the authority or responsibilities of any Government agency or entity; and

(C) the authority or responsibilities of individual members of the Council.

(d) Integrity Committee.

(1) Establishment. The Council shall have an Integrity Committee, which shall receive, review, and refer for investigation allegations of wrongdoing that are made against Inspectors General and staff members of the various Offices of Inspector General described under paragraph (4)(C).

(2) Membership. The Integrity Committee shall consist of the following members:

(A) The official of the Federal Bureau of Investigation serving on the Council, who shall serve as Chairperson of the Integrity Committee, and maintain the records of the Committee.

(B) Four Inspectors General described in subparagraph (A) or (B) of subsection (b)(1) appointed by the Chairperson of the Council, representing both establishments and designated Federal entities (as that term is defined in section 8G(a)).

(C) The Special Counsel of the Office of Special Counsel.

(D) The Director of the Office of Government Ethics.

(3) Legal advisor. The Chief of the Public Integrity Section of the Criminal Division of the Department of Justice, or his designee, shall serve as a legal advisor to the Integrity Committee.

(4) Referral of allegations.

(A) Requirement. An Inspector General shall refer to the Integrity Committee any allegation of wrongdoing against a staff member of the office of that Inspector General, if--

(i) review of the substance of the allegation cannot be assigned to an agency of the executive branch with appropriate jurisdiction over the matter; and

(ii) the Inspector General determines that--

5 USCS Appx § 11

- (I) an objective internal investigation of the allegation is not feasible; or
- (II) an internal investigation of the allegation may appear not to be objective.

(B) Definition. In this paragraph the term "staff member" means any employee of an Office of Inspector General who--

- (i) reports directly to an Inspector General; or
- (ii) is designated by an Inspector General under subparagraph (C).

(C) Designation of staff members. Each Inspector General shall annually submit to the Chairperson of the Integrity Committee a designation of positions whose holders are staff members for purposes of subparagraph (B).

(5) Review of allegations. The Integrity Committee shall--

(A) review all allegations of wrongdoing the Integrity Committee receives against an Inspector General, or against a staff member of an Office of Inspector General described under paragraph (4)(C);

(B) refer any allegation of wrongdoing to the agency of the executive branch with appropriate jurisdiction over the matter; and

(C) refer to the Chairperson of the Integrity Committee any allegation of wrongdoing determined by the Integrity Committee under subparagraph (A) to be potentially meritorious that cannot be referred to an agency under subparagraph (B).

(6) Authority to investigate allegations.

(A) Requirement. The Chairperson of the Integrity Committee shall cause a thorough and timely investigation of each allegation referred under paragraph (5)(C) to be conducted in accordance with this paragraph.

(B) Resources. At the request of the Chairperson of the Integrity Committee, the head of each agency or entity represented on the Council--

- (i) may provide resources necessary to the Integrity Committee; and
- (ii) may detail employees from that agency or entity to the Integrity Committee, subject to the control and direction of the Chairperson, to conduct an investigation under this subsection.

(7) Procedures for investigations.

(A) Standards applicable. Investigations initiated under this subsection shall be conducted in accordance with the most current Quality Standards for Investigations issued by the Council or by its predecessors (the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency).

(B) Additional policies and procedures.

(i) Establishment. The Integrity Committee, in conjunction with the Chairperson of the Council, shall establish additional policies and procedures necessary to ensure fairness and consistency in--

- (I) determining whether to initiate an investigation;
- (II) conducting investigations;
- (III) reporting the results of an investigation; and

(IV) providing the person who is the subject of an investigation with an opportunity to respond to any Integrity Committee report.

(ii) Submission to congress. The Council shall submit a copy of the policies and procedures established under clause (i) to the congressional committees of jurisdiction.

(C) Reports.

(i) Potentially meritorious allegations. For allegations described under paragraph (5)(C), the Chairperson of the Integrity Committee shall make a report containing the results of the investigation of the Chairperson and shall provide such report to members of the Integrity Committee.

(ii) Allegations of wrongdoing. For allegations referred to an agency under paragraph (5)(B), the head of that agency shall make a report containing the results of the investigation and shall provide such report to members of the Integrity Committee.

(8) Assessment and final disposition.

(A) In general. With respect to any report received under paragraph (7)(C), the Integrity Committee shall--

- (i) assess the report;
- (ii) forward the report, with the recommendations of the Integrity Committee, including those on disciplinary action, within 30 days (to the maximum extent practicable) after the completion of the investigation, to the Executive Chairperson of the Council and to the President (in the case of a report relating to an Inspector General of an establishment or any employee of that Inspector General) or the head of a designated Federal entity (in the case of a report relating to an Inspector General of such an entity or any employee of that Inspector General) for resolution; and

(iii) submit to the Committee on Government Oversight and Reform [Oversight and Government Reform] of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and other

congressional committees of jurisdiction an executive summary of such report and recommendations within 30 days after the submission of such report to the Executive Chairperson under clause (ii).

(B) Disposition. The Executive Chairperson of the Council shall report to the Integrity Committee the final disposition of the matter, including what action was taken by the President or agency head.

(9) Annual report. The Council shall submit to Congress and the President by December 31 of each year a report on the activities of the Integrity Committee during the preceding fiscal year, which shall include the following:

(A) The number of allegations received.

(B) The number of allegations referred to other agencies, including the number of allegations referred for criminal investigation.

(C) The number of allegations referred to the Chairperson of the Integrity Committee for investigation.

(D) The number of allegations closed without referral.

(E) The date each allegation was received and the date each allegation was finally disposed of.

(F) In the case of allegations referred to the Chairperson of the Integrity Committee, a summary of the status of the investigation of the allegations and, in the case of investigations completed during the preceding fiscal year, a summary of the findings of the investigations.

(G) Other matters that the Council considers appropriate.

(10) Requests for more information. With respect to paragraphs (8) and (9), the Council shall provide more detailed information about specific allegations upon request from any of the following:

(A) The chairperson or ranking member of the Committee on Homeland Security and Governmental Affairs of the Senate.

(B) The chairperson or ranking member of the Committee on Oversight and Government Reform of the House of Representatives.

