

GAO

By the Comptroller General of the
United States

September 2006

HIGHLIGHTS OF THE COMPTROLLER GENERAL'S PANEL ON FEDERAL OVERSIGHT AND THE INSPECTORS GENERAL





G A O

Accountability * Integrity * Reliability

Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

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Subject: Highlights of the Comptroller General's Panel on Federal Oversight and the Inspectors General

The Inspector General Act of 1978, as amended, (IG Act) created independent offices headed by inspectors general (IG) responsible for conducting and supervising audits and investigations; promoting economy, efficiency, and effectiveness; and preventing and detecting fraud and abuse in their agencies' programs and operations. To carry out the purposes of the act, the IGs have been granted authorities and responsibilities to provide for their independence and effectiveness. These include the authority to have direct access to all records and information of the agency, to hire staff and manage their own resources, to receive and respond to complaints from agency employees, to request assistance from other government agencies, to issue subpoenas to obtain information and documents, and to administer oaths when taking testimony.

The IGs established by the IG Act are either appointed by the President with Senate confirmation (presidential IGs), or appointed by their agency heads in designated federal entities (DFE IGs). There are currently 58 IG offices established under the IG Act with 29 presidential IGs and 29 DFE IGs.¹ The presidential IGs established under the IG Act are part of the President's Council on Integrity and Efficiency (PCIE) and the DFE IGs are part of the Executive Council on Integrity and Efficiency (ECIE). Both councils are chaired by the Deputy Director for Management in the Office of Management and Budget (OMB), and were established by Executive Order to coordinate IG activities across the government. (See app. II for a list of the presidential and DFE IGs established by the IG Act.)

The IGs receive general supervision from the heads of their agencies, but for presidential IGs this may be provided by the officer next in rank below the agency head if the authority is delegated. Also, in accordance with the IG Act, the agency head may not prevent or prohibit the IG from initiating, carrying out, or completing any audit or investigation except under certain conditions specified by the act, or from issuing any subpoena during the course of any audit or investigation.

¹For the purposes of this report, the presidentially appointed IGs are referred to as presidential IGs and the IGs in the designated federal entities are referred to as DFE IGs. While the scope of this report covers the presidential IG and DFE IG offices established under the IG Act, there are other IG offices that have also been established under separate legislation and administratively.

The Senate Committee on Homeland Security and Governmental Affairs asked us to review whether additional IG authorities and responsibilities such as those provided in H.R. 2489, as well as other changes, could further enhance the independence and effectiveness of the IGs. Introduced in 2005, H.R. 2489 includes provisions for (1) a defined term of office for the IGs and conditions for removal, (2) IGs to submit their budgets directly to OMB and the Congress without agency review or approval, (3) the statutory establishment of a combined PCIE and ECIE Council, (4) changes in IG investigative and law enforcement authorities, and (5) reporting the results of IG inspections in their semiannual reports. The committee staff also asked us to review IG pay structure issues and qualifications. We also agreed to review recommendations made in our prior report² to convert certain DFE IGs to presidential appointment and to consolidate IG offices to increase overall IG independence and effectiveness.

To provide us with a foundation of views and information on these issues, on May 11, 2006, we convened a panel of knowledgeable and recognized experts to discuss IG issues regarding (1) terms of office and removal, (2) qualifications, (3) budgets, (4) a joint statutory IG council, (5) IG pay, (6) investigative and law enforcement authorities, and (7) additional issues including IG inspections, IG conversion to presidential appointment, and IG consolidation. Panel participants included current and past administration officials, current PCIE and ECIE leadership, former IGs, participants from research organizations and academia, and congressional staff from both the House and the Senate. See appendix III for a list of participants.

Due to time constraints during the panel discussion, the participants' views about the IGs' budget process were obtained through subsequent follow-up and are included in this summary of the panel's highlights. The panel discussion and subsequent follow-up resulted in a range of views on these specific issues, which do not necessarily represent GAO's views. While no comments are attributed to specific panel participants, the following summary and highlights of the discussion are intended to convey both their general observations and selected, specific points of view:

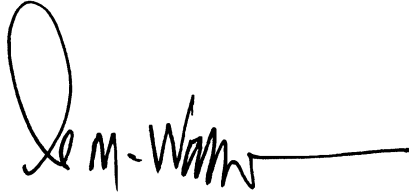
- The majority of the panel participants did not favor statutorily establishing a fixed term of office for IGs, but did support a statutory requirement to notify the Congress in writing in advance of removing an IG, with an explanation of the reason for removal. The participants cautioned that this procedure should consist only of notification, without building in additional steps or actions in the removal process. The panel participants also generally agreed that a focus on the reasons for removal is important, but there are many legitimate reasons for removal that go beyond those listed in the pending House bill.
- The majority of panel participants believed that the current statutory qualifications for presidential IGs are sufficient and emphasized that the correct application of the selection and nomination processes is key for appointing qualified IGs. DFE IGs should have at least the same specific qualifications as specified for the presidential IGs in the IG Act.

