

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

Inspector General Act Amendments of 1988,
Pub. L. No. 100-504; 102 Stat. 2515 (1988)

Senate Committee on Governmental Affairs Report
S. 908, S. Rep. No. 100-150 (1987)

House Committee on Government Operations Report
H.R. 4054, H.R. Rep. No. 100-771 (1988)

Senate Congressional Records

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 Records

134 Cong. Rec. H 5827 (1988);
134 Cong. Rec. H 9607 (1988).

Inspector General Act of 1978,

Pub. L. No. 93-452, 92 Stat. 1101 (1978), as amended by
Pub. L. No. 96-88, title V, § 508(n), 93 Stat. 694 (1979);
Pub. L. No. 97-113, title VII, § 705, 95 Stat. 1544 (1981);
Pub. L. No. 97-252 title XI, § 1117(a)-(c), 96 Stat. 750-752 (1982);
Pub. L. No. 105-206 title I, § 1103(a), (b), (c)(1), (e)(1) to (3), 112 Stat. 705 to 709
(1998);
Pub. L. No. 107-296 title VIII, §§ 811(e), 812(a), title XI, § 1112(a), title XVII, § 1701,
116 Stat. 2221, 2222, 2275, 2313 (2002).

Chronology of Legislation Establishing Offices of Inspectors General

Section 2 - Executive Orders

Exec. Order No. 12805 (1992), Integrity and Efficiency in Federal Programs
Exec. Order No. 12993 (1996), Administrative Allegations Against Inspectors General

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx prec § 1 (2003)

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

NOTES:

CROSS REFERENCES

This Act is referred to in 2 *USCS* § 1602; 7 *USCS* §§ 2270a, 6911; 10 *USCS* §§ 133, 141, 1034, 2409, 3020, 5020, 8020; 20 *USCS* §§ 76l, 1082, 3412, 3422; 22 *USCS* §§ 3929, 4861, 6203, 6207; 29 *USCS* §§ 49h, 1574, 1575, 2935; 31 *USCS* §§ 902, 3521, 3801, 3808, 9105; 38 *USCS* §§ 312, 7366; 39 *USCS* § 410; 41 *USCS* §§ 265, 422; 42 *USCS* §§ 1320a-7a, 1320a-7c, 9651, 12651e; and 48 *USCS* §§ 1422d, 1599, 1668, 1681b.

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 1 (2003)

§ 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.

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."

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 2 (2003)

§ 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 11(2) [*5 USCS Appx. § 11(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.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

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 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 § 201* 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.".

Other provisions:

Community Services Administration. 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*.

NOTES:

CROSS REFERENCES

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

INTERPRETIVE NOTES AND DECISIONS

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*.

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.

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 3 (2003)

§ 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. The President shall communicate the reasons for any such removal to both Houses of Congress.

(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.

HISTORY: (Oct. 12, 1978, P.L. 950452, § 3, 92 Stat. 1101.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

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*, provides:

"Certain executive branch agencies are authorized to conduct investigations of allegations of wrongdoing by employees of the Federal Government. For certain administrative allegations against Inspectors General ('IGs') and, as explained below, against certain staff members of the Offices of Inspectors General ('OIGs'), it is desirable to authorize an independent investigative mechanism.

"The Chairperson of the President's Council on Integrity and Efficiency ('PCIE') and the Executive Council on Integrity and Efficiency ('ECIE'), in consultation with members of the Councils, has established an Integrity Committee pursuant to the authority granted by Executive Order No. 12805 [*31 USCS § 501* note].

"By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure that administrative allegations against IGs and certain staff members of the OIGs are appropriately and expeditiously investigated and resolved, it is hereby ordered as follows:

"Section 1. The Integrity Committee. (a) To the extent permitted by law, and in accordance with this order, the Integrity Committee shall receive, review, and refer for investigation allegations of wrongdoing against IGs and certain staff members of the OIGs.

"(b) The Integrity Committee shall consist of at least the following members:

"(1) The official of the Federal Bureau of Investigation ('FBI') serving on the PCIE, as designated by the Director of the FBI. The FBI member shall serve as Chair of the Integrity Committee.

"(2) The Special Counsel of the Office of Special Counsel;

"(3) The Director of the Office of Government Ethics;

"(4) Three or more IGs, representing both the PCIE and the ECIE, appointed by the Chairperson of the PCIE/ECIE.

"(c) The Chief of the Public Integrity Section of the Criminal Division of the Department of Justice, or his designee, shall serve as an advisor to the Integrity Committee with respect to its responsibilities and functions in accordance with this order.

"Sec. 2. Referral of Allegations. (a) The Integrity Committee shall review all allegations of wrongdoing it receives against an IG who is a member of the PCIE or ECIE, or against a staff member of an OIG acting with the knowledge of the IG or when the allegation against the staff person is related to an allegation against the IG, except that where an allegation concerns a member of the Integrity Committee, that member shall recuse himself from consideration of the matter.

"(b) An IG shall refer any administrative allegation against a senior staff member to the Integrity Committee when:

"(1) review of the substance of the allegation cannot be assigned to an agency of the executive branch with appropriate jurisdiction over the matter; and

"(2) the IG determines that an objective internal investigation of the allegation, or the appearance thereof, is not feasible.

"(c) The Integrity Committee shall determine if there is a substantial likelihood that the allegation, referred to it under paragraphs (a) or (b) of this section, discloses a violation of any law, rule or regulation, or gross mismanagement, gross waste of funds or abuse of authority and shall refer the allegation to the agency of the executive branch with appropriate jurisdiction over the matter. However, if a potentially meritorious administrative allegation cannot be referred to an agency of the executive branch with appropriate jurisdiction over the matter, the Integrity Committee shall certify the matter to its Chair, who shall cause a thorough and timely investigation of the allegation to be conducted in accordance with this order.

"(d) If the Integrity Committee determines that an allegation does not warrant further action, it shall close the matter without referral for investigation and notify the Chairperson of the PCIE/ECIE of its determination.

"Sec. 3. Authority to Investigate. (a) The Director of the FBI, through his designee serving as Chairperson of the Integrity Committee, is authorized and directed to consider and, where appropriate, to investigate administrative allegations against the IGs and, in limited cases as described in sections 2(a) and 2(b) above, against other staff members of the OIGs, when such allegations cannot be assigned to another agency of the executive branch and are referred by the Integrity Committee pursuant to section 2(c) of this order.

"(b) At the request of the Director of the FBI, through his designee serving as Chairperson, heads of agencies and entities represented in the PCIE and ECIE may, to the extent permitted by law, provide resources necessary to the Integrity Committee. Employees from those agencies and entities will be detailed to the Integrity Committee, subject to the control and direction of the Chairperson, to conduct an investigation pursuant to section 2(c): Provided, that such agencies or entities shall be reimbursed by the agency or entity employing the subject of the investigation. Reimbursement for any costs associated with the detail shall be consistent with applicable law, including but not limited to the Economy Act (*31*

U.S.C. 1535 and 1536), and subject to the availability of funds.

"(c) Nothing in the above delegation shall augment, diminish, or otherwise modify any existing responsibilities and authorities of any other executive branch agency.

"Sec. 4. Results of Investigation. (a) The report containing the results of the investigation conducted under the supervision of the Chair of the Integrity Committee shall be provided to the members of the Integrity Committee for consideration.

"(b) With respect to those matters where the Integrity Committee has referred an administrative allegation to an agency of the executive branch with appropriate jurisdiction over the matter, the head of that agency shall provide a report to the Integrity Committee concerning the scope and results of the inquiry.

"(c) The Integrity Committee shall assess the report received under (a) or (b) of this section and determine whether the results require forwarding of the report, with Integrity Committee recommendations, to the Chairperson of the PCIE/ECIE for resolution. If the Integrity Committee determines that the report requires no further referral or recommendations, it shall so notify the Chairperson of the PCIE/ECIE.

"(d) Where the Chairperson of the PCIE/ECIE determines that dissemination of the report to the head of the subject's employing agency or entity is appropriate, the head of the agency or entity shall certify to the Chairperson of the PCIE/ECIE within sixty 60 days that he has personally reviewed the report, what action, if any, has been or is to be taken, and when any action taken will be completed. The PCIE/ECIE Chairperson may grant the head of the entity or agency a 30-day extension when circumstances necessitate such extension.

"(e) The Chairperson of the PCIE/ECIE shall report to the Integrity Committee the final disposition of the matter, including what action, if any, has been or is to be taken by the head of the subject's employing agency or entity. When the Integrity Committee receives notice of the final disposition, it shall advise the subject of the investigation that the matter referred to the Integrity Committee for review has been closed.

"Sec. 5. Procedures. (a) The Integrity Committee, in conjunction with the Chairperson of the PCIE/ECIE, shall establish the policies and procedures necessary to ensure consistency in conducting investigations and reporting activities under this order.

"(b) Such policies and procedures shall specify the circumstances under which the Integrity Committee, upon review of a complaint containing allegations of wrongdoing, may determine that an allegation is without merit and therefore the investigation is unwarranted. A determination by the Integrity Committee that an investigation is unwarranted shall be considered the Integrity Committee's final disposition of the complaint.

"(c) The policies and procedures may be expanded to encompass other issues related to the handling of allegations against IGs and others covered by this order.

"Sec. 6. Records Maintenance. All records created and received pursuant to this order are records of the Integrity Committee and shall be maintained by the FBI.

"Sec. 7. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person."