(C) The chairperson or ranking member of the congressional committees of jurisdiction.

(11) No right or benefit. This subsection is not intended to create any right or benefit, substantive or procedural, enforceable at law by a person against the United States, its agencies, its officers, or any person.

HISTORY:

(Oct 12, 1978, P.L. 95-452, § 11, as added Oct. 14, 2008, P.L. 110-409, § 7(a), 122 Stat. 4306.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

The bracketed word "subparagraph" has been inserted in subsec. (c)(3)(C) to indicate the word probably intended by Congress.

The bracketed words "Oversight and Government Reform" have been inserted in subsec. (d)(8)(A)(iii) to indicate the words probably intended by Congress.

A prior § 11 of the Inspector General Act was redesignated § 12.

Other provisions:

Deadline for operation of Council; existing executive orders. Act Oct. 14, 2008, P.L. 110-409, § 7(c), 122 Stat. 4313, provides:

"(1) Council. Not later than 180 days after the date of the enactment of this Act, the Council of the Inspectors General on Integrity and Efficiency established under this section shall become effective and operational.

"(2) Executive orders. Executive Order No. 12805, dated May 11, 1992 [*31 USCS § 501* note], and Executive Order No. 12933 [probably means Executive Order No. 12993 (*5 USCS Appx § 3* note), dated March 21, 1996 (as in effect before the date of the enactment of this Act) shall have no force or effect on and after the earlier of--

"(A) the date on which the Council of the Inspectors General on Integrity and Efficiency becomes effective and operational as determined by the Executive Chairperson of the Council; or

"(B) the last day of the 180-day period beginning on the date of enactment of this Act."

Inspectors General for Iraq and Afghanistan Reconstruction. Act April 24, 2009, P.L. 111-15, § 7, 123 Stat. 1605, provides: "The Special Inspector General for Iraq Reconstruction and the Special Inspector General for Afgha-

nistan Reconstruction shall be a members [member] of the Council of the Inspectors General on Integrity and Efficiency established under section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) until the date of termination of the Office of the Special Inspector General for Iraq Reconstruction and the Office of the Special Inspector General for Afghanistan Reconstruction, respectively."

Additional oversight of financial regulatory system. Act July 21, 2010, P.L. 111-203, Title IX, Subtitle I, § 989E, 124 Stat. 1946 (effective 1 day after enactment, as provided by § 4 of such Act, which appears as *12 USCS § 5301* note), provides:

"(a) Council of Inspectors General on Financial Oversight.

(1) Establishment and membership. There is established a Council of Inspectors General on Financial Oversight (in this section referred to as the 'Council of Inspectors General') chaired by the Inspector General of the Department of the Treasury and composed of the inspectors general of the following:

"(A) The Board of Governors of the Federal Reserve System.

"(B) The Commodity Futures Trading Commission.

"(C) The Department of Housing and Urban Development.

"(D) The Department of the Treasury.

"(E) The Federal Deposit Insurance Corporation.

"(F) The Federal Housing Finance Agency.

"(G) The National Credit Union Administration.

"(H) The Securities and Exchange Commission.

"(I) The Troubled Asset Relief Program (until the termination of the authority of the Special Inspector General for such program under section 121(k) of the Emergency Economic Stabilization Act of 2008 (*12 U.S.C. 5231(k)*)).

"(2) Duties.

(A) Meetings. The Council of Inspectors General shall meet not less than once each quarter, or more frequently if the chair considers it appropriate, to facilitate the sharing of information among inspectors general and to discuss the ongoing work of each inspector general who is a member of the Council of Inspectors General, with a focus on concerns that may apply to the broader financial sector and ways to improve financial oversight.

"(B) Annual report. Each year the Council of Inspectors General shall submit to the Council and to Congress a report including--

"(i) for each inspector general who is a member of the Council of Inspectors General, a section within the exclusive editorial control of such inspector general that highlights the concerns and recommendations of such inspector general in such inspector general's ongoing and completed work, with a focus on issues that may apply to the broader financial sector; and

"(ii) a summary of the general observations of the Council of Inspectors General based on the views expressed by each inspector general as required by clause (i), with a focus on measures that should be taken to improve financial oversight.

"(3) Working Groups to evaluate Council.

(A) Convening a Working Group. The Council of Inspectors General may, by majority vote, convene a Council of Inspectors General Working Group to evaluate the effectiveness and internal operations of the Council.

"(B) Personnel and resources. The inspectors general who are members of the Council of Inspectors General may detail staff and resources to a Council of Inspectors General Working Group established under this paragraph to enable it to carry out its duties.

"(C) Reports. A Council of Inspectors General Working Group established under this paragraph shall submit regular reports to the Council and to Congress on its evaluations pursuant to this paragraph.

"(b) Response to report by Council. The Council shall respond to the concerns raised in the report of the Council of Inspectors General under subsection (a)(2)(B) for such year."

NOTES:

Related Statutes & Rules:

This section is referred to in *5 USCS Appx § 6*; *12 USCS § 5231*.



25 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
 TITLE 5--APPENDIX
 INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 12

§ 12. Definitions

As used in this Act--

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, Homeland Security, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs; the Director [Administrator] of the Federal Emergency Management Agency, or the Office of Personnel Management; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board;[,] the Chairperson of the Thrift Depositor Protection Oversight Board; the Chief Executive Officer of the Corporation for National and Community Service; the Administrator of the Community Development Financial Institutions Fund; the chief executive officer of the Resolution Trust Corporation; the Chairperson of the Federal Deposit Insurance Corporation; the Commissioner of Social Security, Social Security Administration; the Director of the Federal Housing Finance Agency; the Board of Directors of the Tennessee Valley Authority; the President of the Export-Import Bank; or the Federal Cochairpersons of the Commissions established under *section 15301 of title 40, United States Code*; as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, Homeland Security, or the Treasury; the Agency for International Development, the Community Development Financial Institutions Fund, the Environmental Protection Agency, the Federal Emergency Management Agency, the General Services Administration, the National Aeronautics and Space Administration, the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad Retirement Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Small Business Administration, the Corporation for National and Community Service, the Veterans' Administration, the Social Security Administration, the Federal Housing Finance Agency, the Tennessee Valley Authority, the Export-Import Bank, or the Commissions established under *section 15301 of title 40, United States Code*, as the case may be;

(3) the term "Inspector General" means the Inspector General of an establishment;

(4) the term "Office" means the Office of Inspector General of an establishment; and

(5) the term "Federal agency" means an agency as defined in section 552(f) of title 5 (including an establishment as defined in paragraph (2), United States Code, but shall not be construed to include the General Accounting Office [Government Accountability Office]).