² GAO, *Inspectors General: Office Consolidation and Related Issues*, GAO-02-575 (Washington, D.C.: Aug. 15, 2002).

- The panel participants had mixed views about whether the IGs should submit their budgets directly to OMB and to the Congress. However, their comments did support additional transparency of the IG budget process through separate line items and other means.
- The panel participants supported the roles and functions of the current PCIE and ECIE, but had mixed views about statutorily establishing a joint IG council. The panel participants did favor establishing a funding mechanism for an IG council, but recognized the current overall lack of federal funds for this project. Also, the panel participants overwhelmingly supported expanding the language of the IG councils' mission beyond that provided by H.R. 2489. The panel participants discussed the role and functioning of the integrity committee, which is the committee of the PCIE and ECIE that reviews alleged misconduct by the IGs and their senior staff, and identified a need to explore additional communications to the Congress about the committee's activities. In addition, there was broad-based support among panel members for a governmentwide accountability council to address broad accountability issues among GAO, OMB, PCIE, ECIE, and additional oversight organizations.
- The majority of panel participants stated that the pay structure for IGs needs to be addressed. The discussion included the importance of providing reasonable and competitive compensation, maintaining the IGs' independence in reporting the results of their work, and possibly providing IGs with performance evaluations that could be used to justify higher pay. The panel participants felt that base pay for IGs should be higher; however, they had mixed views about IGs receiving performance bonuses, primarily because of the uncertainty about the overall framework that would be used to evaluate performance and make the related decisions about bonuses.
- The panel participants overwhelmingly supported the ability of the DFE IGs to apply to the Attorney General for full law enforcement authority instead of having to renew their authority on a case-by-case basis or through a blanket authority that must be renewed after an established period of time. They also overwhelmingly supported providing the designated federal entities that have DFE IGs the authority under the Program Fraud Civil Remedies Act to investigate and report false claims and recoup losses resulting from fraud. In addition, the panel participants were unanimous in their support of defining IG subpoena power to include any medium of information and data.
- In the discussion of additional issues, the panel participants recognized the benefits of IG inspections and evaluations, and supported including the results of this work in the IGs' semiannual reports. Regarding the additional issue of converting DFE IGs to presidential appointment and consolidating IG offices, the panel participants had mixed responses. The panel participants did, however, overwhelmingly support close coordination among the IGs and between the IGs and GAO.

Appendix I includes further highlights of the matters discussed by the panel's participants; appendix II lists the departments, agencies, offices, and designated federal entities with IGs established by the IG Act; appendix III lists the panel participants; and appendix IV lists the questions we asked the panel participants.

I wish to thank each of the panel participants for providing their insights on the important matters this document discusses related to the role played by the federal inspectors general in government oversight. I appreciate the panel participants' willingness to spend their time and to provide their views in connection with these important matters.

A handwritten signature in black ink, appearing to read "D M Walker", with a long horizontal line extending to the right.

David M. Walker
Comptroller General
of the United States

The Comptroller General's Panel on Federal Oversight and the Inspectors General**Highlights of the Panel Discussion**

The overall objective of the panel was to have a full discussion on whether additional inspector general (IG) authorities and responsibilities, such as those included in H.R. 2489 (House bill), as well as other changes, could further enhance the independence and effectiveness of federal IGs.

Terms of Office and Removal from Office

Presidential IGs may be removed from office by the President, who is required to communicate the reasons for removal to the Congress. DFE IGs may be removed or transferred from office by their agency heads, who are also required to promptly communicate the reasons in writing to the Congress.

Unlike other presidential appointees, IGs are to be appointed by the President without regard to political affiliation. The removal authority of the President is intended to permit the President to make changes when the performance of an IG is unsatisfactory or when it appears that appointment of another individual might result in more effective performance. Removal of IGs without cause could give the appearance of political maneuvering to control these important offices.

H.R. 2489 provides for a renewable 7-year term of office for IGs with removal only for specific causes. The grounds for removal specified in the bill are permanent incapacity, inefficiency, neglect of duty, malfeasance, conviction of a felony, or conduct involving moral turpitude. The following is a summary of the panel's major discussion points.