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)."

NOTES:

CROSS REFERENCES

This section is referred to in *10 USCS § 141*; *12 USCS § 1441a*; *41 USCS § 254d*; *42 USCS § 902*.

RESEARCH GUIDE

Am Jur:

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

INTERPRETIVE NOTES AND DECISIONS

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*.

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*.

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) 266 F3d 1228, 168 BNA LRRM 2505*.

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 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*.

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 4 (2003)

§ 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 11(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 or the Office of Inspector General of each establishment defined under section 11(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.)

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. (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)."

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:

CROSS REFERENCES

This section is referred to in *38 USCS § 7366*; *44 USCS § 3903*.

INTERPRETIVE NOTES AND DECISIONS

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*.

Challenge to authority of Inspector General of Department of Transportation must fail, where motor carriers assert Inspector General has exceeded scope of his authority under Inspector General Act of 1978 (*5 USCS Appx §§ 1 et seq.*) in investigating motor carrier compliance with safety regulations, because Inspector General has recently been granted authority to conduct investigations of motor carriers' fraudulent and criminal activities that are related to DOT's operations and programs under § 228 of Motor Carrier Safety Improvement Act of 1999 (*5 USCS Appx § 4* note). *Truckers United for Safety v Mead (2000, DC Dist Col) 86 F Supp 2d 1*.

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 5 (2003)

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

- (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 issued by the Office during the reporting period and for each audit 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 and the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs), for audit 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 and the dollar value of recommendations that funds be put to better use by management, for audit 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 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 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

5 USCS Appx § 5

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; and

(13) the information described under section 05(b) of the Federal Financial Management Improvement Act of 1996.

(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 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 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

(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

(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.)

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.

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).

5 USCS Appx § 5

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).

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."

NOTES:

CROSS REFERENCES

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

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 6 (2003)

§ 6. Authority of Inspector Generals; 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 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

(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) For purposes of the provisions of title 5, United States Code, governing the Senior Executive Service [5 USCS §§ 3301 et seq.], 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.

(e) (1) In addition to the authority otherwise provided by this Act, each Inspector General appointed under section 3, 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."

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.)

(As amended Nov. 25, 2002, P.L. 107-296, Title VIII, Subtitle B, § 812(a), 116 Stat. 2222.)

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).

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."

INTERPRETIVE NOTES AND DECISIONS

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 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.

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) 251 F3d 183.

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.

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).

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.

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.

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.

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.

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.

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 7 (2003)

§ 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:

CROSS REFERENCES

This section is referred to in *15 USCS § 657*; *44 USCS § 3903*.

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 8 (2003)

§ 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 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;

(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;

5 USCS Appx § 8

(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.

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.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

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 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 Governmental 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".

Other provisions:

Change of name of Committee on Government Reform and Oversight. For change of name of Committee on Government Reform and Oversight of House of Representatives to Committee on Government Reform of House of Representatives, see H. Res. No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

INTERPRETIVE NOTES AND DECISIONS

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.

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.

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.

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.

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.

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 8A (2003)

§ 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.

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 8B (2003)

§ 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.

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 8C (2003)

§ 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.

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 8D (2003)

§ 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 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 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 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.

(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.

5 USCS Appx § 8D

(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 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 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

5 USCS Appx § 8D

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 physical security; 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.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

5 USCS Appx § 8D

Explanatory notes:

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" wherever 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 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".

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.

Other provisions:

Change of name. For provision that a reference to the Committee on Government Operations of the House of Representatives be treated as referring to the Committee on Government Reform and Oversight of the House of Representatives, see § 1(a) of Act June 3, 1995, P.L. 104-14, which appears as 2 *USCS* § 21 note. For change of name of Committee on Government Reform and Oversight of House of Representatives to Committee on Government Reform of House of Representatives, see H. Res. No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 8E (2003)

§ 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 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 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 nonfrivolous 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.)

(As amended Nov. 2, 2002, P.L. 107-273, Div A, Title III, § 308, 116 Stat. 1784.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

A prior § 8E was redesignated § 8F 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, 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:

"(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."

Change of name. For provision that a reference to the Committee on Government Operations of the House of Representatives be treated as referring to the Committee on Government Reform and Oversight of the House of Representatives, see § 1(a) of Act June 3, 1995, P.L. 104-14, which appears as 2 *USCS* § 21 note. For change of name of

Committee on Government Reform and Oversight of House of Representatives to Committee on Government Reform of House of Representatives, see H. Res. No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

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."

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 8F (2003)

§ 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 Trust Act of 1993 [*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, Title II, § 202(g)(1), 107 Stat. 889; Dec. 17, 1993, P.L. 103-204, § 23(a)(3), (4), 107 Stat. 2408.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

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

Amendments:

1993. Act Dec. 17, 1993 purported to amend subsec. (a)(2) of this section by deleting "the Federal Deposit Insurance Corporation,"; however, the amendment could not be executed because the language to be deleted did not appear in such

subsection.

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:

CROSS REFERENCES

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*.

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 8G (2003)

§ 8G. Requirements for Federal entities and designated Federal entities

(a) Notwithstanding section 11 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 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 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, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Denali Commission, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election 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 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 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—

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

(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);

(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.

5 USCS Appx § 8G

(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.

(d) 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. 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) 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 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 Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

5 USCS Appx § 8G

(3) 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.

(4) As used in this subsection, the term "Governors" has the meaning given such term by 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 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 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.

(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 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), 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.)

(As amended 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.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

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

5 USCS Appx § 8G

a fiscal year for which Amtrak receives no Federal subsidy."

Amendment of subsec. (a)(2), effective 180 days after appointment of Election Assistance Commission. Act Oct. 29, 2002, P.L. 107-252, Title VIII, Subtitle B, § 812(a), 116 Stat. 1727 (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), provides: "Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting "the Election Assistance Commission," after "Federal Election Commission,"."

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".

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,".

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)."

5 USCS Appx § 8G

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;

"(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."

Change of name of Committee on Government Reform and Oversight. For change of name of Committee on Government Reform and Oversight of House of Representatives to Committee on Government Reform of House of Representatives, see H. Res. No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

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, 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.

Inspector General of the Coalition Provisional Authority. Act Nov. 6, 2003, P.L. 108-106, Title III, § 3001, 117 Stat. 1234, 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 of the Coalition Provisional Authority (CPA).

"(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 fraud and abuse in such programs and operations.

"(3) To provide for an independent and objective means of keeping the head of the Coalition Provisional Authority 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 Inspector General of the Coalition Provisional Authority.

"(c) Appointment of Inspector General; removal.

(1) The head of the Office of the Inspector General of the Coalition Provisional Authority is the Inspector General of the Coalition Provisional Authority, 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 of the Coalition Provisional Authority; 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 head of the Coalition Provisional Authority.

"(2) Neither the head of the Coalition Provisional Authority, any other officer of the Coalition Provisional Authority, nor any other 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, or from issuing any subpoena during the course of any 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 appropriated funds by the Coalition Provisional Authority in 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;

5 USCS Appx § 8G

"(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 the Coalition Provisional Authority, other departments, agencies, and entities of the Federal Government, 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).

"(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, the Inspector General of the Department of Defense.

"(5) In carrying out the duties, and responsibilities, and authorities of the Inspector General under this section, the Inspector General shall coordinate with, and receive the cooperation of 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.].

"(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.

"(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 head of the Coalition Provisional Authority and to the appropriate committees of Congress without delay.

"(5) The head of the Coalition Provisional Authority shall provide the Inspector General with appropriate and adequate office space at the central and field office locations of the Coalition Provisional Authority, 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 March 30, 2004, and every calendar quarter thereafter, the Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Inspector General and the Coalition Provisional Authority during the 120-day period ending on the date of such report. 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 Coalition Provisional Authority 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 the Coalition Provisional Authority and of any other agencies or entities receiving appropriated funds.

"(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 Coalition Provisional Authority 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 the Coalition Provisional Authority 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) Not later than June 30, 2004, and semiannually thereafter, the Inspector General shall submit to the appropriate committees of Congress a report meeting the requirements of section 5 of the Inspector General Act of 1978 [5 USCS Appx.].

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

"(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 head of the Coalition Provisional Authority.

"(2)

(A) Not later than 30 days after receipt of a report under paragraph (1), the head of the Coalition Provisional Authority may submit to the appropriate committees of Congress any comments on the matters covered by the report as the head of the Coalition Provisional Authority considers appropriate.

"(B) A report under this paragraph may include a classified annex if the head of the Coalition Provisional Authority 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 head of the Coalition Provisional Authority shall 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 head of the Coalition Provisional Authority shall 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) Appropriate committees of Congress defined. In this section, the term 'appropriate committees of Congress' means—

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

5 USCS Appx § 8G

"(2) the Committees on Appropriations, Armed Services, and International Relations of the House of Representatives.
"(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) The Office of Inspector General shall terminate 6 months after the authorities and duties of the Coalition Provisional Authority cease to exist."

NOTES:

CROSS REFERENCES

This section is referred to in *39 USCS §§ 202, 1003; 41 USCS § 254d; 42 USCS § 8262f.*

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 8H (2003)

§ 8H. Additional provisions with respect to Inspectors General of the intelligence community

(a) (1) (A) An employee of the Defense Intelligence Agency, the National Imagery and Mapping Agency [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.

(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.

(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

5 USCS Appx § 8H

(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 Imagery and Mapping Agency [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.)