HISTORY:

(Oct 12, 1978, P.L. 95-452, § 12 [11], 92 Stat. 1109; Oct. 17, 1979, P.L. 96-88, Title V, § 508(n)(3), (4), 93 Stat. 695; Dec. 29, 1981, P.L. 97-113, Title VII, § 705(a)(2), 95 Stat. 1544; Sept. 8, 1982, P.L. 97-252, Title XI, § 1117(a)(4), (5), 96 Stat. 751; Aug. 16, 1985, P.L. 99-93, Title I, § 150(a)(2), 99 Stat. 427; Aug. 27, 1986, P.L. 99-399, Title IV, § 412(a)(2), 100 Stat. 867; Oct. 18, 1988, P.L. 100-504, Title I, § 102(c), 102 Stat. 2515; Oct. 25, 1988, P.L. 100-527, § 13(h)(2), (3), 102 Stat. 2643; Aug. 9, 1989, P.L. 101-73, Title V, Subtitle A, § 501(b)(1), 103 Stat. 393; Dec. 12, 1991, P.L. 102-233, Title III, § 315(a), 105 Stat. 1772; Sept. 21, 1993, P.L. 103-82, Title II, § 202(g)(4), 107 Stat. 890; Dec. 17, 1993, P.L. 103-204, § 23(a)(1), 107 Stat. 2407; Aug. 15, 1994, P.L. 103-296, Title I, § 108(l)(2), 108 Stat. 1489; Sept. 23, 1994, P.L. 103-325, Title I, Subtitle A, § 118(a), 108 Stat. 2188; Feb. 10, 1996, P.L. 104-106, Div D, Title XLIII, Subtitle B, § 4322(b)(1), (3), 110 Stat. 677; Oct. 21, 1998, P.L. 105-277, Div G, Subdiv A, Title XIII, Ch 2, § 1314(b), 112 Stat. 2681-776; Nov. 1, 2000, P.L. 106-422, § 1(b)(2), 114 Stat. 422; June 14, 2002, P.L. 107-189, § 22(a), (d), 116 Stat. 707, 708; Nov. 25, 2002, P.L. 107-296, Title XVII, § 1701, 116 Stat. 2313; May 22, 2008, P.L. 110-234, Title XIV, Subtitle C, § 14217(c), 122 Stat. 1482; June 18, 2008, P.L. 110-246, § 4(a), Title XIV, Subtitle C, § 14217(c), 122 Stat. 1664, 2244; July 30, 2008, P.L. 110-289, Div A, Title I, Subtitle A, § 1105(c), 122 Stat. 2668; Oct. 14, 2008, P.L. 110-409, § 7(a), 122 Stat. 4305.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

References to the Administrator of Veterans' Affairs and to the Veterans' Administration are deemed to refer to the Secretary of Veterans Affairs and to the Department of Veterans Affairs, respectively, pursuant to § 10 of Act Oct. 25, 1988, P.L. 100-527, which appears as *38 USCS § 301*.

Explanatory notes:

The semicolon has been enclosed in brackets in para. (1) to indicate the probable intent of Congress to delete it.

"Administrator" has been inserted in brackets in para. (1) on the authority of § 612(c) of Act Oct. 4, 2006, P.L. 109-295 (*6 USCS § 313* note), which provided that any reference to the Director of the Federal Emergency Management Agency shall be considered to refer and apply to the Administrator of the Federal Emergency Management Agency.

"Government Accountability Office" has been inserted in brackets in para. (5) on the authority of § 8 of Act July 7, 2004, P.L. 108-271 (*31 USCS § 702* note), which redesignated the General Accounting Office as the Government Accountability Office, and provided that any reference to the General Accounting Office in any law in force on July 7, 2004, shall be considered to refer and apply to the Government Accountability Office.

A prior § 12 of the Inspector General Act was redesignated § 13.

Amendments:

1979. Act Oct. 17, 1979 (effective 5/4/1980, as provided by § 601 of such Act, which appears as *20 USCS § 3401* note), in paras. (1) and (2), inserted "Education,".

1981. Act Dec. 29, 1981, in paras. (1) and (2), inserted "the Agency for International Development,".

1982. Act Sept. 8, 1982, in paras. (1) and (2), inserted "Defense,".

1985. Act Aug. 16, 1985, in paras. (1) and (2), inserted "State,".

5 USCS Appx § 12

1986. Act Aug. 27, 1986, in para. (1), inserted "or the Director of the United States Information Agency" and, in para. (2), inserted "the United States Information Agency".

1988. Act Oct. 18, 1988 (effective 180 days after enactment as provided by § 113 of such Act, which appears as *5 USCS Appx. § 5* note) substituted paras. (1) and (2) for ones which read:

"(1) the term 'head of the establishment' means the Secretary of Agriculture, Commerce, Defense, Education Housing and Urban Development, the Interior, Labor, State, or Transportation or the Administrator of the Agency for International Development, Community Services, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs, or the Director of the United States Information Agency as the case may be;

"(2) the term 'establishment' means the Department of Agriculture, Commerce, Defense, Education, Housing and Urban Development, the Interior, Labor, State, or Transportation or the Agency for International Development, the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, the United States Information Agency or the Veterans' Administration, as the case may be;"

Act Oct. 25, 1988 (generally effective 3/15/89 as provided by § 18 of such Act, which appears as *38 USCS § 301* note) purported to amend para. (1) by substituting "Transportation, or Veterans' Affairs," for "or Transportation" and "or Small Business" for "Small Business, or Veterans' Affairs", and in para. (2) by substituting "Transportation or Veterans Affairs," for "or Transportation" and "or the United States Information Agency" for "the United States Information Agency or the Veterans' Administration"; however, since Act Oct. 18, 1988, P.L. 100-504, amended both paragraphs in their entirety, such amendments could not be executed.

