

“(B) if the first assistant described in subparagraph (A) dies, resigns, or becomes otherwise unable to perform those functions and duties, the President (and only the President) may direct an officer or employee in that Office of Inspector General to perform those functions and duties temporarily in an acting capacity, subject to the time limitations of section 3346 of title 5, United States Code, if—

“(i) that direction satisfies the requirements under clauses (ii), (iii), and (iv) of paragraph (2)(C); and

“(ii) that officer or employee served in a position in that Office of Inspector General for not fewer than 90 of the 365 days preceding the date on which the President makes that direction.

“(4) An individual may perform the functions and duties of an Inspector General temporarily and in an acting capacity under subparagraph (B) or (C) of paragraph (2), or under paragraph (3), with respect to only 1 Inspector General position at any given time.

“(5) If the President makes a direction under paragraph (2)(C), during the 30-day period preceding the date on which the direction of the President takes effect, the functions and duties of the position of the applicable Inspector General shall be performed by—

“(A) the first assistant to the position of Inspector General; or

“(B) the individual performing those functions and duties temporarily in an acting capacity, as of the date on which the President issues that direction, if that individual is an individual other than the first assistant to the position of Inspector General.”

As enacted by Pub. L. 117–286, subsection (b) of this section contains a heading after the subsection designation. The amendment inserting “(1)(A)” after “(b)” in section 3(b) of Pub. L. 95–452 amended text that did not contain a subsection heading.

For definition of “appropriate congressional committees” as seen in the above amendments by Pub. L. 117–263, see Amendments Not Shown in Text note set out under section 401 of this title.

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
403	5 U.S.C. App. (IGA §3)	Pub. L. 95–452, §3, Oct. 12, 1978, 92 Stat. 1101; Pub. L. 110–409, §§3(a), 4(a)(1), 5, 6(a), Oct. 14, 2008, 122 Stat. 4302, 4305; Pub. L. 112–199, title I, §117(a), Nov. 27, 2012, 126 Stat. 1474; Pub. L. 114–317, §7(d)(3)(A), Dec. 16, 2016, 130 Stat. 1606; Pub. L. 115–192, §2(a), June 25, 2018, 132 Stat. 1502.

In subsection (d)(4) (matter before subparagraph (A)), the words “Whistleblower Protection Coordinator” are substituted for “Whistleblower Protection Ombudsman” to correct an error in the law.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. E, title LII, §5203(e), Dec. 23, 2022, 136 Stat. 3233, provided that:

“(1) DEFINITION.—In this subsection, the term ‘Inspector General’ has the meaning given the term in subsection (h)(1)(B) of section 3 of the Inspector General Act of 1978 (5 U.S.C. App.), as added by subsection (a) of this section [see Amendments Not Shown in Text note above].

“(2) APPLICABILITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), this section [amending section 3 of Pub. L. 95–452 (restated as this section), sections 3033 and 3517 of Title 50, War and National Defense, and enacting provisions set out as a note under this section], and the amendments made by this section, shall take effect on the date of enactment of this Act [Dec. 23, 2022].

“(B) EXISTING VACANCIES.—If, as of the date of enactment of this Act, an individual is performing the functions and duties of an Inspector General temporarily in an acting capacity, this section, and the amendments made by this section, shall take effect with respect to that Inspector General position on the date that is 30 days after the date of enactment of this Act.”

CONSTRUCTION

Pub. L. 117–263, div. E, title LII, §5203(d), Dec. 23, 2022, 136 Stat. 3233, provided that: “Nothing in the amendment made by subsection (a) [adding subsec. (h) to section 3 of Pub. L. 95–452 (restated as this section), see Amendments Not Shown in Text note above] may be construed to limit the applicability of sections 3345 through 3349d of title 5, United States Code (commonly known as the ‘Federal Vacancies Reform Act of 1998’), other than with respect to section 3345(a) of that title.”