(As amended 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.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

A prior § 8H was redesignated § 8I by Act Oct. 20, 1998, P.L. 105-272, Title VII, § 702(b)(1), 112 Stat. 2415.

"National Geospatial-Intelligence Agency" has been inserted in brackets in subsecs. (a)(1)(A) and (g)(1) pursuant to § 921(g) of Act Nov. 24, 2003, P.L. 108-136 (10 USCS § 441 note), which provides that any reference to the National Imagery and Mapping Agency shall be considered to be a reference to the National Geospatial-Intelligence Agency.

Amendments:

5 USCS Appx § 8H

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).

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

"(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."

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 8I (2003)

§ 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 202 of title 3 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.

(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

5 USCS Appx § 8I

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.

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.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

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.

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 8J (2003)

§ 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:

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,

5 USCS Appx § 8J

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.

On December 17, 2004, the President signed into law S. 2845, the Intelligence Reform and Terrorism Prevention Act (Pub. L. No. 108-458). The Act overhauls the nation's intelligence community and implements recommendations from the 9/11 Commission.

Section 1078 of the new law amends the Inspector General Act. Section 1078 authorizes the Director of National Intelligence to create an OIG of the Office of the Director of National Intelligence if the Director determines that an OIG "would be beneficial to improving . . . operations and effectiveness." The Director would also determine which duties, responsibilities, and authorities the OIG would have. Please see below.

<< 5 USCA App. 3 § 8K >>

SEC. 1078. AUTHORITY TO ESTABLISH INSPECTOR GENERAL FOR THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 8J the following new section:

"AUTHORITY TO ESTABLISH INSPECTOR GENERAL OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

SEC. 8K. 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."

118 Stat 3638, *3695

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 9 (2003)

§ 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";

5 USCS Appx § 9

(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;

(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.)

(As amended 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:

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 to indicate the probable intent of Congress to delete such word.

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".

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:**CROSS REFERENCES**

This section is referred to in *7 USCS § 2270*.

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 10 (2003)

§ 10. Conforming and technical amendments

[This section amended *5 USCS* §§ 5315 and 5316 and *42 USCS* § 3522, which amendments have been executed.]

HISTORY: (Oct. 12, 1978, P.L. 95-452, § 10, 92 Stat. 1108.)

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 11 (2003)

§ 11. 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 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 Board of Directors of the Tennessee Valley Authority; or the President of the Export-Import Bank; 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 Tennessee Valley Authority, or the Export-Import Bank, 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.

HISTORY: (Oct 12, 1978, P.L. 95-452, § 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.)

(As amended 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.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

The semicolon has been enclosed in brackets in para. (1) to indicate the probable intent of Congress to delete it.

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,".

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 § 201* 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.

Other provisions:

Community Services Administration. 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.

Change of name of Veterans' Administration. As to redesignation of the Veterans' Administration as the Department of Veterans Affairs, see § 10 of the Department of Veterans Affairs Act (Act Oct. 25, 1988, P.L. 100-527, § 10, 102 Stat. 2640), which appears as 38 *USCS* § 201 note.

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:**CROSS REFERENCES**

This section is referred to in *22 USCS §§ 3929, 4861; 31 USCS §§ 1105, 3801; 39 USCS § 1003; 42 USCS § 8262f*.

1 of 1 DOCUMENT

UNITED STATES CODE SERVICE
Copyright © 2003 Matthew Bender & Company, Inc.,
one of the LEXIS Publishing (TM) companies
All rights reserved

*** CURRENT THROUGH P.L. 108-187, APPROVED 12/16/03 ***
*** WITH GAPS OF 108-173, 177, 178 and 183 ***

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

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

5 USCS Appx § 12 (2003)

§ 12. 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, § 12, 92 Stat. 1109.)

LEXSEE 102 STAT 2515

UNITED STATES PUBLIC LAWS
100TH CONGRESS—SECOND SESSION
(c) 1988, REED ELSEVIER INC. AND REED ELSEVIER PROPERTIES INC.

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 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;

100 P.L. 504, *102; 102 Stat. 2515, **;
1988 Enacted S. 908; 100 Enacted S. 908

the Agency for International Development, the Environmental Protection Agency, the Federal Emergency Management [**2516] 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 Staffs 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 [**2517] 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.
- (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.

100 P.L. 504, *102; 102 Stat. 2515, **2517;
1988 Enacted S. 908; 100 Enacted S. 908

(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 performed 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

"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.
- "Inspector General, Department of the Interior.

100 P.L. 504, *102; 102 Stat. 2515, **2521;
1988 Enacted S. 908; 100 Enacted S. 908

"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 Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit

100 P.L. 504, *104; 102 Stat. 2515, **2523;
1988 Enacted S. 908; 100 Enacted S. 908

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 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 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.

"(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 [**2525] the Federal Register a list of the Federal entities and designated Federal entities and 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."

(b) CONFORMING AMENDMENT. — Section 410(b) of title 39, United States Code, is amended —

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon;

(3) by striking out "The" in paragraph (8) and inserting in lieu thereof "the";

(4) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and "and"; and

(5) by adding at the end thereof the following new paragraph:

"(9) the provisions of section 8E of the Inspector General Act of 1978."

[*105]

SEC. 105. RULE OF CONSTRUCTION OF SPECIAL PROVISIONS.

The Inspector General Act of 1978 (as amended by sections 102(f) and 104 of this title) is further amended by inserting after section 8E the following new section:

RULE OF CONSTRUCTION OF SPECIAL PROVISIONS

"SEC. 8F. <5 USC app.> The special provisions under section 8, 8A, 8B, 8C, or 8D 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 8E(a)."

[*106]

SEC. 106. PROVISIONS TO ENSURE UNIFORMITY AND RELIABILITY OF REPORTS.

(a) REPORT INFORMATION REQUIRED ON AUDITS. — Section 5(a) of the Inspector General Act of 1978 <5 USC app.> is amended by striking out "and" at the end of paragraph (5) and by striking out paragraph (6) and inserting in lieu thereof:

[**2526] "(6) a listing, subdivided according to subject matter, of each audit report issued by the Office during the reporting period and for each audit 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 and the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs), for audit 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 and the dollar value of recommendations that funds be put to better use by management, for audit 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 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 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; and
- "(12) information concerning any significant management decision with which the Inspector General is in disagreement."

(b) REPORT ON FINAL ACTION. — Section 5(b) of such Act <5 USC app.> is amended by striking out "head of the establishment containing any comments such head deems appropriate." and inserting in lieu thereof the following: "head of the establishment containing —

- "(1) any comments such head determines appropriate;
- "(2) statistical tables showing the total number of audit 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;
 - [**2527] "(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 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
 - "(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) ISSUANCE OF REPORT ON FINAL ACTION. — Section 5(c) of such Act <5 USC app.> is amended by adding at the end thereof the following new sentence: "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) CONFORMING AMENDMENT; DEFINITIONS. — Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) As used in this section —

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

[**2528] "(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

"(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."

[*107]

SEC. 107. OATH ADMINISTRATION AUTHORITY.

Section 6(a) of the Inspector General Act of 1978 <5 USC app.> is amended —

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and

(2) by inserting after paragraph (4) the following new paragraph:

"(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;"

[**2529] [*108]

SEC. 108. APPROPRIATION ACCOUNTS.

100 P.L. 504, *108; 102 Stat. 2515, **2529;
1988 Enacted S. 908; 100 Enacted S. 908

Section 1105(a)(25) of title 31, United States Code, is amended to read as follows:

"(25) a separate appropriation account for appropriations for each Office of Inspector General of an establishment defined under section 11(2) of the Inspector General Act of 1978."

[*109]

SEC. 109. EXTERNAL REVIEWS.

Section 4(b) of the Inspector General Act of 1978 <5 USC app.> is amended —

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end thereof the following:

"(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 11(2), Offices of Inspector General of designated Federal entities defined under section 8E(a)(2), and any audit office established within a Federal entity defined under section 8E(a)(1), reviews shall be performed exclusively by an audit entity in the Federal Government, including the General Accounting Office or the Office of Inspector General of each establishment defined under section 11(2), or the Office of Inspector General of each designated Federal entity defined under section 8E(a)(2)."

[*110]

SEC. 110. TECHNICAL AMENDMENTS.

(a) SENIOR EXECUTIVE SERVICE POSITIONS. — Section 6 of the Inspector General Act of 1978 <5 USC app.> is amended by adding at the end thereof the following:

"(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."

(b) COAST GUARD OPERATION AS PART OF DEPARTMENT OR AGENCY. — Section 8(e) of the Inspector General Act of 1978 <5 USC app.> is amended by inserting before the period at the end thereof the following: ", 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".

[*111]

SEC. 111. <5 USC app.> REPORT ON IMPLEMENTATION.

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.

[**2530] [*112]

SEC. 112. <5 USC app.> PAYMENT AUTHORITY SUBJECT TO APPROPRIATIONS.

Any authority to make payments under this title shall be effective only to such extent as provided in appropriations Acts.

[*113]

SEC. 113. <5 USC app.> EFFECTIVE DATE.

This title and the amendments made by this title 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)

100 P.L. 504, *113; 102 Stat. 2515, **2530;
1988 Enacted S. 908; 100 Enacted S. 908

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.

TITLE II — GOVERNMENT PRINTING OFFICE INSPECTOR GENERAL

[*201]

SEC. 201. <44 USC 101 note> SHORT TITLE.