1989. Act Aug. 9, 1989, as amended by Feb. 10, 1996 (effective as of 8/9/89, and as if included in Act Aug. 9, 1989 as enacted, as provided by § 4322(a)(3) of Act Feb. 10, 1996), in para. (1), inserted "the Oversight Board and the Board of Directors of the Resolution Trust Corporation" and, in para. (2) inserted "the Resolution Trust Corporation,".

1991. Act Dec. 12, 1991 (effective Feb. 1, 1992, as provided by § 318 of such Act, which appears as *12 USCS § 1441* note), in para. (1), substituted "; the Chairperson of the Thrift Deposit Protection Oversight Board and the chief executive officer of the Resolution Trust Corporation" for "the Oversight Board and the Board of Directors of the Resolution Trust Corporation".

1993. Act Sept. 21, 1993 (effective 10/1/93, as provided by 202(i)(1) of such Act, which appears as *42 USCS § 12651* note) in para. (1), inserted "; the Chief Executive Officer of the Corporation for National and Community Service;"; and, in para. (2), inserted ", the Corporation for National and Community Service,".

Act Dec. 17, 1993, in para. (1), substituted "the chief executive officer of the Resolution Trust Corporation; and the Chairperson of the Federal Deposit Insurance Corporation;" for "the chief executive officer of the Resolution Trust Corporation;" and, in para. (2), inserted "the Federal Deposit Insurance Corporation,".

1994. Act Aug. 15, 1994 (effective on enactment as provided by § 110(c) of such Act, which appears as *42 USCS § 401* note), in para. (1), inserted "; or the Commissioner of Social Security, Social Security Administration" and, in para. (2), inserted ", or the Social Security Administration".

Act Sept. 23, 1994, in para. (1), inserted "; the Administrator of the Community Development Financial Institutions Fund;" and, in para. (2), inserted "the Community Development Financial Institutions Fund,".

1996. Act Feb. 10, 1996 (effective and applicable as provided by § 4401 of such Act, which appears as *41 USCS § 251* note), in para. (2), deleted a comma following "Community Service,".

Such Act further (effective as of 8/9/89, and as if included in Act Aug. 9, 1989 as enacted, as provided by § 4322(a)(3) of Act Feb. 10, 1996) amended the directory language of Act Aug. 9, 1989 without affecting the text of this section.

1998. Act Oct. 21, 1998 (effective as provided by § 1301 of Division G of such Act, which appears as 22 *USCS* § 6531 note), in para. (1), substituted "or the Office of Personnel Management" for "the Office of Personnel Management, the United States Information Agency" and, in para. (2), deleted "the United States Information Agency," following "the Small Business Administration,".

2000. Act Nov. 1, 2000 (effective and applicable as provided by § 1(d) of such Act, which appears as a 5 *USCS Appx* § 8G note), in para. (1), substituted "the Commissioner of Social Security, Social Security Administration; or the Board of Directors of the Tennessee Valley Authority;" for "or the Commissioner of Social Security, Social Security Administration;" and, in para. (2), substituted "the Social Security Administration, or the Tennessee Valley Authority;" for "or the Social Security Administration;".

2002. Act June 14, 2002 (effective 10/1/2002, as provided by § 22(e) of such Act, which appears as 5 *USCS* § 5315 note), in para. (1), deleted a semicolon following "Community Service;," deleted "and" following "Financial Institutions Fund;," deleted "and" following "Trust Corporation;," and substituted "the Board of Directors of the Tennessee Valley Authority; or the President of the Export-Import Bank;" for "or the Board of Directors of the Tennessee Valley Authority;," in para. (2), deleted "or" following "Community Service;," and substituted "the Tennessee Valley Authority, or the Export-Import Bank," for "or the Tennessee Valley Authority;," and, in para. (5), substituted "section 552(f)" for "section 552(e)".

Act Nov. 25, 2002 (effective 60 days after enactment, as provided by § 4 of such Act, which appears as 6 *USCS* § 101 note), in paras. (1) and (2), inserted "Homeland Security;".

Such Act further (effective as above) purported to amend para. (1) by substituting a semicolon for "; and" wherever appearing; however, because of previous amendments, this amendment could not be executed.

2008. Act May 22, 2008, which made the same amendments as Act June 18, 2008, was repealed effective 5/22/2008, pursuant to § 4 of Act June 18, 2008, which appears as 7 *USCS* § 8701 note.

Act June 18, 2008 (effective on the first day of the first fiscal year beginning after enactment, as provided by § 14217(d) of such Act, which appears as 40 *USCS* § 15101 note), in para. (1), substituted "the President of the Export-Import Bank; or the Federal Cochairpersons of the Commissions established under *section 15301 of title 40, United States Code*;" for "or the President of the Export-Import Bank;," and in para. (2), substituted "the Export-Import Bank, or the Commissions established under *section 15301 of title 40, United States Code*," for "or the Export-Import Bank,".

Act July 30, 2008 (effective on, and applicable beginning on, the date of enactment, as provided by § 1163 of such Act, which appears as 5 *USCS* § 3132 note), in para. (1), inserted "; the Director of the Federal Housing Finance Agency", and in para. (2), inserted ", the Federal Housing Finance Agency".

Redesignation:

This section, enacted as § 13 of Act Oct. 12, 1978, P.L. 95-542, was redesignated § 12 of such Act by Act Oct. 14, 2008, P.L. 110-409, § 7(a), 122 Stat. 4305.

Transfer of functions:

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see 6 *USCS* § 315(a)(1).

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former 6 *USCS* § 313(1) and 6 *USCS* §§ 551(d), 552(d),

and 557, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, which appears as 6 USCS § 542 note.