Pub. L. 110–409, §6(c), Oct. 14, 2008, 122 Stat. 4305, as amended by Pub. L. 117–286, §4(b)(5), Dec. 27, 2022, 136 Stat. 4343, provided that: “Nothing in the amendments made by this section [amending former sections 3 and 8G of Pub. L. 95–452, see 5 U.S.C. 403, 415] 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 403(g) and 415(g) of title 5, United States Code. The Counsel to the Inspector General shall perform such functions as the Inspector General may prescribe.”

ACTING TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

Pub. L. 105–277, div. C, title I, §101, Oct. 21, 1998, 112 Stat. 2681–584, as amended by Pub. L. 106–113, div. B, §1000(a)(5) [title II, §239(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–302; Pub. L. 117–286, §4(b)(7), Dec. 27, 2022, 136 Stat. 4343, related to the appointment by the President of an Acting Treasury Inspector General for Tax Administration whose service was to conclude no later than Apr. 30, 1999.

[Pub. L. 106–113, div. B, §1000(a)(5) [title II, §239(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–302, provided that the amendment made by subsection §239(a) to section 101 of Pub. L. 105–277 was effective as if included in the enactment of Pub. L. 105–277.]

§ 404. Duties and responsibilities

(a) IN GENERAL.—It shall be the duty and responsibility of each Inspector General, with respect to the establishment within which the Inspector General’s 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 the establishment;

(2) to review existing and proposed legislation and regulations relating to programs and operations of the establishment and to make recommendations in the semiannual reports required by section 405(b) of this title con-

cerning the impact of the legislation and regulations on the economy and efficiency in the administration of programs and operations administered or financed by the establishment, or the prevention and detection of fraud and abuse in the programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by, the 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 the establishment, and to conduct, supervise, or coordinate relationships between the 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 the establishment; or

(B) the identification and prosecution of participants in fraud or abuse referred to in subparagraph (A); and

(5) to keep the head of the establishment and Congress fully and currently informed, by means of the reports required by section 405 of this title and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the establishment, to recommend corrective action concerning the problems, abuses, and deficiencies, and to report on the progress made in implementing the corrective action.

(b) STANDARDS AND GUIDELINES.—

(1) IN GENERAL.—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 ensure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).¹

(2) REVIEWS PERFORMED EXCLUSIVELY BY AUDIT ENTITIES IN FEDERAL GOVERNMENT.—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 401 of this title, Offices of Inspector General of designated Federal entities defined under section 415(a) of this title,

and any audit office established within a Federal entity defined under section 415(a) of this title, reviews shall be performed exclusively by an audit entity in the Federal Government, including the Government Accountability Office or the Office of Inspector General of each establishment defined under section 401 of this title, or the Office of Inspector General of each designated Federal entity defined under section 415(a) of this title.

(c) EFFECTIVE COORDINATION AND COOPERATION.—In carrying out the duties and responsibilities established under this chapter, 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 ensuring effective coordination and cooperation.

(d) REPORTING VIOLATION OF FEDERAL CRIMINAL LAW.—In carrying out the duties and responsibilities established under this chapter, 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.

(e) RECOMMENDATIONS FOR CORRECTIVE ACTIONS.—

(1) SUBMISSION OF DOCUMENTS.—In carrying out the duties and responsibilities established under this chapter, whenever an Inspector General issues a recommendation for corrective action to the agency, the Inspector General—

(A) shall submit the document making a recommendation for corrective action to—

(i) the head of the establishment;

(ii) the congressional committees of jurisdiction; and

(iii) if the recommendation for corrective action was initiated upon request by an individual or entity other than the Inspector General, that individual or entity;

(B) may submit the document making a recommendation for corrective action to any Member of Congress upon request; and

(C) not later than 3 days after the recommendation for corrective action is submitted in final form to the head of the establishment, post the document making a recommendation for corrective action on the website of the Office of Inspector General.