This title may be cited as the "Government Printing Office Inspector General Act of 1988".

[*202]

SEC. 202. OFFICE OF INSPECTOR GENERAL.

Title 44 of the United States Code is amended by adding at the end thereof the following new chapter:

"CHAPTER 39 — GOVERNMENT PRINTING OFFICE: OFFICE OF INSPECTOR GENERAL

"Sec.

"3901. Purpose and establishment of the Office of Inspector General.

"3902. Appointment of Inspector General; supervision; removal.

"3903. Duties, responsibilities, authority, and reports.

"§ 3901. Purpose and establishment of the Office of Inspector General

"In order to create an independent and objective office —

"(1) to conduct and supervise audits and investigations relating to the Government Printing Office;

"(2) to provide leadership and coordination and recommend policies to promote economy, efficiency, and effectiveness; and

"(3) to provide a means of keeping the Public Printer and the Congress fully and currently informed about problems and deficiencies relating to the administration and operations of the Government Printing Office;

there is hereby established an Office of Inspector General in the Government Printing Office.

"§ 3902. Appointment of Inspector General; supervision; removal

"(a) There shall be at the head of the Office of Inspector General, an Inspector General who shall be appointed by the Public Printer 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. The Inspector General shall report to, and be under the general supervision of, the Public Printer. The Public Printer shall have no authority to prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or [**2531] from issuing any subpoena during the course of any audit or investigation.

"(b) The Inspector General may be removed from office by the Public Printer. The Public Printer shall, promptly upon such removal, communicate in writing the reasons for any such removal to each House of the Congress.

"§ 3903. Duties, responsibilities, authority, and reports

"(a) Sections 4, 5, 6 (other than subsection (a) (7) and (8) thereof), and 7 of the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App. 3) shall apply to the Inspector General of the Government Printing Office and the Office of such Inspector General and such sections shall be applied to the Government Printing Office and the Public Printer by substituting —

"(1) 'Government Printing Office' for 'establishment'; and

"(2) 'Public Printer' for 'head of the establishment'.

100 P.L. 504, *202; 102 Stat. 2515, **2531;
1988 Enacted S. 908; 100 Enacted S. 908

"(b) The Inspector General, in carrying out the provisions of this chapter, 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 subject to the provisions of this title governing selections, appointments, and employment in the Government Printing Office (and any regulations thereunder)."

[*203]

SEC. 203. <44 USC 3901 note> TRANSFER OF OFFICE.

(a) IN GENERAL. — There is transferred to the Office of Inspector General established pursuant to this title, the office of the Government Printing Office referred to as the "Office of Inspector General".

(b) RELATED PROVISIONS. — With respect to such transferred office —

- (1) sections 9 (b) and (c) of the Inspector General Act of 1978 shall apply; and
- (2) all the functions, powers, and duties of the office transferred by subsection (a) shall lapse.

(c) PERSONNEL. — Any person who, on the effective date of this title, held a position compensated in accordance with the applicable laws and regulations that govern selections, appointments, and employment within the Government Printing Office, and who, without a break in service, is appointed in the Office of Inspector General established by this title 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.

[*204]

SEC. 204. AMENDMENT TO TABLE OF CHAPTERS.

The table of chapters for title 44, United States Code, is amended by adding at the end thereof the following new item:

"39. Government Printing Office: Office of Inspector General..... 3901".

[*205]

SEC. 205. <44 USC 3901 note> PAYMENT AUTHORITY SUBJECT TO APPROPRIATIONS.

Any authority to make payments under this title shall be effective only to such extent as provided in appropriations Acts.

[**2532] [*206]

SEC. 206. <44 USC 3901 note> EFFECTIVE DATE.

The provisions of this title and the amendments made by this title shall take effect 180 days after the date of the enactment of this title.

DESCRIPTORS: GOVERNMENT REORGANIZATION; OFFICE OF THE INSPECTOR GENERAL, JUSTICE DEPT.; DEPARTMENT OF JUSTICE; OFFICE OF THE INSPECTOR GENERAL, TREASURY DEPT.; DEPARTMENT OF TREASURY; OFFICE OF THE INSPECTOR GENERAL, FEMA; FEDERAL EMERGENCY MANAGEMENT AGENCY; NUCLEAR REGULATORY COMMISSION; OFFICE OF THE INSPECTOR GENERAL, NRC; OFFICE OF PERSONNEL MANAGEMENT; OFFICE OF THE INSPECTOR GENERAL, OPM; FEDERAL DEPARTMENTS AND AGENCIES; ACTION; NATIONAL RAILROAD PASSENGER CORP.; APPALACHIAN REGIONAL COMMISSION; FEDERAL RESERVE BOARD; BOARD FOR INTERNATIONAL BROADCASTING; COMMODITY FUTURES TRADING COMMISSION; OFFICE OF THE INSPECTOR GENERAL, CFIC; CONSUMER PRODUCT SAFETY COMMISSION; OFFICE OF THE INSPECTOR GENERAL, CPSC; CORPORATION FOR PUBLIC BROADCASTING; EQUAL EMPLOYMENT OPPORTUNITY COMMISSION; OFFICE OF THE INSPECTOR GENERAL, EEOC; FARM CREDIT ADMINISTRATION; FEDERAL COMMUNICATIONS COMMISSION; OFFICE OF THE INSPECTOR GENERAL, FCC; FEDERAL DEPOSIT INSURANCE CORP.; OFFICE OF THE INSPECTOR GENERAL, FDIC; FEDERAL ELECTION COMMISSION;

100 P.L. 504, *206; 102 Stat. 2515, **2532;
1988 Enacted S. 908; 100 Enacted S. 908

FEDERAL HOME LOAN BANK BOARD; FEDERAL LABOR RELATIONS AUTHORITY; FEDERAL MARITIME COMMISSION; FEDERAL TRADE COMMISSION; OFFICE OF THE INSPECTOR GENERAL, FTC; INTERSTATE COMMERCE COMMISSION; OFFICE OF THE INSPECTOR GENERAL, ICC; LEGAL SERVICES CORP.; OFFICE OF THE INSPECTOR GENERAL, LEGAL SERVICES CORP.; NATIONAL ARCHIVES AND RECORDS ADMINISTRATION; NATIONAL CREDIT UNION ADMINISTRATION; NATIONAL ENDOWMENT FOR THE ARTS; NATIONAL ENDOWMENT FOR THE HUMANITIES; NATIONAL LABOR RELATIONS BOARD; OFFICE OF THE INSPECTOR GENERAL, NLRB; NATIONAL SCIENCE FOUNDATION; OFFICE OF THE INSPECTOR GENERAL, NSF; PANAMA CANAL COMMISSION; OFFICE OF THE INSPECTOR GENERAL, PANAMA CANAL COMMISSION; PEACE CORPS; OFFICE OF THE INSPECTOR GENERAL, PEACE CORPS; PENSION BENEFIT GUARANTY CORP.; OFFICE OF THE INSPECTOR GENERAL, PENSION BENEFIT GUARANTY CORP.; SECURITIES AND EXCHANGE COMMISSION; OFFICE OF THE INSPECTOR GENERAL, SEC; SMITHSONIAN INSTITUTION; TENNESSEE VALLEY AUTHORITY; OFFICE OF THE INSPECTOR GENERAL, TVA; U.S. INTERNATIONAL TRADE COMMISSION; U.S. POSTAL SERVICE; OFFICE OF THE INSPECTOR GENERAL, USPS; WAGES AND SALARIES; GOVERNMENT PRINTING OFFICE; OFFICE OF THE INSPECTOR GENERAL, GPO; OFFICE OF THE INSPECTOR GENERAL, DDE; OFFICE OF THE INSPECTOR GENERAL, HHS; OFFICE OF THE INSPECTOR GENERAL, RAILROAD RETIREMENT BOARD; CONGRESSIONAL-EXECUTIVE RELATIONS; ACCOUNTING AND AUDITING; GOVERNMENT INVESTIGATIONS

100TH CONGRESS
1st Session

SENATE

REPORT
100-150

INSPECTOR GENERAL ACT AMENDMENTS
OF 1987

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

together with

ADDITIONAL VIEWS

TO ACCOMPANY

S. 908

TO AMEND THE INSPECTOR GENERAL ACT OF 1978



AUGUST 7 (legislative day, AUGUST 5), 1987.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

91-010

WASHINGTON : 1987



CONTENTS

	Page
I. Summary and Purpose	1
II. Background.....	2
A. The Need for Internal Financial Control and Audit.....	2
B. Initial Response to Exposure of the Vulnerability of Federal Financial Systems	3
C. Statutorily-Established Offices of Inspector General	4
III. Need for the Legislation.....	6
A. The Need for Additional Statutory Inspectors General	6
(1) Department of the Treasury.....	6
(2) Federal Emergency Management Agency	14
(3) Nuclear Regulatory Commission	14
(4) Office of Personnel Management	19
B. Requirements and Protections for Audit and Investigation Units.....	19
(1) Background: The Dearth of Audit and Investigative Cov- erage.....	20
(2) Development of a Legislative Solution.....	21
C. Provisions to Ensure Uniformity and Reliability of Reports on the Audit Resolution Process.....	24
(1) Definition of Terms.....	24
(2) Information Required from Inspectors General	25
(3) Additional Information Required of Agency Heads.....	25
D. Other Amendments	26
(1) Standardizing Authorizing Legislation	26
(2) Executive Schedule Amended	26
(3) Administration of Oaths	26
(4) Separate Appropriation Accounts	26
(5) Disclosure of Tax Returns and Return Information.....	27
IV. Hearings.....	27
V. Tabulation of Votes.....	28
VI. Section-by-Section Analysis	29
VII. Cost Estimate of Legislation.....	32
VIII. Regulatory Impact of Legislation.....	33
IX. Additional Views	35
X. Changes in Existing Laws.....	37
Appendices	59