The Community Services Administration, which was established by § 601 of the Economic Opportunity Act of 1964, (42 USCS § 2941), was terminated when the Economic Opportunity Act of 1964, Act Aug. 20, 1964, P.L. 88-452, 78 Stat. 508, was repealed, except for Titles VIII and X, effective Oct. 1, 1981, by § 683(a) of Act Aug. 13, 1981, P.L. 97-35, Title VI, 95 Stat. 519, which appears as 42 USCS § 9912(a). An Office of Community Services, headed by a Director, was established in the Department of Health and Human Services by § 676 of Act Aug. 13, 1981, which appears as 42 USCS § 9905.

Other provisions:

Appropriations required by Aug. 9, 1989 amendments. Act Aug. 9, 1989, P.L. 101-73, Title V, Subtitle A, § 501(b)(2)(B), 103 Stat. 393, provides: "There is hereby authorized to be appropriated such sums as may be necessary for the operation of the Office of Inspector General established by the amendment made by paragraph (1) of this subsection [adding references to 'the Oversight Board and the Board of Directors of the Resolution Trust Corporation' and 'the Resolution Trust Corporation' in paras. (1) and (2) of this section, respectively]."

Appropriations required by Sept. 23, 1994 amendments. Act Sept. 23, 1994, P.L. 103-325, Title I, Subtitle A, § 118(b), 108 Stat. 2188, provides: "There are authorized to be appropriated such sums as may be necessary for the operation of the Office of Inspector General established by the amendments made by subsection (a) [adding references to 'the Administrator of the Community Development Financial Institutions Fund' and to 'the Community Development Financial Institutions Fund' in paras. (1) and (2) of this section, respectively]."

Effective date of amendment made by § 4322 of Act Feb. 10, 1996. Act Feb. 10, 1996, P.L. 104-106, Div D, Title XLIII, Subtitle B, § 4322(b)(3), 110 Stat. 677, provides that the amendment made by such Act to Act Aug. 9, 1989 is effective as of August 9, 1989, and as if included therein as enacted.

Merger of Offices of Inspector General of United States Information Agency and Inspector General of Department of State. Act April 26, 1996, P.L. 104-134, Title IV, 110 Stat. 1321-37, provides: "Notwithstanding any other provision of law, (1) the Office of the Inspector General of the United States Information Agency is hereby merged with the Office of the Inspector General of the Department of State; (2) the functions exercised and assigned to the Office of the Inspector General of the United States Information Agency before the effective date of this Act (including all related functions) are transferred to the Office of the Inspector General of the Department of State; and (3) the Inspector General of the Department of State shall also serve as the Inspector General of the United States Information Agency."

Effectiveness of merger of Offices of Inspector General of United States Information Agency and Inspector General of Department of State. Act Sept. 30, 1996, P.L. 104-208, Div A, Title I, § 101(a) [Title IV], 110 Stat. 3009-47, provides: "Notwithstanding any other provision of law, the merger of the Office of Inspector General of the United States Information Agency with the Office of Inspector General of the Department of State provided for in the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1996, contained in Public Law 104-134 [note to this section], is effective hereafter."

NOTES:

Related Statutes & Rules:

This section is referred to in 22 USCS §§ 3929, 4861; 31 USCS §§ 1105, 3801; 39 USCS § 1003; 42 USCS § 8262f.



26 of 26 DOCUMENTS

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*** CURRENT THROUGH PL 111-382, WITH A GAP OF PL 111-350, APPROVED 1/4/2011 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
TITLE 5--APPENDIX
INSPECTOR GENERAL ACT OF 1978

Go to the United States Code Service Archive Directory

5 USCS Appx § 13

§ 13. Effective date

The provisions of this Act and the amendments made by this Act shall take effect October 1, 1978.

HISTORY:

(Oct. 12, 1978, P.L. 95-452, § 13 [12], 92 Stat. 1109; Oct. 14, 2008, P.L. 110-409, § 7(a), 122 Stat. 4305.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Redesignation:

This section, enacted as § 12 of Act Oct. 12, 1978, P.L. 95-542, was redesignated § 13 of such Act by Act Oct. 14, 2008, P.L. 110-409, § 7(a), 122 Stat. 4305.



LEXSEE 100 PL 504

UNITED STATES PUBLIC LAWS
100th Congress -- 2nd Session
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PUBLIC LAW 100-504 [S. 908]
OCTOBER 18, 1988
INSPECTOR GENERAL ACT AMENDMENTS OF 1988

100 P.L. 504; 102 Stat. 2515; 1988 Enacted S. 908; 100 Enacted S. 908

CIS LEGIS. HISTORY DOCUMENT: 100 CIS Legis. Hist. P.L. 504

An Act

To amend the Inspector General Act of 1978 to establish offices of inspector general in certain departments, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I -- INSPECTOR GENERAL ACT AMENDMENTS

[*101]

SEC. 101. <5 USC app.> SHORT TITLE.

This title may be cited as the "Inspector General Act Amendments of 1988".

[*102]

SEC. 102. <5 USC app.> ESTABLISHMENT OF OFFICES OF INSPECTOR GENERAL.

(a) PURPOSE. -- Section 2(1) of the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App. 3) is amended to read as follows:

"(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2);".

(b) TECHNICAL AMENDMENT. -- The last clause of section 2 is amended by striking out "thereby" and inserting in lieu thereof "there".

(c) ADDITION OF DEPARTMENTS OF ENERGY, HEALTH AND HUMAN SERVICES, JUSTICE AND TREASURY, FEDERAL EMERGENCY MANAGEMENT AGENCY, NUCLEAR REGULATORY COMMISSION, OFFICE OF PERSONNEL MANAGEMENT, AND RAILROAD RETIREMENT BOARD TO LIST OF COVERED ESTABLISHMENTS. -- Section 11 <5 USC app.> of such Act is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) the term 'head of the establishment' means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs; the Director of the Federal

100 P.L. 504, *; 102 Stat. 2515, **;
1988 Enacted S. 908; 100 Enacted S. 908

Emergency Management Agency, the Office of Personnel Management or the United States Information Agency; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board; as the case may be;

"(2) the term 'establishment' means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, or the Treasury; the Agency for International Development, the Environmental Protection Agency, the Federal Emergency Management Agency, the General Services Administration, the National Aeronautics and Space Administration, the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad Retirement Board, the Small Business Administration, the United States Information Agency, or the Veterans' Administration; as the case may be;"