- A statutory provision for a specific term of office for the IGs without also considering changes to the conditions for removal would not necessarily protect IGs from removal or enhance IG independence. However, specific terms of office could provide an additional safeguard to provide continuity between administrations.
- Even with a specified term, the IG could still be removed during the term of office under the current process in the IG Act. Terms of office need to be considered along with causes for removal.
- Removal of IGs with a term of office and with removal for cause as specified by the House bill could be a problem if the administration had to replace an IG for reasons other than those specified in the bill, most notably poor quality work or incompetence.

- The question really is how to best achieve IG independence while maintaining the ability of the administration to remove a poor-performing IG. This may require broader conditions for removal than those in the House bill.
- IGs need to be accountable for doing a good job. In the best environment, the IG should focus on fraud, waste, and abuse and not be in a situation that pits the IG against the head of the agency. The IGs need to be independent, but removal for cause, as provided in H.R. 2489, limits the agency head and is not based on the quality of the IG's work on audits and investigations.
- A term of office with removal for cause could help relieve immediate pressures of removal, but such independence could also lead to an IG who is isolated from the agency head and the rest of the agency. A successful relationship between the IG and the head of the agency is key for the IG concept to work, and it is the responsibility of the administration to see that all new agency heads know about the independence requirements of their IGs. Also, even with a term of office and removal for cause, a President and an agency head could take steps to neutralize the effectiveness of an IG, whether justified or not.
- A term of office with removal for cause does provide needed protection to an IG where the relationship with the agency head is under stress, such as when the IG is investigating the agency head. In this situation, removal for cause would provide the IG with protection against being fired by the agency head. The question would become whether the IG had justification for the issues identified during an investigation of the head of the agency. Currently, the IGs look to the Congress to support them during such times.
- The IG Act provides for notification to the Congress of an IG's removal after the fact (along with the reasons for removal). This provides an after-the-fact notification of the cause for removal rather than removal for a cause that is established prior to removal. With no real protection from removal currently in the IG Act, the congressional notification of an IG's impending removal should be made in advance of the actual removal. Notifying the Congress that an IG is about to be removed would allow for a dialogue between the administration and the Congress about an IG's removal before the action is taken.

While the majority of the panel participants did not favor statutorily establishing fixed IG terms of office, most did support a statutory requirement to notify the Congress in writing in advance of removing an IG, with an explanation of the reason for removal. The participants cautioned that this procedure should consist only of notification of the impending removal and the related cause, without building in additional steps or actions in the removal process. The panel participants also generally agreed that a focus on the reasons for removal is important, but there are many legitimate reasons for removal that go beyond those listed in the House bill.

Qualifications

To further ensure their independence, the IG Act requires that IGs appointed by the President be selected 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. There are no such requirements specified in the IG Act for the DFE IGs, and H.R. 2489 does not have proposed changes in this area, but this was an issue the Committee asked us to discuss. The following is a summary of the panel's major discussion points.

- Key IG qualifications are integrity, a lack of political affiliation, and demonstrated management ability. Many IGs continue in their position from one administration to another because they are professional and nonpartisan in carrying out their responsibilities.
- Prospective IGs should have demonstrated management skills as a requirement for being considered for large IG offices. Nevertheless, a natural leader can do well no matter what his or her background. With management skills, the IG can hire good auditors and investigators and manage them effectively; but it is better if the IG also has the technical background as well.
- While auditors are the largest group in most IG offices, there is no requirement that the IG be knowledgeable about audits or investigations. When IGs were first created, more of them had backgrounds in auditing. Now just a few IGs have technical backgrounds in auditing. The current situation reflects a shift to investigation as the preferred IG background. There needs to be some way to look for a balance between auditors and investigators in the IG community.
- The President can select for appointment whomever he likes; however, the Senate should thoroughly investigate the nominee during confirmation hearings. The Congress should thoroughly check the demonstrated ability, integrity, and qualifications of IG nominees to provide the required oversight.

The majority of panel participants believed that the current statutory qualifications for presidential IGs are sufficient and emphasized that the correct application of the selection and nomination processes is key for appointing qualified IGs. Panel participants also indicated that DFE IGs should have at least the same specific qualifications in the IG Act as those specified for the presidential IGs.

IG Budgets

IG budget requests are a part of each agency's budget process and are submitted to OMB and the Congress as a part of each agency's overall budget. Generally, the presidential IGs have their own separate appropriation in their agencies' budgets while most DFE IGs do not have a separate line item. H.R. 2489 proposes that IGs submit their budget requests directly to OMB and the Congress without going through their agencies' processes.

Due to time limitations during the panel discussion, the issue of IG budgets was not covered. However, the following major points were submitted by the panel in response to our electronic mail request for views and comments shortly after the panel discussion.