INSPECTOR GENERAL ACT AMENDMENTS OF 1987

AUGUST 7 (legislative day, AUGUST 5), 1987.—Ordered to be printed

Mr. GLENN, from the Committee on Governmental Affairs,
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 908]

The Committee on Governmental Affairs, to which was referred the bill (S. 908) to amend the Inspector General Act of 1978 (P.L. 95-452, 5 U.S.C. App.) to establish offices of inspector general in four federal agencies, to strengthen the internal audit and investigative capability in thirty-three other federal entities, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

I. SUMMARY AND PURPOSE

The purpose of S. 908 is to improve the ability of the Federal Government to fight waste, fraud and mismanagement in federal programs and operations and to aid Congress' oversight function. To achieve this, S. 908 proposes the creation of new statutory Offices of Inspector General in four federal agencies with important missions or potentially vulnerable programs. These are the Department of the Treasury, the Federal Emergency Management Agency (FEMA), the Nuclear Regulatory Commission (NRC), and the Office of Personnel Management (OPM).

In addition, the bill would strengthen the audit and investigative capability in thirty-three federal entities not now covered by the Act by requiring them to establish internal audit units (a term de-

fined in the bill). The numerous other federal entities would be required to report annually to the Director of the Office of Management and Budget (OMB) on their efforts to ensure audit and investigative coverage of their programs, operations and personnel.

The bill also takes steps to standardize inspector general authorizing legislation and to provide uniform salaries and powers for all of the statutory inspectors general. Moreover, the bill would make changes in the inspector general reporting requirements to ensure that agency heads and Congress receive accurate and reliable information concerning the audit resolution process, and for the first time require periodic reporting to Congress by the agency heads on the implementation of corrective action. Separate appropriation accounts for Offices of Inspector General would also be required.

II. BACKGROUND

A. THE NEED FOR INTERNAL FINANCIAL CONTROL AND AUDIT

The establishment of systems to assure that public funds are legally expended and to assure the economy and efficiency of government operations has occupied the Congress since its inception. Characteristic of the earliest systems were: distribution of duties among several officials prior to disbursement of funds, audit of accounts, and independent authority vested in the Comptroller of the Treasury to settle accounts. As the functions of the new government evolved, Congress provided for audit subsequent to disbursement of funds.¹

In 1921, the General Accounting Office (GAO) was established, headed by the Comptroller General—the successor to the Comptroller of the Treasury—to independently settle the accounts of the agencies of government.²

In the wake of the expansion of government activities, especially during the Second World War, and the several reorganizations of the Executive branch, Congress enacted the Accounting and Auditing Act of 1950.³ The government had simply become too big for GAO to audit. Accordingly, that Act directs the head of each covered agency to—

. . . establish and maintain systems of accounting and internal control designed to provide . . . effective control over and accountability for all funds, property, and other assets for which the agency is responsible, including appropriate internal audit . . .

That Act further provides that the accounting systems of covered agencies “shall conform to the principles, standards, and related requirements prescribed by the Comptroller General . . .” In 1957, GAO issued its “Statement of Principles and Concepts of Internal Auditing for Federal Agencies”.

Implementation of the Act’s directive and GAO’s principles was lacking in most agencies. From 1966 through 1970, GAO made re-

¹ White, Leonard D., *The Federalists, A Study in Administrative History*, Macmillan, New York, 1948, Chapters X, XXVI, and XXVII.

² The Budget and Accounting Act of 1921; Public Law 13, 67th Congress, 31 U.S.C. 701, et seq.

³ Public Law 784, 81st Congress, Title I, Part II; 31 U.S.C. 3501-3514.

views of the internal audit functions at nine executive departments and nine major agencies. In most instances, GAO found, the internal auditor was responsible to an official who was also directly responsible for some other agency activities. In a 1970 report summarizing its findings, GAO stated:

Under these circumstances, the internal auditor could find himself in the position of reporting matters which reflect adversely on activities or operations which are carried out within the responsibility of his immediate supervisor.⁴

In 1976, more than 25 years after enactment of the 1950 law, GAO found that "... some agencies still have not established audit groups and others are understaffed." GAO further concluded that:

The complete or partial absence of internal audit capability means that Federal expenditures in the affected agencies are not being subjected to the important internal control provided by auditors. In addition, opportunities to reduce or eliminate unnecessary or wasteful practices and identify potential cost reductions are being lost.⁵

B. INITIAL RESPONSE TO EXPOSURE OF THE VULNERABILITY OF FEDERAL FINANCIAL SYSTEMS

The vulnerability of the Federal Government's accounting, auditing, and investigative systems to waste and fraud was exposed in 1962 after the arrest of Billie Sol Estes. Over a ten year period Estes had established an empire in cotton allotments and farm storage facilities at the expense of the U.S. Department of Agriculture. In the report of its investigation, the House Committee on Government Operations found that several separate audit or investigative units of the Department of Agriculture had looked into various phases of Estes' questionable activities during the ten year period; however, there was a "serious lack of effective coordination and communication among Federal units engaged in auditing and investigative activities."⁶

In the wake of Estes' arrest, Agriculture Secretary Orville Freeman consolidated all of the internal audit and investigative units within the Department into a single office, the Office of Inspector General (OIG). His action defined the inspector general "concept": the consolidation of an agency's audit and investigative functions and resources under a single high-level official reporting directly to the agency head.

In 1968, GAO conducted a review of the organization and operations of the OIG at the Agriculture Department and reported favorably on most aspects of the OIG. In the same year, GAO issued revised guidelines which recommended that "each department or agency have a single centralized internal audit organization reporting to the agency head or to a principal executive next in line. The

⁴ GAO Views on Internal Auditing in the Federal Agencies, B-132900, 1970, pp. 6-7.

⁵ An Overview of Federal Internal Audit, GAO Report/FGMSD-76-50, November 29, 1976, p. 15.

⁶ H. Rept. 89-196, "Operations of Billie Sol Estes", March 22, 1965, p. 27.

intent was to enhance auditor independence and freedom, concentrate efforts, and gain top-level attention to audit findings.”⁷

C. STATUTORILY-ESTABLISHED OFFICES OF INSPECTOR GENERAL

(1) *Creation of the First Statutory Inspectors General*

The impermanent nature of an administrative Office of Inspector General was demonstrated when, in 1974, Agriculture Secretary Earl Butz abolished the OIG.

Contemporaneously, a congressional investigation of the procedures and resources in the Department of Health, Education, and Welfare (HEW) to prevent and detect program fraud and abuse found that of the Department's more than 110,000 employees, only 10 were employed as investigators in its central investigative unit, which had a ten-year backlog of uninvestigated cases. In addition, other audit units were scattered throughout the agency and their personnel reported to the officials responsible for the programs they audited, offering little assurance that the Secretary would be kept informed of serious fraud and abuse problems in the Department.⁸

Legislation was drafted to establish a statutory Office of Inspector General at HEW. That legislation assigned overall responsibility for coordination and leadership of HEW's audit and investigative activities to a single individual with no program operating responsibilities, reporting directly to the Secretary, and responsible for giving undivided attention to the prevention and detection of fraud and abuse and the promotion of economy and efficiency in HEW's programs and operations. The legislation provided for appointment of the Inspector General (IG) by the President, and directed the IG to report to both the Secretary and the Congress concerning significant problems, abuses, or deficiencies and the progress of corrective action concerning them. In addition, it gave the IG authority to conduct audits and investigations and to obtain the information necessary for this purpose. This legislation became law on October 15, 1976.⁹

Subsequently, in 1977, Congress provided for a statutory Inspector General when it established the Department of Energy.¹⁰

(2) *The Inspector General Act of 1978*

The 95th Congress began an inquiry of the audit and investigative capabilities of twelve other federal departments and agencies. The findings were similar to those at HEW. Thus, Congress passed, and President Carter signed into law, the Inspector General Act of 1978,¹¹ which established Offices of Inspector General in 12 executive departments and agencies. Following on the provisions of the legislation creating the OIG at HEW, the Inspector General Act of 1978:

⁷ Sperry, Roger L., et al., *GAO 1966-1981 An Administrative History, U.S. General Accounting Office, 1981*, p. 59.

⁸ H.Rpt. 94-786, "Department of Health, Education, and Welfare (Prevention and Detection of Fraud and Program Abuse)", Jan. 26, 1976, pp. 8-10.

⁹ P.L. 94-505, Title II.

¹⁰ P.L. 95-91.

¹¹ P.L. 95-452, 5 U.S.C. App. 3.

- provided for Inspectors General to be appointed by the President, by and with the advice and consent of the Senate;
- consolidated all of the audit and investigative resources of the agencies under the direction of the Inspector General who reports directly to the head of the agency (or the deputy) and to the Congress;
- authorized the Inspector General to conduct audits and investigations without hindrance throughout the agency, with broad authority to obtain information in aid of such audits and investigations;
- authorized the Inspector General to select, appoint, and employ such employees as necessary to carry out the functions of the Act; and,
- prevented the transfer of program operating functions to the Office of Inspector General.