(d) TRANSFERS OF EXISTING AUDIT AND INVESTIGATION UNITS. -- Section 9(a)(1) of such Act <5 USC app.> is amended --

(1) by striking out subparagraph (I), relating to the Community Services Administration;

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (G) and (H), respectively;

(3) by redesignating subparagraphs (G) and (H) as subparagraphs (J) and (K), respectively;

(4) by redesignating subparagraph (J) as subparagraph (M);

(5) by redesignating subparagraphs (K) and (L) as subparagraphs (O) and (P), respectively;

(6) by redesignating subparagraphs (M) and (N) as subparagraphs (T) and (U), respectively;

(7) by inserting after subparagraph (D) the following new subparagraphs:

"(E) of the Department of Energy, the Office of Inspector General (as established by section 208 of the Department of Energy Organization Act);

"(F) of the Department of Health and Human Services, the Office of Inspector General (as established by title II of Public Law 94-505);";

(8) by inserting after subparagraph (H) (as redesignated by paragraph (2) of this subsection) the following new subparagraph:

"(I) of the Department of Justice, the offices of that Department referred to as (i) the 'Audit Staff, Justice-Management Division', (ii) the 'Policy and Procedures Branch, Office of the Comptroller, Immigration and Naturalization Service', the 'Office of Professional Responsibility, Immigration and Naturalization Service', and the 'Office of Program Inspections, Immigration and Naturalization Service', (iii) the 'Office of Internal Inspection, United States Marshals Service', (iv) the 'Financial Audit Section, Office of Financial Management, Bureau of Prisons' and the 'Office of Inspections, Bureau of Prisons', and (v) from the Drug Enforcement Administration, that portion of the 'Office of Inspections' which is engaged in internal audit activities, and that portion of the 'Office of Planning and Evaluation' which is engaged in program review activities;"

(9) by inserting after subparagraph (K) (as redesignated by paragraph (3) of this subsection) the following new subparagraph:

"(L) of the Department of the Treasury, the office of that department referred to as the 'Office of Inspector General', and, notwithstanding any other provision of law, that portion of each of the offices of that department referred to as the 'office of Internal Affairs, Bureau of Alcohol, Tobacco, and Firearms', the 'Office of Internal Affairs, United States Customs Service', and the 'Office of Inspections, United States Secret Service' which is engaged in internal audit activities;"

(10) by inserting after subparagraph (M) (as redesignated by paragraph (4) of this subsection) the following new subparagraph:

"(N) of the Federal Emergency Management Agency, the office of that agency referred to as the 'Office of Inspector General';"; and

(11) by inserting after subparagraph (P) (as redesignated by paragraph (5) of this subsection) the following new subparagraphs:

"(Q) of the Nuclear Regulatory Commission, the office of that commission referred to as the 'Office of Inspector and Auditor';

"(R) of the Office of Personnel Management, the offices of that agency referred to as the 'office of Inspector General', the 'Insurance Audits Division, Retirement and Insurance Group', and the 'Analysis and Evaluation Division, Administration Group';

"(S) of the Railroad Retirement Board, the Office of Inspector General (as established by section 23 of the Railroad Retirement Act of 1974);".

(e) TECHNICAL AND CONFORMING AMENDMENTS. --

(1)(A) Section 208 of the Department of Energy Organization Act <42 USC 7138> is repealed.

100 P.L. 504, *; 102 Stat. 2515, **;
1988 Enacted S. 908; 100 Enacted S. 908

(B) The table of contents in the first section of such Act is amended by striking out the item relating to section 208.

(2) Title II of Public Law 94-505 < 42 USC 3521-3527> is repealed.

(3) Section 23 of the Railroad Retirement Act of 1974 < 45 USC 231v> is repealed.

(4) Any individual who, on the date of enactment of this Act, <5 USC app.> is serving as the Inspector General of the Department of Energy, the Department of Health and Human Services, or the Railroad Retirement Board, shall continue to serve in such position until such individual dies, resigns, or is removed from office in accordance with section 3(b) of the Inspector General Act of 1978.

(f) SPECIAL PROVISIONS WITH RESPECT TO THE INSPECTORS GENERAL OF THE NUCLEAR REGULATORY COMMISSION, THE DEPARTMENT OF THE TREASURY, AND THE DEPARTMENT OF JUSTICE. -- The Inspector General Act of 1978 is amended by inserting after section 8A the following new sections:

" SPECIAL PROVISIONS CONCERNING THE NUCLEAR REGULATORY COMMISSION

"SEC. 8B. <5 USC app.> (a) The Chairman of the Commission may delegate the authority specified in the second sentence of section 3(a) to another member of the Nuclear Regulatory Commission, but shall not delegate such authority to any other officer or employee of the Commission.

"(b) Notwithstanding sections 6(a) (7) and (8), the Inspector General of the Nuclear Regulatory Commission is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject [**2518] to the applicable laws and regulations that govern such selections, appointments and employment, and the obtaining of such services, within the Nuclear Regulatory Commission.

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF THE TREASURY

"SEC. 8C. <5 USC app.> (a)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Secretary of the Treasury with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning --

"(A) ongoing criminal investigations or proceedings;

"(B) undercover operations;

"(C) the identity of confidential sources, including protected witnesses;

"(D) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior;

"(E) intelligence or counterintelligence matters; or

"(F) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person or property authorized protection by *section 3056 of title 18, United States Code, section 202 of title 3, United States Code*, or any provision of the Presidential Protection Assistance Act of 1976 (*18 U.S.C. 3056* note; Public Law 94-524).

"(2) With respect to the information described under paragraph (1), the Secretary of the Treasury may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent significant impairment to the national interests of the United States.

"(3) If the Secretary of the Treasury exercises any power under paragraph (1) or (2), the Secretary of the Treasury shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committees on Governmental Affairs and Finance of the Senate and the Committees on Government Operations and Ways and Means of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

"(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the Bureau of Alcohol, Tobacco and Firearms, the Office of Internal Affairs of the United States Customs Service, and the Office of Inspections of the United States Secret Service, and the internal audits and internal investigations per-

100 P.L. 504, *; 102 Stat. 2515, **;
1988 Enacted S. 908; 100 Enacted S. 908

formed by the Office of Assistant Commissioner (Inspection) of the Internal Revenue Service. The head of each such office shall promptly report to the Inspector General the significant activities being carried out by such office.