- The current system of separate budget line items for presidential IGs works well. Justifying an IG budget amount makes the IG more accountable by being on the record for how taxpayers' money would be used. The more light that is focused on this process, the better the use of taxpayer money.
- All IGs should have their own line item in their agencies' budgets. While the presidential IGs have this now, the DFE IGs generally do not. Having their own budget line item would show whether or not an IG's budget is being changed through disproportionate budget cuts. However, whether IGs have a separate appropriation process is another matter and perhaps a more difficult issue for agencies with small budgets.
- IGs should continue to submit their budgets through their agencies, which then submit them to OMB. An independent budget request from the IG to OMB or the Congress could impact the role of the agency in balancing competing budget requests from the management team.
- By reporting the variance between the IG's proposed budget and the agency-approved IG budget, as advanced by H.R. 2489, a congressional committee could force an increase in IG funding, which would likely be compensated through cuts in other agency programs and activities. In this regard, the bill presents a trade-off of authority over IG budgets between the Congress and the agency.
- Conversely, to promote more accountability and transparency, the IGs should be able to submit their budgets directly to OMB and to the Congress. This would give the IGs an opportunity to justify their requests and give the administration the opportunity to support the IG or explain why support is not provided.

The panel participants had mixed views about whether the IGs should submit their budgets directly to OMB and the Congress. However, their comments did support additional transparency of the IG budget process through separate line items and other means.

Statutory IG Council

In accordance with an executive order, the IGs meet and coordinate as two groups. The IGs appointed by the President are members of the President's Council on Integrity and Efficiency (PCIE), and the IGs appointed by their agency heads are members of the Executive Council on Integrity and Efficiency (ECIE). The PCIE and ECIE integrity committee is staffed by three IGs, representing both PCIE and ECIE, and personnel from the Federal Bureau of Investigation (FBI), the Office of Ethics, the Office of Special Counsel, and the Office of Public Integrity from the Department of Justice to provide reviews of alleged misconduct by the IGs and their senior staff. H.R. 2489 provides for a combined IG council with the stated mission of increasing the professionalism and effectiveness of IG personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and skilled IG workforce. H.R. 2489 also calls for an integrity committee within

the IG council with functions similar to the current integrity committee. The following is a summary of the panel's major discussion points.

- There are some benefits that could result from having one IG council rather than two councils, especially with regard to improved communications.
- By contrast, the large size of one council for all IGs would be more difficult to manage. Also, the difference between presidential IGs and DFE IGs is recognized by having a separate PCIE and ECIE.
- Conversely, other panel members stated that establishing a statutory IG council could greatly enhance accountability to the Congress. This would also help with funding for the IG council staff and for the IG training academies by making the resources available through a specific line item appropriation. Establishing the IG council by statute could further promote ownership and commitment to its mission.
- There is no need to change the mission of the PCIE and ECIE, and the Congress has not indicated a need for a different mission. Things are working well now under executive order with the IGs using their own staff for PCIE and ECIE activities. In addition, establishing the IG council in statute does not assure funding during difficult federal budget times.
- Conversely, the language of the mission is too narrow and should be enhanced with a better mission statement. Also, there is a need for a way to fund these councils.
- The mission of the IG council should be to assess both the strengths and weaknesses of government programs and operations. While it does help management to learn about best practices when IGs report strengths, currently, weaknesses are usually what get reported. For example, the IGs report the major management challenges each year at the request of the Congress.
- In addition to an IG council, there is a critical need for a governmentwide accountability council to address broad accountability issues among GAO, OMB, PCIE, ECIE, and additional oversight organizations. This council could be structured so that it is similar in concept to the Joint Financial Management Improvement Program (JFMIP), whereby the JFMIP Principals (composed of the Comptroller General of the United States, the Secretary of the Treasury, the Director of OMB, and the Director of the Office of Personnel Management (OPM)) meet at their discretion to discuss issues of mutual concern to promote better governmentwide financial management. An accountability council could share knowledge and coordinate oversight activities to enhance the overall effectiveness of government oversight and to preclude duplicate actions. There was broad-based support among panel members for such a council.
- The process of the integrity committee is not transparent to the Congress, and there is no report to the Congress on the committee's activities. The integrity committee should provide additional information to the Congress, including procedures followed, the cases investigated, and what the committee found in each case regarding allegations of misconduct by IGs or their staff. However, the panel participants generally agreed that

the specific deliberations of the integrity committee leading to the outcomes of each case should not be reported.

- Currently only IGs and their senior staff are subject to review for misconduct by the integrity committee. If the committee were to be responsible for reviewing the misconduct of all IG staff, there could be too many cases to cover and the integrity committee could be overwhelmed with hundreds of cases. In addition, the IGs address employee misconduct within their own offices.