(2) PUBLIC DISCLOSURE OTHERWISE PROHIBITED BY LAW.—Nothing in this subsection shall be construed as authorizing an Inspector General to publicly disclose information otherwise prohibited from disclosure by law.

(Pub. L. 117-286, §3(b), Dec. 27, 2022, 136 Stat. 4210.)

AMENDMENTS NOT SHOWN IN TEXT

This section was derived from section 4 of the Inspector General Act of 1978, Pub. L. 95-452, which was set out in the former Appendix to this title, and as it existed as of Oct. 19, 2021. Section 4 of Pub. L. 95-452 was amended by Pub. L. 117-263, div. E, title LII, §5273(1), Dec. 23, 2022, 136 Stat. 3241, prior to being repealed and reenacted as this section by Pub. L.

¹ See References in Text note below.

117–286, §§ 3(b), 7, Dec. 27, 2022, 136 Stat. 4210, 4361. For applicability of those amendments to this section, see section 5(b) of Pub. L. 117–286, set out in a Transitional and Savings Provisions note preceding section 101 of this title. Section 4 of Pub. L. 95–452 was amended in subsection (a)(2) as follows:

(1) by inserting “, including” after “to make recommendations”; and

(2) by inserting a comma after “section 5(a)”.

The phrase “section 5(a)” did not appear in the text of subsection (a)(2) as enacted by Pub. L. 117–286 but was changed to “section 405(b) of this title”.

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
404	5 U.S.C. App. (IGA § 4)	Pub. L. 95–452, § 4, Oct. 12, 1978, 92 Stat. 1102; Pub. L. 100–504, title I, § 109, Oct. 18, 1988, 102 Stat. 2529; Pub. L. 103–82, title II, § 202(g)(5)(A), Sept. 21, 1993, 107 Stat. 890; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–409, § 7(d)(1)(A), Oct. 14, 2008, 122 Stat. 4313; Pub. L. 114–317, §§ 4(d), 7(d)(2)(A), Dec. 16, 2016, 130 Stat. 1602, 1606

In subsection (a)(4) (matter before subparagraph (A)), the words “the establishment” are inserted after “to recommend policies for” and a comma is inserted after “and nongovernmental entities” for clarity.

In subsection (b)(1)(C), the word “ensure” is substituted for “assure” for clarity.

In subsection (c), the word “ensuring” is substituted for “insuring” for clarity.

Editorial Notes

REFERENCES IN TEXT

Paragraph (1), referred to in subsec. (b)(1)(C), means par. (1) of subsec. (b) of this section, but probably should be a reference to subpar. (A) of subsec. (b)(1) of this section. Prior to repeal and restatement as this section, subsec. (b)(1) of the source section had been redesignated as subsec. (b)(1)(A) by Pub. L. 100–504, title I, § 109(1), (2), Oct. 18, 1988, 102 Stat. 2529, with no conforming amendment to the reference, and the restated text carried over such reference without change.

§ 405. Reports

(a) DEFINITIONS.—In this section:

(1) DISALLOWED COST.—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.

(2) FINAL ACTION.—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

(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.

(3) MANAGEMENT DECISION.—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 the findings and recommendations, including actions concluded to be necessary.

(4) QUESTIONED COST.—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, the cost is not supported by adequate documentation; or

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

(5) RECOMMENDATION THAT FUNDS BE PUT TO BETTER USE.—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.

(6) SENIOR GOVERNMENT EMPLOYEE.—The term “senior Government employee” means—

(A) an officer or employee in the executive branch (including a special Government employee as defined in section 202 of title 18) who occupies a position classified at or above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; and

(B) any commissioned officer in the Armed Forces in pay grades O–6 and above.

(7) UNSUPPORTED COST.—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.

(b) SEMIANNUAL REPORTS.—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 6-month periods ending March 31 and September 30. The reports shall include, but need not be limited to—

(1) a description of significant problems, abuses, and deficiencies relating to the admin-