[**2519] "(c) Notwithstanding subsection (b), the Inspector General may initiate, conduct and supervise such audits and investigations in the Department of the Treasury (including the bureaus and services referred to in subsection (b)) as the Inspector General considers appropriate.

"(d) If the Inspector General initiates an audit or investigation under subsection (c) concerning a bureau or service referred to in subsection (b), the Inspector General may provide the head of the office of such bureau or service referred to in subsection (b) with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues a notice under the preceding sentence, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General and any other audit or investigation of such matter shall cease.

"(e)(1) The Inspector General shall have access to returns and return information, as defined in section 6103(b) of the Internal Revenue Code of 1986, only in accordance with the provisions of section 6103 of such Code and this Act.

"(2) Access by the Inspector General to returns and return information under section 6103(h)(1) of such Code shall be subject to the following additional requirements:

"(A) In order to maintain internal controls over access to returns and return information, the Inspector General, or in the absence of the Inspector General, the Acting Inspector General, the Deputy Inspector General, the Assistant Inspector General for Audits, or the Assistant Inspector General for Investigations, shall provide to the Assistant Commissioner (Inspection) of the Internal Revenue Service written notice of the Inspector General's intent to access returns and return information. If the Inspector General determines that the Inspection Service of the Internal Revenue Service should not be made aware of a notice of access to returns and return information, such notice shall be provided to the Senior Deputy Commissioner of Internal Revenue.

"(B) Such notice shall clearly indicate the specific returns or return information being accessed, contain a certification by the Inspector General, or in the absence of the Inspector General, the Acting Inspector General, the Deputy Inspector General, the Assistant Inspector General for Audits, or the Assistant Inspector General for Investigations, that the returns or return information being accessed are needed for a purpose described under section 6103(h)(1) of the Internal Revenue Code of 1986, and identify those employees of the office of Inspector General of the Department of the Treasury who may receive such returns or return information.

"(C) The Internal Revenue Service shall maintain the same system of standardized records or accountings of all requests from the Inspector General for inspection or disclosure of returns and return information (including the reasons for and dates of such requests), and of returns and return information inspected or disclosed pursuant to such requests, as described under section 6103(p)(3)(A) of the Internal Revenue Code of 1986. Such system of standardized records or accountings shall also be available for examination in the same manner as provided under section 6103(p)(3) of the Internal Revenue Code of 1986.

[**2520] "(D) The Inspector General shall be subject to the same safeguards and conditions for receiving returns and return information as are described under section 6103(p)(4) of the Internal Revenue Code of 1986.

"(f) An audit or investigation conducted by the Inspector General shall not affect a final decision of the Secretary of the Treasury or his delegate under section 6406 of the Internal Revenue Code of 1986.

"(g) Notwithstanding section 4(d), in matters involving chapter 75 of the Internal Revenue Code of 1986, the Inspector General shall report expeditiously to the Attorney General only offenses under section 7214 of such Code, unless the Inspector General obtains the consent of the Commissioner of Internal Revenue to exercise additional reporting authority with respect to such chapter.

"(h) Any report required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on Governmental Affairs and Finance of the Senate and the Committees on Government Operations and Ways and Means of the House of Representatives.

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF JUSTICE

100 P.L. 504, *; 102 Stat. 2515, **;
1988 Enacted S. 908; 100 Enacted S. 908

"SEC. 8D. <5 USC app.> (a)(l) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Attorney General with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning --

"(A) ongoing civil or criminal investigations or proceedings;

"(B) undercover operations;

"(C) the identity of confidential sources, including protected witnesses;

"(D) intelligence or counterintelligence matters; or

"(E) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Attorney General may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Attorney General determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent the significant impairment to the national interests of the United States.

"(3) If the Attorney General exercises any power under paragraph (1) or (2), the Attorney General shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committees on Governmental Affairs and Judiciary of the Senate and the Committees on Government Operations and Judiciary of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

"(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Justice --

[**2521] "(1) may initiate, conduct and supervise such audits and investigations in the Department of Justice as the Inspector General considers appropriate;

"(2) shall give particular regard to the activities of the Counsel, Office of Professional Responsibility of the Department and the audit, internal investigative, and inspection units outside the Office of Inspector General with a view toward avoiding duplication and insuring effective coordination and cooperation; and

"(3) shall refer to the Counsel, Office of Professional Responsibility of the Department for investigation, information or allegations relating to the conduct of an officer or employee of the Department of Justice employed in an attorney, criminal investigative, or law enforcement position that is or may be a violation of law, regulation, or order of the Department or any other applicable standard of conduct, except that no such referral shall be made if the officer or employee is employed in the Office of Professional Responsibility of the Department.

"(c) Any report required to be transmitted by the Attorney General to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on the Judiciary and Governmental Affairs of the Senate and the Committees on the Judiciary and Government Operations of the House of Representatives."

(g) DISCLOSURE OF TAX RETURNS AND RETURN INFORMATION. -- Section 5(e)(3) of the Inspector General Act of 1978 <5 USC app.> is amended by striking out "Nothing" in the first sentence and inserting in lieu thereof "Except to the extent and in the manner provided under section 6103(f) of the Internal Revenue Code of 1986, nothing".

(h) <5 USC app.> TRANSFER OF 20 INVESTIGATION POSITIONS WITHIN THE DEPARTMENT OF JUSTICE. -- No later than 90 days after the date of appointment of the Inspector General of the Department of Justice, the Inspector General shall designate 20 full-time investigation positions which the Attorney General may transfer from the Office of Inspector General of the Department of Justice to the Office of Professional Responsibility of the Department of Justice for the performance of functions described under section 8D(b)(3) of the Inspector General Act of 1978. Any personnel who are transferred pursuant to this subsection, and who, at the time of being so transferred, are protected from reduction in classification or compensation under section 9(c) of such Act, shall continue to be so protected for 1 year after the date of transfer pursuant to this subsection.