The panel participants supported the roles and functions of the current IG councils and there were mixed views about establishing a joint IG council by statute. Participants did favor establishing a funding mechanism for the IG councils but recognized the current overall lack of federal funds for such a project. The panel participants overwhelmingly supported expanding the language of the IG councils' mission beyond that provided by H.R. 2489. The discussion of the role and functioning of the integrity committee identified a need to explore additional communications to the Congress about the committee's activities. In addition, there was broad-based support among panel members for a governmentwide accountability council to address wide-ranging accountability issues among GAO, OMB, PCIE, ECIE, and additional oversight organizations.

IG Pay

The National Defense Authorization Act for Fiscal Year 2004³ established a range of rates of pay for the federal Senior Executive Service (SES) based on performance evaluations as part of a certified performance management system. However, an evaluation of an IG's performance by an agency official subject to oversight by the IG creates the appearance of a conflict of interest and could possibly bring the IG's objectivity into question. Also, for presidential IGs who do not have SES status and are on the Executive Schedule, their pay is established by statute at Executive Schedule, Level IV, without the possibility of promotion. Meanwhile, SES employees who are not IGs can receive pay increases up to the equivalent of Executive Schedule, Level II. In addition, SES employees who are not IGs and who are in certified performance management systems can receive cash awards or bonuses, in addition to their pay, for a combined total up to the total compensation payable to the Vice President (\$212,000 in 2006). Therefore, there are instances where SES employees who report directly to the presidential IGs may be promoted to pay grades that exceed Executive Schedule, Level IV, and receive higher pay than the IGs (see fig. 1).

IGs do not compete for annual bonuses in order to eliminate any appearance of a conflict of interest. Consequently, presidential IGs can receive significantly less pay than those employees who report directly to them. H.R. 2489 does not address presidential IG pay, but does provide for DFE IG pay to be at a grade level or rank comparable to that of a majority of the senior staff members of the designated federal entity that report directly to the head of the entity. The following is a summary of the panel's major discussion points.

³ Pub. L. No. 108-136, 117 Stat. 1392, 1638 (Nov. 24, 2003).

Figure 1: Maximum Basic Pay Rates for Selected Pay Plans for Fiscal Year 2006

Executive-level positions	2006 maximum pay rates (in dollars)
Executive Schedule—level I (e.g., cabinet secretaries)	\$183,500
Executive Schedule—level II (e.g., deputy secretaries, Senators, and Members of the House of Representatives)	165,200
Executive Schedule—level III (e.g., undersecretaries and deputies of most agencies)	152,000
Executive Schedule—level IV (e.g., selected presidential inspectors general , chief financial and information officers)	143,000
Executive Schedule—level V (e.g., commissioners, associate directors)	133,900
Senior Executive Service (where performance evaluations are not provided through a certified performance management system)	152,000 ^a
Senior Executive Service (where performance evaluations are provided through a certified performance management system)	165,200 ^a

Source: GAO, *Human Capital: Trends in Executive and Judicial Pay*, GAO-06-708 (Washington, D.C.: June 21, 2006).

^a We provided the maximum basic pay rates for 2006; however, SES positions, other than IG positions, are eligible for additional cash awards/bonuses. In addition, SES employees who are not IGs and who are in certified performance management systems can receive cash awards or bonuses, in addition to their pay, for a combined total up to the total compensation payable to the Vice President (\$212,000 in 2006).

- OPM is currently analyzing the presidential IG pay situation and is working with the PCIE on proposed changes.
- Several questions must be answered to address IG pay. What pay grade is needed to have the IGs on a level playing field with their agencies' management? Do the DFE IGs need to have SES grades? At what grade level can an IG be most effective? Should IGs be evaluated and how should they be evaluated? Can the right personnel be attracted and retained for IG positions from career service applicants and from outside the federal government
- Under the current pay system, many assistant IGs have little or no interest in becoming presidential IGs because of the resulting pay cut they would receive if they were selected as a presidential IG.

- Independence is key for the IGs' success. There should be no pressure on IGs for their work to result in a particular outcome. Therefore, bonuses and higher pay for IGs cannot be applied in the same structure as SES compensation.
- The IGs should be evaluated on their performance within an independent framework. There should be some measure of IG success that is outcome based. The IGs should receive input on their performance from a number of sources, including their agencies' management and employees, congressional staff, results based on performance measures, how they work with the PCIE, client feedback, surveys, and how well they do their jobs based on their job performance. However, the evaluation of an IG must be practical and doable.
- A different pay schedule for the IGs should be considered along with bonus possibilities based on performance that acknowledge the need for IG independence. Right now there are instances where the IGs' pay is frozen.