(3) Other Statutory Offices of Inspector General

The only executive departments not included in the Inspector General Act of 1978 were the State, Treasury, Justice, and Defense Departments.

In the 96th Congress, Congress created a statutory Inspector General position in the State Department as part of the Foreign Service Act of 1980.¹²

In the 97th Congress, legislation was introduced to establish an OIG in the Defense, Treasury, and Justice Departments.¹³ The report accompanying the House bill stated that those agencies—

were not included in the 1978 Act because the Committee felt that some of their activities were sufficiently different from those of the agencies covered by that Act to warrant more extended study than was feasible during the time remaining in the 95th Congress. That study has now been made.¹⁴

The 97th Congress established a statutory Office of Inspector General in the Department of Defense as part of the Defense Authorization Act for fiscal year 1983.¹⁵

In addition, other statutory Offices of Inspector General have been created in some of the larger federal agencies, bringing the current total number to 19. Even though every one of these establishments found some "unique" reason to oppose its creation, the Committee knows of no establishment that now advocates the abolition of its statutory OIG.

These Offices of Inspector General have proven successful in detecting and preventing waste and fraud in agency programs as well as recommending methods to improve the economy and efficiency of agency operations. The President's Council on Integrity and Efficiency recently reported that during the last six months of fiscal 1986, the combined efforts of the 19 Inspectors General resulted in recovery to the Treasury of \$1 billion, 2,263 successful prosecutions,

¹² P.L. 96-465. That Congress also created a statutory OIG when it established the Education Department in P.L. 96-88.

¹³ H.R. 2098.

¹⁴ H. Rpt. 97-40, p. 4.

¹⁵ P.L. 97-252, sec. 1117.

and 1,145 debarments and suspensions of persons doing business with the Federal Government.

(4) Antecedents of S. 908

In the 98th and 99th Congresses, attention began to focus on the quality of audits and investigations in other agencies of the Federal Government, as well as those two executive departments which did not yet have a statutory Office of Inspector General:

—In 1986, Senator Roth, then Chairman of the Senate Committee on Governmental Affairs, received two reports from GAO assessing the need for statutory Inspectors General at the Justice Department¹⁶ and the Treasury Department.¹⁷

—GAO issued two reports, one in 1984¹⁸ and one in 1986¹⁹ describing the deficient internal audit capabilities of federal entities without statutory Inspectors General.

These reports assisted in developing bills which were passed by their respective bodies during the 99th Congress.²⁰ While final action was not achieved, these bills provided the basis for S. 908.

S. 908 was introduced by Senator John Glenn, Chairman of the Governmental Affairs Committee, on April 3 (legislative day, March 30), 1987. S. 908 was co-sponsored by all of the other members of the Committee.

III. NEED FOR THE LEGISLATION

A. THE NEED FOR ADDITIONAL STATUTORY INSPECTORS GENERAL

(1) Department of the Treasury

S. 908 would create a statutory OIG in the Treasury Department, the third largest executive department with a fiscal 1987 budget authority of over \$6 billion. In April 1981, President Reagan publicly supported the creation of a statutory Inspector General "who will have powers tailored to the specific needs of the Treasury Department."²¹ The Committee believes S. 908 meets this objective. GAO strongly supports the establishment of a statutory OIG in Treasury.

This Administration has retreated from its 1981 position, arguing now that Treasury's existing administrative IG has sufficient authority to conduct and supervise internal audits and investigations in the Department. The Committee finds this argument unsupported by the facts.

The Department's non-statutory OIG was established in 1978. Over the years, the Department has transferred into this OIG its various audit and investigative units, except for those located in the Internal Revenue Service (IRS), Bureau of Alcohol, Tobacco

¹⁶ Justice Department: An Assessment of the Need for a Statutory Inspector General, GAO Report/AFMD-86-8, February 24, 1986.

¹⁷ Treasury Department: An Assessment of the Need for a Statutory Inspector General, GAO Report/AFMD-86-3, August 21, 1986.

¹⁸ Status of Internal Audit Capabilities of Federal Agencies Without Statutory Inspectors General, GAO Report/AFMD-84-45, May 4, 1984.

¹⁹ Internal Audit—Nonstatutory Audit and Investigative Groups Need to be Strengthened, GAO Report/AFMD-86-11, June 3, 1986.

²⁰ H.R. 3077; S. 2005.

²¹ Statement on Actions Taken Against Waste, Fraud, and Abuse in the Federal Government, Memorandum from the President, April 16, 1981.

and Firearms (BATF), Customs Service, and Secret Service. In fiscal 1986 approximately \$5 billion of Treasury's \$5.76 billion budget was dedicated to the operation of these four bureaus.²² Therefore, under Treasury's present organizational structure, the OIG has audit and investigative responsibility over only about 10-11% of the Department's operating budget and staff positions, while the remaining resources are audited and investigated by Internal Affairs/Inspections staffs located within these four bureaus.²³

Each such Internal Affairs/Inspections staff must "periodically report to the Inspector General on [its] significant" investigative and audit activities,²⁴ but otherwise reports all findings and recommendations directly to the head of its bureau. Treasury's current OIG does not receive copies of all audit and investigative reports issued by the bureaus' Internal Affairs/Inspections staffs. Under these circumstances, the current OIG cannot keep the Treasury Secretary fully and currently informed concerning fraud, abuses and deficiencies that cut across all bureaus and offices of the Department. This deficiency is compounded by the fact that the Secretary now receives annual (not semi-annual) reports summarizing the activities of the OIG. Moreover, these summary reports are not required to be transmitted to Congress.

The Committee believes that Treasury, like the 19 federal establishments before it, shares the basic need for the leadership of an independent statutory Inspector General. Such an individual would better assist Treasury's management in making the most efficient and effective use of the resources available for the law enforcement and myriad other missions of the Department. Moreover, the semi-annual reports summarizing the Inspector General's audit and investigative activities would aid the Secretary's and Congress' oversight of the Department's operations.

(a) Responsibility for Internal Investigations.—S. 908 would provide Treasury's statutory IG with sole responsibility for internal investigations except for those involving IRS, BATF, Customs Service and Secret Service personnel. Primary responsibility for these investigations remains with the bureau chiefs. This arrangement represents a departure from the traditional inspector general concept.

The Committee recognizes the important missions of these bureaus. Indeed, many of these bureau employees have direct law enforcement responsibilities. Frequently law enforcement activities require use of criminal investigations, sensitive undercover operations, confidential sources and protected witnesses, and intelligence information provided by other federal, state and local law enforcement agencies. In addition, the Secret Service's protection responsibilities involve these same elements.

The Committee also recognizes the sensitivity surrounding internal investigations of personnel affiliated with law enforcement programs. Given these circumstances, S. 908 leaves primary responsi-

²² This included \$3.8 billion for IRS and \$1.2 billion for BATF, Customs Service and Secret Service. Each year, these bureaus account for over 90% of Treasury's personnel strength. Treasury's total full-time equivalent positions in 1986 was 130,770.

²³ Op. cit., fn. 17.

²⁴ See paragraphs 2(i) and 3(i) of the Department of the Treasury Order, No. 100-02, January 13, 1987 (Appendix A). (Hereinafter "Treasury Order".)

bility for investigations of wrongdoing by employees in the bureaus.

At the same time, S. 908 specifically provides that Treasury's statutory IG shall have oversight responsibility for the internal investigations performed in the bureaus, and the head of each Internal Affairs/Inspections office shall periodically report to the IG on significant investigative activities.

In addition, the bill provides the statutory IG with the authority to conduct the investigation of any officer or employee of the Department if: (1) the Treasury Secretary or the Deputy Secretary requests the Inspector General to conduct an investigation, (2) the investigation concerns senior officers or employees of the Department, or (3) the investigation involves alleged notorious conduct or any other matter which, in the opinion of the Inspector General, is especially sensitive or of departmental significance.²⁵ These provisions are intended to enable the Inspector General to root out significant fraud and abuse within the Department, including the law enforcement bureaus, and bring such matters to the attention of the Treasury Secretary and Congress. GAO indicated its support for this arrangement.²⁶

In the future the Treasury Secretary may determine that all of Treasury's internal investigative functions should be consolidated in the statutory OIG. Pursuant to section 9(a)(2) of the Inspector General Act, the Secretary is authorized to effect the transfer of resources and functions necessary to achieve this consolidation.

(b) Responsibility for Internal Audits.—Efficiency and effectiveness are among the paramount goals of law enforcement. To achieve these goals, S. 908 proposes that Treasury's statutory IG will have sole responsibility for conducting independent, objective audits of Department and bureau programs and operations.

The Committee recognizes that IRS, BATF, Customs Service, and Secret Service have a tradition of operating autonomously, though within the Treasury Department. However, these bureaus account for about 90% of the Department's budget and over 90% of Treasury's personnel. The Committee's intent in including these bureaus' audit functions within the OIG is to enhance auditor independence, concentrate audit resources under one leader, and gain the highest level attention to audit findings and recommendations.

Treasury has objected to this element of S. 908, arguing that it will deprive the bureau chiefs of a vital "management tool" by removing internal auditors from their direction and supervision. This position fails to recognize the importance of independence to the overall effectiveness of the audit function. Without independence, and the appearance of independence, much of the audit function's credibility is lost. This principle is recognized in OMB Circular No. A-73, Revised, June 20, 1983: "Audit is an integral part of the management process. Audit services and reports should be responsive to the needs of management. However, in order to obtain the maximum benefit from audit, agency audit organizations must

²⁵ The statutory IG's authority in this regard would be identical to that currently provided to the non-statutory IG. See paragraphs 2 (c), (f), and (h) of Treasury Order (Appendix A).