SEC. 103. UNIFORM SALARIES FOR INSPECTORS GENERAL.

(a) UNIFORM SALARIES. -- Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"Inspector General, Department of Commerce.

100 P.L. 504, *; 102 Stat. 2515, **;
1988 Enacted S. 908; 100 Enacted S. 908

"Inspector General, Department of the Interior.
"Inspector General, Department of Justice.
"Inspector General, Department of the Treasury.
"Inspector General, Agency for International Development.
"Inspector General, Environmental Protection Agency.
"Inspector General, Federal Emergency Management Agency.
[**2522] "Inspector General, General Services Administration.
"Inspector General, National Aeronautics and Space Administration.
"Inspector General, Nuclear Regulatory Commission.
"Inspector General, Office of Personnel Management.
"Inspector General, Railroad Retirement Board.
"Inspector General, Small Business Administration."

(b) CONFORMING AMENDMENTS. -- Section 5316 of such title is amended by striking out the paragraphs relating to --

- (1) the Inspector General of the Department of Commerce;
- (2) the Inspector General of the Department of the Interior;
- (3) the Inspector General of the Agency for International Development;
- (4) the Inspector General of the Community Services Administration;
- (5) the Inspector General of the Environmental Protection Agency;
- (6) the Inspector General of the General Services Administration;
- (7) the Inspector General of the National Aeronautics and Space Administration;
- (8) the Inspector General of the Small Business Administration;
- (9) the Deputy Inspector General of the Department of Energy; and
- (10) the Deputy Inspector General of the Department of Health and Human Services.

[*104]

SEC. 104. EXTENSION OF INSPECTOR GENERAL ACT PROTECTIONS AND REQUIREMENTS TO CERTAIN DESIGNATED FEDERAL ENTITIES.

(a) REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES. -- The Inspector General Act of 1978 (as amended by section 102(f) of this title) is further amended by inserting after section 8D the following new section:

"REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES

"SEC. 8E. (a) Notwithstanding section 11 of this Act, <5 USC app.> as used in this section --

"(1) the term 'Federal entity' means any Government corporation (within the meaning of *section 103(1) of title 5, United States Code*), any Government controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the Executive branch of the Government, or any independent regulatory agency, but does not include --

"(A) an establishment (as defined under section 11(2) of this Act) or part of an establishment;

"(B) a designated Federal entity (as defined under paragraph (2) of this subsection) or part of a designated Federal entity;

"(C) the Executive Office of the President;

"(D) the Central Intelligence Agency;

"(E) the General Accounting Office; or

"(F) any entity in the judicial or legislative branches of the Government, including the Administrative Office of the [**2523] United States Courts and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol;

"(2) the term 'designated Federal entity' means ACTION, Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Federal Home Loan Bank Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce

100 P.L. 504, *; 102 Stat. 2515, **;
1988 Enacted S. 908; 100 Enacted S. 908

Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Labor Relations Board, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, the Tennessee Valley Authority, the United States International Trade Commission, and the United States Postal Service;

"(3) the term 'head of the Federal entity' means any person or persons designated by statute as the head of a Federal entity, and if no such designation exists, the chief policymaking officer or board of a Federal entity as identified in the list published pursuant to subsection (h)(1) of this section;

"(4) the term 'head of the designated Federal entity' means any person or persons designated by statute as the head of a designated Federal entity and if no such designation exists, the chief policymaking officer or board of a designated Federal entity as identified in the list published pursuant to subsection (h)(1) of this section, except that with respect to the National Science Foundation, such term means the National Science Board;

"(5) the term 'Office of Inspector General' means an Office of Inspector General of a designated Federal entity; and

"(6) the term 'Inspector General' means an Inspector General of a designated Federal entity.

"(b) No later than 180 days after the date of the enactment of this section, there shall be established and maintained in each designated Federal entity an Office of Inspector General. The head of the designated Federal entity shall transfer to such office the offices, units, or other components, and the functions, powers, or duties thereof, that such head determines are properly related to the functions of the Office of Inspector General and would, if so transferred, further the purposes of this section. There shall not be transferred to such office any program operating responsibilities.

"(c) Except as provided under subsection (f) of this section, the Inspector General shall be appointed by the head of the designated Federal entity in accordance with the applicable laws and regulations governing appointments within the designated Federal entity.

"(d) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity, but [**2524] shall not report to, or be subject to supervision by, any other officer or employee of such designated Federal entity. The head of the designated Federal entity shall not 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.

"(e) If an Inspector General is removed from office or is transferred to another position or location within a designated Federal entity, the head of the designated Federal entity shall promptly communicate in writing the reasons for any such removal or transfer to both Houses of the Congress.

"(f)(1) The Chief Postal Inspector of the United States Postal Service shall also hold the position of Inspector General of the United States Postal Service, and for purposes of this section, shall report to, and be under the general supervision of, the Postmaster General of the United States Postal Service. The Postmaster General, in consultation with the Governors of the United States Postal Service, shall appoint the Chief Postal Inspector. The Postmaster General, with the concurrence of the Governors of the United States Postal Service, shall have power to remove the Chief Postal Inspector or transfer the Chief Postal Inspector to another position or location within the United States Postal Service. If the Chief Postal Inspector is removed or transferred in accordance with this subsection, the Postmaster General shall promptly notify both Houses of the Congress in writing of the reasons for such removal or transfer.

"(2) For purposes of paragraph (1), the term 'Governors' has the same meaning as such term is defined under *section 102(3) of title 39, United States Code*.

"(g)(1) Sections 4, 5, 6 (other than subsections (a)(7) and (a)(8) thereof), and 7 of this Act shall apply to each Inspector General and Office of Inspector General of a designated Federal entity and such sections shall be applied to each designated Federal entity and head of the designated Federal entity (as defined under subsection (a)) by substituting --

"(A) 'designated Federal entity' for 'establishment'; and

"(B) 'head of the designated Federal entity' for 'head of the establishment'.

"(2) In addition to the other authorities specified in this Act, an Inspector General is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organiza-