The majority of the panel participants stated that the pay structure for IGs needs to be addressed. The discussion included the importance of providing reasonable and competitive compensation, maintaining the IGs' independence in reporting the results of their work, and possibly providing IGs with performance evaluations that could be used to justify higher pay. The panel participants felt that base pay for IGs should be higher; however, they had mixed views about IGs receiving performance bonuses, primarily because of the uncertainty about the overall framework that would be used to evaluate performance and make the related decisions about bonuses.

IG Investigative and Law Enforcement Authorities

The Homeland Security Act of 2002 (Public Law 107-296) amended the IG Act to provide presidential IGs with law enforcement powers to make arrests, obtain and execute search warrants, and carry firearms. DFE IGs are not included under this act, but may obtain law enforcement authority by applying to the Attorney General for deputation on a case-by-case basis. In addition, the Program Fraud Civil Remedies Act⁴ provides agencies with presidential IGs the authority to investigate and report false claims and recoup losses resulting from fraud below \$150,000. The agencies with DFE IGs do not have this authority. Also, the IG Act provides IGs the authority to subpoena all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to perform the functions assigned by the IG Act.

H.R. 2489 would allow DFE IGs to apply to the Attorney General for full law enforcement authority instead of having to renew their authority on a case-by-case basis or through a blanket authority that must be renewed after an established period of time. H.R. 2489 also provides designated federal entities with DFE IGs the authority under the Program Fraud Civil Remedies Act to investigate and report false claims and recoup losses resulting from fraud. In addition, H.R. 2489 specifies the authority of IGs to require, by subpoena, information and data in any medium including electronically stored information as well as any tangible item. The following is a summary of the panel's major discussion points.

⁴ 31 U.S.C. §§ 3801-3812.

- Since the terrorist strikes on September 11, 2001, IGs have taken on an increasing number of fraud investigations that other law enforcement agencies have abandoned due to their focus on terrorism. Law enforcement authority for DFE IGs would be beneficial if the Attorney General grants the authority as provided for in H.R. 2489.
- Full law enforcement authority has been useful for the presidential IGs, and only those DFE IGs who require this authority would need to apply to the Attorney General.
- Requirements for special training and peer review of the IGs' use of law enforcement authority came with the authority provided by the Homeland Security Act of 2002 for presidential IGs. Likewise, if the DFE IGs obtained the same law enforcement authority, they should be subject to these same requirements.
- Many fraud investigations do not reach the large-dollar threshold for prosecution. However, the Program Fraud Civil Remedies Act can put some teeth into civil remedies that are not currently sought.
- The Program Fraud Civil Remedies Act is not available to the DFE IGs because the act was passed in 1986 and the designated federal entities with DFE IGs were not established until 1988.
- The ability of IGs to issue subpoenas for mixed sources of data and information, including electronic sources and data from any "tangible thing," would be useful.

The panel participants overwhelmingly supported the ability of the DFE IGs to apply to the Attorney General for full law enforcement authority instead of having to renew their authority on a case-by-case basis or through a blanket authority that must be renewed after an established period of time. They also overwhelmingly supported providing the designated federal entities with DFE IGs the authority under the Program Fraud Civil Remedies Act to investigate and report false claims and recoup losses resulting from fraud. In addition, the panel participants were unanimous in their support of defining IG subpoena power to include any medium of information and data.

Additional Issues

H.R. 2489 requires that the results of IG inspections and evaluations be included in IG semiannual reports along with the results already required by the IG Act for audits and investigations. Additionally, the panel participants considered the benefits of converting DFE IGs to presidential appointment for some of the largest DFE IG offices, and consolidating the smallest IG offices with those of presidential IGs. In a prior report⁵ we concluded that if properly implemented, conversion or consolidation of IG offices could increase the overall independence, economy, efficiency, and effectiveness of IG oversight. The following is a summary of the panel's major discussion points.

⁵GAO-02-575.

- IG inspections and evaluations are beneficial, and their results should be included in the IGs' semiannual reports. The panel participants also observed, however, that most IG inspection and evaluation results are already included in the IGs' semiannual reports.
- When considering the benefits to independence of converting DFE IGs from agency appointment to presidential appointment, there is a distinction between the independence of IGs appointed by their agency heads and those appointed by the President with Senate confirmation. Typically, the further removed the appointment source is from the entity to be audited, the greater the level of independence. Consequently, the change from agency appointment to appointment by the President has been recognized by the Congress since the advent of the IG concept as a strengthening of this critical element of IG effectiveness.
- The DFE IGs at the Corporation for Public Broadcasting, Legal Services Corporation, National Science Foundation, and the U.S. Postal Service are appointed by their independent boards of directors, while other DFE IGs are appointed by their individual agency heads. To convert those IGs who are now appointed by their boards of directors to appointment by the President could actually politicize the process and affect the scope of their boards' oversight.
- The additional confirmations that would result from converting agency-appointed DFE IGs to presidential appointment would burden the Senate.
- Consolidation of some small IG offices should be considered based on whether the size and risk of an agency is significant enough to justify an IG office of its own. Based on this criterion there are probably too many IG offices.
- Oversight may suffer if small IG offices are consolidated with larger IG offices. The large agency IG could apply resources to the large agency issues and ignore the small agency. Also, an IG should be at the small agency site to be effective. Regarding the increase in additional skills available through consolidation, the small IG offices can obtain these skills now by sharing staff with other IGs.
- When considering IG office consolidations, an analytical approach could be used to determine whether there is a need for IG oversight at a DFE agency. Needed oversight could be attained by maintaining the current DFE IG as the agency expert and using resources from the larger IG office. Overhead would be less if IGs consolidated as a result of economies of scale and sharing resources.
- Irrespective of what happens to the number of IGs, there should be overall coordination among the IGs and close coordination between the IGs and GAO to conserve and leverage resources.