²⁶ Hearing before the Committee on Governmental Affairs on S. 908, Inspector General Act Amendments of 1987, May 12, 1987 [Transcript, pp. 45-46] (Hereinafter "May 1987 Senate Hearing".)

have a sufficient degree of independence in carrying out their responsibilities." Or, as HHS Inspector General Richard Kusserow stated: "Central [to the IG concept] was . . . independence from agency control and pressures."²⁷

Under Treasury's current arrangement, audit units are located organizationally under the same bureau chief who is ultimately responsible for the programs being audited. This official also has authority for final disposition of audit findings. The Committee finds this arrangement unsatisfactory.

According to GAO, this structure lacks the necessary "organizational independence" required by generally accepted government auditing standards;²⁸ and, this may inhibit the units from making objective assessments on their audit findings.²⁹ Under S. 908, the credibility of the audit function in the Department will be improved because the statutory IG, and not the bureau chiefs, will be ultimately responsible for the auditors' paychecks and promotions.³⁰

Under the leadership of the Inspector General, the auditors will perform comprehensive audits of programs and operations. This may involve examining financial statements and reviewing compliance with applicable laws and regulations, economy and efficiency of operations, and effectiveness in achieving program results. Not every audit will require all of these elements to be performed.³¹ Most importantly, these audits will not be limited solely to activities approved for review by program managers, but may encompass all activities within the Department.

At the same time, S. 908 permits Treasury's IG substantial latitude in deploying audit resources. Moreover, nothing in this plan would foreclose arrangements to expedite independent, objective audits in program areas where the bureau chiefs have particular concerns. The Committee intends that the IG remain responsive to the audit needs of the heads of the IRS, BATF, Customs Service and Secret Service.

²⁷ Hearing before the Committee on Governmental Affairs on Inspector General Operations and Needs, February 19, 1987, p. 36. (Hereinafter "February 1987 Senate Hearing".)

²⁸ The Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions", Rev. 1981, at p. 19, provide: "To help achieve maximum independence, the audit function or organization should report to the head or deputy head of the government entity and should be organizationally located outside the staff or line management function of the unit under audit."

(Hereinafter "Comptroller General Standards".) The "government entity" here is the Treasury Department.

²⁹ February 1987 Senate Hearing, p. 103.

³⁰ Treasury's objections to the consolidation plan are similar to the objections raised by the Department of Transportation (DOT) in 1978. The original Inspector General bill (H.R. 8588) proposed to transfer all of the audit and investigative functions from DOT's constituent agencies—e.g., Federal Aviation Administration, Federal Highway Administration and Urban Mass Transportation Administration—into the proposed statutory OIG. OMB recommended transfer only of the Department-level audit and investigative resources "to accommodate the unique missions and functions of the individual constituent agencies of that department." Letter from James M. Frey to Chairman Abraham Ribicoff, June 13, 1978, Hearing before the Subcommittee on Governmental Efficiency and the District of Columbia of the Senate Committee on Governmental Affairs on H.R. 8488, June 14, 1978, pp. 13-14.

The Committee rejected OMB's recommendation. S. Rpt. 95-1071, p. 39. The Committee is not aware of any problems encountered by DOT's "constituent agencies" as a result of the DOT IG's authority to audit and investigate their programs and operations. The Committee notes that the DOT IG also has authority to conduct audits and investigations of the Coast Guard, an agency with sensitive military and law enforcement responsibilities.

³¹ Comptroller General Standards, p. 12.

On this issue, the Committee finds helpful the guidance provided by the President's Council on Integrity and Efficiency, created by Executive Order in 1981 and whose membership includes the non-statutory IG at Treasury:

The IGs act as independent factgatherers, with no vested interest in particular programs or operations, often perform services at the request of the agency head, and serve as technical advisors in such areas as financial management systems and internal controls.

Inspectors General work cooperatively with other organizations in order to accomplish their missions, except when such a relationship would compromise OIG independence. Often they develop close working relationships with the major components of their departments in order to coordinate efforts and to combine expertise shared by both groups. As part of these close working relationships, program managers are frequently involved in the formulation of the OIG workplan and may request specific audits, investigations or studies be done by the IG.³²

(c) *Internal Revenue Service.*—IRS' mission is to collect the proper amount of tax revenue at the least cost to the public, and in a manner that warrants the highest degree of public confidence in its integrity, efficiency, and fairness. Each year, IRS accounts for approximately two-thirds of Treasury's budget. For fiscal 1986, this amounted to \$3.8 billion. IRS also employs nearly 80% of Treasury's employees.³³ According to the Treasury Department, there are presently 448 auditors in IRS' Office of Inspections who are engaged in internal audit activities.³⁴ S. 908 would not affect those employees in the IRS who "audit" tax returns to determine tax liability.

Given its size and the importance of its mission, the Committee included IRS in the plan to consolidate all of Treasury's internal audit resources in the statutory OIG. The Committee finds there is no reason to treat IRS differently from the other bureaus.

Nothing in this arrangement will prevent the Commissioner of IRS from requesting the OIG to conduct independent and objective audits of IRS programs and operations. The IG should cooperate in handling such requests. It is expected that the statutory IG's audit findings and recommendations will aid the Commissioner's management of IRS' resources. Such reviews may locate problems that the IG has already identified in the Department's other offices and bureaus. Information about these problems will aid the Treasury Secretary, who has the overall responsibility to manage Treasury's \$6 billion budget. The Department's designated follow-up official³⁵ will oversee the Commissioner's progress in implementing the agreed upon corrective action.

³² February 1987 Senate Hearing, p. 112.

³³ Op. cit., fn. 17.

³⁴ According to Treasury, in the Internal Affairs/ Inspections offices located in the other three bureaus, the number of internal auditors totals 84.

³⁵ Required by OMB Circular No. A-50, Revised, September 29, 1982. This individual must be a "top management official", personally responsible for ensuring that corrective actions actually are taken.

Nothing in this plan is intended to deny to the Commissioner (or any other bureau chief) the authority to hire and deploy employees to perform functions integral to the day-to-day administration of programs and delivery of services. These employees, members of the program operating team, may assist in identifying problems and suggesting changes in operations both before and after the problems develop. These employees would not be expected to have the independence of a statutory IG.

Treasury has acknowledged that the creation of a statutory OIG at Treasury would result in no increased risk of public disclosure of sensitive taxpayer return information. Current law governing access to and disclosure of tax returns and return information would continue to protect such information.³⁶ Section 5(e)(1) of the 1978 Inspector General Act specifically prohibits an Inspector General from disclosing to the public any information which is specifically prohibited from disclosure by any other provision of law.

As an extra measure against unwarranted disclosure, the Committee also included in S. 908 an amendment to section 5(e)(3) of the Act. Section 5(e)(3) delineates Congressional access to information from the Inspectors General. The amendment incorporates a reference to section 6103(f) of the Internal Revenue Code (IRC), which governs disclosure of tax returns and return information to Committees of Congress.

(d) Sensitive Information.—The Inspector General Act of 1978 places the Inspector General under the “general supervision” of the agency head, or deputy head. These individuals may not prevent the IG from initiating, carrying out, or completing any audit or investigation. In conducting the audit or investigation, the IG is authorized access to the records and documents available to the agency relating to its programs and operations.³⁷

No problems concerning the IGs’ access to or use of classified data have been brought to the attention of the Committee. Since the Act requires that IGs be selected by the President on the basis of their integrity and demonstrated ability, there is no reason to believe that an IG is less trustworthy than other agency officials in handling sensitive information. The Act does not require that sensitive information be included in the semi-annual reports of the IGs. Indeed, section 5(e)(1) of the Act prohibits public disclosure of certain types of sensitive information.

The Treasury Department has expressed great concern that the statutory IG would, through the conduct of audits and investigations, attempt to insert the OIG into the Department’s policy-making process. Treasury poses the possibility of the disruption of financial markets which are sensitive to Treasury policy-making. Treasury would have the Committee prohibit the statutory IG from reviewing, except as authorized by the Secretary, the “formula-

³⁶ 26 U.S.C. sections 6103 and 7213.

³⁷ See sections 3(a) and 6(a)(1) of the Inspector General Act of 1978. Similar authorities are currently available to Treasury’s non-statutory IG: “No officer or employee of the Department shall prevent the Inspector General from initiating, carrying out, or completing any duly authorized audit or investigation, or prevent any appointed officer or employee of the Office of the Inspector General from obtaining access to any information or documentation which the Inspector General has determined is necessary to the execution of an audit or investigation.” See paragraph 1(e) of Treasury Order (Appendix A).

tion" of policy, although Treasury acknowledges the IG's authority to review policy "execution".

The Committee is unpersuaded by Treasury's argument in support of its proposal for the following five reasons:

1. It seeks to prohibit the statutory IG from reviewing matters that are not off-limits to Treasury's non-statutory IG.³⁸ Indeed, Treasury has not identified one instance during the past nine years when the activities of the non-statutory IG have interfered with the Department's policy-making or caused a disruption of financial markets.

2. It is unworkable. Treasury has suggested no working definition of policy "formulation". The Committee finds that there is no bright line signalling the end of policy "formulation" and the beginning of policy "execution". As a result, Treasury's suggested approach could be used to bar the statutory IG from reviewing every facet of the Department's operation.