The panel participants recognized the benefits of IG inspections and evaluations, and supported having these results included in the IGs' semiannual reports. The panel participants had mixed views on conversion of DFE IGs to presidential appointment and consolidation of IG offices. The panel participants did, however, overwhelmingly support close coordination among the IGs and between the IGs and GAO.

**Federal Departments, Agencies, and Offices with Inspectors General
Established by the IG Act and Appointed by the President
(Presidential IGs)**

Agency for International Development
Corporation for National and Community Service
Department of Agriculture
Department of Commerce
Department of Defense
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
Treasury Inspector General for Tax Administration
Department of Veterans Affairs
Environmental Protection Agency
Export-Import Bank
Federal Deposit Insurance Corporation
General Services Administration
National Aeronautics and Space Administration
Nuclear Regulatory Commission
Office of Personnel Management
Railroad Retirement Board
Small Business Administration
Social Security Administration
Tennessee Valley Authority

**Designated Federal Entities with Inspectors General
Established by the IG Act and Appointed by the Entity Head
(DFE IGs)**

Amtrak
Appalachian Regional Commission
Commodity Futures Trading Commission
Consumer Product Safety Commission
Corporation for Public Broadcasting
Denali Commission
Election Assistance Commission
Equal Employment Opportunity Commission
Farm Credit Administration
Federal Communications Commission
Federal Election Commission
Federal Housing Finance Board
Federal Labor Relations Authority
Federal Maritime Commission
Federal Reserve Board
Federal Trade Commission
Legal Services Corporation
National Archives and Records Administration
National Credit Union Administration
National Endowment for the Arts
National Endowment for the Humanities
National Labor Relations Board
National Science Foundation
Peace Corps
Pension Benefit Guaranty Corporation
Securities and Exchange Commission
Smithsonian Institution
U.S. International Trade Commission
U.S. Postal Service

Comptroller General's Panel on Federal Oversight and the Inspectors General

Participants

David Berick	Majority Professional Staff Member Senate Committee on Homeland Security and Governmental Affairs
The Honorable Dan G. Blair	Deputy Director Office of Personnel Management
Dr. Christine C. Boesz	Inspector General National Science Foundation
William L. Bransford	General Counsel Senior Executive Association, Partner Shaw, Bransford, Veilleux & Roth, P.C.
The Honorable William F. Clinger, Jr.	Senior Fellow Johns Hopkins University
The Honorable Linda M. Combs	Controller Office of Federal Financial Management
The Honorable Earl E. Devaney	Inspector General Department of the Interior
Emilia DiSanto	Special Counsel to the Chairman, Chief Investigative Counsel Senate Committee on Finance
Thomas Eldridge	Majority Senior Counsel Senate Committee on Homeland Security and Governmental Affairs
The Honorable Gregory H. Friedman	Inspector General Department of Energy, Vice Chair President's Council on Integrity and Efficiency
The Honorable J. Russell George	Treasury Inspector General for Tax Administration Department of the Treasury

Dr. Robert Greenstein	Founder and Executive Director Center on Budget and Policy Priorities, former Administrator Food and Nutrition Service U.S. Department of Agriculture
Linda Gustitus	Lecturer Government Affairs Institute Georgetown University
Jennifer Hemingway	Professional Staff Member Senate Committee on Homeland Security and Governmental Affairs
The Honorable John P. Higgins, Jr.	Inspector General Department of Education
The Honorable Frank Hodson	Senior Consultant Logistics Management Institute, former Deputy Director for Management Office of Management and Budget
Bill Hogan	Senior Fellow Center for Public Integrity
The Honorable Clay Johnson III	Deputy Director for Management Office of Management and Budget, Chair President's Council on Integrity and Efficiency, Executive Council on Integrity and Efficiency
Frederick M. Kaiser	Specialist Government and Finance Division Congressional Research Service
C. Morgan Kinghorn	President National Academy of Public Administration
The Honorable John A. Koskinen	President U.S. Soccer Foundation, former Deputy Director for Management Office of Management and Budget
The Honorable Richard P. Kusserow	President National Hotline Services, former Inspector General Department of Health and Human Services

James R. Naughton	Attorney/CPA, former Counsel Intergovernmental Relations and Human Resources Subcommittee House Committee on Government Operations [conducted hearings throughout 1977 and 1978 to establish offices of inspectors general in a number of federal departments]
Nancy Nelson	Section Chief Integrity in Government Civil Rights Section Criminal Division Federal Bureau of Investigation
Brian Newkirk	Legislative Assistant Office of Representative Jim Cooper
The Honorable Patrick P. O'Carroll	Inspector General Social Security Administration
David Rapallo	Minority Chief Investigative Council House Committee on Government Reform
The Honorable Charles O. Rossotti	Senior Advisor The Carlyle Group, former Commissioner Internal Revenue Service
Barry R. Snyder	Inspector General Federal Reserve Board, Vice Chair Executive Council on Integrity and Efficiency
The Honorable Linda M. Springer	Director Office of Personnel Management
Mark Stephenson	Minority Professional Staff Member House Committee on Government Reform
The Honorable James B. Thomas, Jr.	Consultant, former Inspector General Department of Education
Virginia L. Thomas	Director Executive Branch Relations The Heritage Foundation

Fred Thompson	Vice President for Management and Technology Council for Excellence in Government
Dr. Cornelius E. Tierney	Professor Emeritus of Accountancy School of Business George Washington University
The Honorable Nikki L. Tinsley	Senior Manager/Consultant EAM, Inc./Mosley & Associates, former Inspector General Environmental Protection Agency
Howard Weizmann	President Private Sector Council Partnership for Public Service

GAO Participants

The Honorable David M. Walker	Comptroller General of the United States
Gene L. Dodaro	Chief Operating Officer
Jeffrey C. Steinhoff	Managing Director Financial Management and Assurance
Jeanette M. Franzel	Director Financial Management and Assurance
Jackson W. Hufnagle	Assistant Director Financial Management and Assurance
Margaret A. Mills	Analyst-in-Charge Financial Management and Assurance

The Comptroller General's Panel on Federal Oversight and the Inspectors General

Questions for Discussion

Terms of Office, Removal, Qualifications, Budgets

- What are your views on terms of office for IGs?
- Should there be limitations on removal of an IG?
- Are changes needed to the current budget submission process to better safeguard IG independence and to ensure that IGs obtain adequate budgets and resources?
- Are the IG appointment process and the required IG qualifications in the IG Act sufficient?
- Should IGs submit their budget requests directly to OMB and the Congress instead of through the budget requests of their agency heads?
- Are there any other independence issues that need to be addressed?

Statutory IG Council

- Should there be an IG council established by statute?
- Should there be a federal accountability council in addition to the IG council that would provide for coordination between GAO and the IG community?
- What should the mission and duties of the IG council be and how should it be funded?
- Are the current provisions in H.R. 2489 for mission, functions, and responsibilities sufficient?
- Are there other functions that should be added to the IG council?
- What type of transparency, accountability, and reporting requirements should be placed on the council?
- Should the integrity committee have any additional functions or transparency requirements?
- Are there any other IG council issues that need to be addressed?

IG Pay

- At what grade level does the IG need to be for protocol purposes and to function effectively in the oversight role?
- Should the pay structures be changed for the presidential IGs and the DFE IGs? If so, how?
- Is it appropriate for IGs to receive performance ratings and, if so, who should be responsible for preparing the ratings?
- Is the determination of awards and bonuses for IGs an appropriate role for the IG council?
- Are there any other pay and personnel issues that need to be addressed?

IG Investigative and Law Enforcement Authorities

- Should the IG Act be amended to include IG subpoenas for any information medium?
- Should the DFE IGs have statutory law enforcement authority?
- How well has statutory law enforcement worked for the presidential IGs?
- Is there a need for the Program Fraud Civil Remedies Act to apply to the DFE IGs?
- Are there any other law enforcement and investigative issues that need to be addressed?

Additional Issues

- Should the results of inspection and evaluation reports be included in the IGs' semiannual reports? Are inspection reports useful, and if not, how could the reports be made more useful?
- Should any other changes be made to the requirements for IGs' semiannual reports?
- Are there DFE IG offices where it would be more appropriate to have a presidential IG?
- Are there instances where consolidation of IG offices would provide more effective oversight?
- Are there any other issues that should be discussed?

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