3. It has no precedent. Among the 19 statutory Offices of Inspector General currently established in executive departments and agencies—including the Defense and State Departments—none are proscribed in this manner.

4. It is unnecessary. Broad as it is, the IG's mandate is not unlimited. The stated purpose of the Inspector General Act is to create an independent and objective unit 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, [the affected agency's] programs and operations . . ." Over the past nine years, the 19 statutory IGs have demonstrated their commitment to carrying out this mission without adversely affecting the agency heads' ability to run their agencies.³⁹

5. It jeopardizes the IG's ability to investigate individuals who may have violated laws and regulations or otherwise engaged in misconduct while participating in policy "formulation". For example, the IG should properly be concerned about investigating "allegations that an Assistant Secretary is making decisions which are influenced by a financial conflict of interest . . ." ⁴⁰

The Committee notes that in 1982, Congress crafted for the Department of Defense (DOD) a special provision—set forth in section 8 of the Inspector General Act—which places the IG under the "authority, direction, and control" of the DOD Secretary with respect to audits or investigations which require access to certain specified matters. With respect to this information, the DOD Secretary may prohibit an audit or investigation if the Secretary determines it is necessary to preserve the national security interests of the United States. Built into this approach is a requirement that if the DOD Secretary exercises any of these powers, Congress will be notified.

The Committee included a provision in S. 908 which, patterned after the DOD provision, places the Treasury IG under the "authority, direction, and control" of the Treasury Secretary with re-

³⁸ As recently as January 1987, the Treasury Secretary did not impose such a limitation on Treasury's non-statutory IG. See Treasury Order (Appendix A).

³⁹ Testimony of John J. Adair, Associate Director, Fraud Prevention and Audit Oversight Group, GAO, February 1987 Senate Hearing, p. 29.

⁴⁰ S. Rept. 95-1071, p. 27.

spect to IG audits or investigations which require access to certain sensitive matters. With respect to this information (discussed further below), the Treasury Secretary is authorized to prohibit an audit or investigation when the Secretary determines it is necessary to preserve its confidentiality or prevent its disclosure. If the Treasury Secretary exercises any of these authorities, Congress will receive notice.

The list of sensitive matters includes: (A) ongoing criminal investigations or proceedings, (B) sensitive 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, or (E) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person authorized protection by section 3056 of title 18, United States Code.

Much of this sensitive information relates to law enforcement operations carried out by the bureaus. These operations, as well as activities of the Secret Service in carrying out its protection duties, commonly involve the use of criminal investigations, undercover operations, confidential sources, and intelligence information supplied by other federal, state and local law enforcement agencies. The Secretary's control over the IG's audits or investigations requiring access to these matters will safeguard against inadvertent disclosure of any information that may jeopardize law enforcement personnel, compromise law enforcement operations, or endanger the lives of any persons authorized Secret Service protection.

This list also includes language relating to Treasury's policy decisions, the disclosure of which could affect the financial markets which are sensitive to those decisions. Treasury has previously indicated its decisions "involve complex analysis and forecasting, as well as expert judgments and opinions that are based upon sensitive fiscal and public policy considerations."⁴¹ Accordingly, the statutory IG would also come under the Secretary's control with respect to audits or investigations requiring access to deliberations and decisions on policy matters, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior.⁴² This will adequately guard against inadvertent disclosure of information about the policy-making process, the policy decisions themselves, and the documented information used in making such decisions.

Finally, the list includes language relating to other matters the disclosure of which would constitute a serious threat to national security or the protection of any person authorized Secret Service protection. Treasury's responsibilities in the United States national intelligence effort are set forth in Executive Order No. 12333 and Executive Order No. 12334.⁴³ The information collected through

⁴¹ Op. cit., fn. 17.

⁴² The term "market behavior" would encompass the effect on institutions such as the stock, bond, or other financial markets due to the inadvertent public release of sensitive policy information by the IG. It could also encompass the expected reaction in those instances where an individual making investment decisions or otherwise participating in those markets was provided sensitive information in advance of disclosure to the other investors.

⁴³ Both Orders are dated December 4, 1981.

Treasury's intelligence and counterintelligence activities is essential to the national security of the United States, and the protection of persons authorized Secret Service protection.

The Committee notes that pursuant to Executive Order No. 12334, Treasury's IG has responsibility for reporting to the President's Intelligence Oversight Board concerning intelligence activities that may be unlawful or contrary to Executive Order or Presidential directive.⁴⁴ The creation of a statutory OIG within Treasury does not affect the IG's current authority under the Executive Order to perform these duties.

The Treasury Secretary's decision to assert control over or prohibit an audit or investigation shall be made on a case-by-case basis. In that event, the Secretary shall notify the Inspector General in writing of this action. The IG shall then transmit a copy of such notice to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House, and to other appropriate committees and subcommittees of Congress, together with any comments the Inspector General deems appropriate. These notice requirements are intended to minimize the possibility of inadvertent disclosure of information deemed sensitive by the Treasury Secretary and, they are consistent with the notice requirements applicable to the Secretary of Defense.

(2) Federal Emergency Management Agency

S. 908 would established a statutory Office of Inspector General in FEMA. Both GAO and OMB testified in support of this change, and FEMA has voiced no opposition.

In fiscal 1986, FEMA had an estimated buget authority of \$121 million and an estimated staff size of 2,200. FEMA's resources are devoted to managing the President's Disaster Relief Fund, the National Flood Insurance Fund, emergency food and shelter funds, and similar programs. GAO reports that these important and vulnerable programs and activities have received little or no audit coverage largely because, according to FEMA audit officials, the agency's non-statutory OIG lacked adequate staffing resources.⁴⁵

This non-statutory OIG was established when the agency began operations in 1979. In addition to the lack of resources, there is other evidence that this OIG has received little support from agency management over the years. GAO testified that one former non-statutory Inspector General experienced an impairment to his independence when he was asked to transfer to another position after conducting sensitive investigations involving high-level FEMA officials.⁴⁶

(3) Nuclear Regulatory Commission

The NRC is the independent agency responsible for regulating the commercial use of nuclear power in the United States. According to Chairman Lando W. Zech, Jr., its mission is to protect the

⁴⁴ At present, Treasury's non-statutory IG has responsibility for this and other intelligence activities. See paragraph 4 of Treasury Order (Appendix A).

⁴⁵ February 1987 Senate Hearing, p. 105.

⁴⁶ Ibid.

public health and safety, the common defense and security, and the environment.⁴⁷

To monitor the effectiveness, efficiency and integrity of the programs and personnel dedicated to carrying out the agency's mission, the NRC created an Office of Inspector and Auditor (OIA) in 1975. The Director of OIA is appointed by and reports to the five-member Commission. OIA is intended to perform the essential functions of a statutory Office of Inspector General by providing the Commission with objective information on problems within the agency discovered through OIA's audits and investigations.

Equally important is the need for the Commission to know about the trustworthiness and integrity of its licensees, their employees and others in the regulated industry (hereinafter referred to as "licensees"). These licensees carry out many activities that the Commission does not have the resources to review. If licensees willfully fail to comply with NRC requirements or intentionally supply the NRC with incomplete or inaccurate information, that subverts the whole regulatory process now in place. Thus, uncovering wrongdoing and taking strong civil enforcement action against such parties is essential to ensuring the integrity of the regulatory process.

The NRC's Office of Investigations (OI) was created in 1982 to investigate licensee wrongdoing of this type. The OI Director is appointed by and reports to the Commission. If OI investigations also indicate the possibility of criminal violations, that evidence is to be referred to the Department of Justice.

The continuing controversy over the relative safety of commercial nuclear energy and the competence and effectiveness of the NRC in regulating that industry argues for a strong and independent OIA and OI. However, the Committee finds that current NRC operations in this regard are deficient. Specifically, contrary to the NRC's contention, OIA has not performed its duties with competence and without interference from senior NRC management. Moreover, policies proposed and adopted by the Commission have limited OI's ability to detect and disclose wrongdoing by NRC licensees and, when appropriate, refer such matters to the Department of Justice. To enhance the public's trust in the NRC's regulatory capability, S. 908 incorporates GAO's recommendation for the establishment of a statutory OIG.⁴⁸

(a) *Transfer of the Office of Inspector and Auditor.*—The bill would establish a statutory OIG and transfer OIA into it. Although a majority of the current Commissioners believe this change is unnecessary (Commissioner Bernthal dissenting), the NRC acknowledges the considerable support for this idea in Congress.⁴⁹

At present, OIA lacks the permanent status afforded to a statutory OIG. OIA could be disestablished by a majority vote of the five-member Commission. Moreover, the OIA Director is appointed by and serves at the pleasure of the Commission. Congress need not be

⁴⁷ Hearing before the Committee on Governmental Affairs on The Need for an Inspector General at the NRC, April 9, 1987, [Transcript, p. 10] (Hereinafter "April 1987 Senate Hearing".)

⁴⁸ February 1987 Senate Hearing, p. 106; May 1987 Senate Hearing [Transcript, pp. 46-47]; Improvements Needed in the Nuclear Regulatory Commission's Office of Inspector and Auditor, GAO Report/EMD-81-72, July 9, 1981.

⁴⁹ Letter from NRC Chairman Lando W. Zech, Jr. to Chairman John Glenn, Senate Governmental Affairs Committee, June 1, 1987.

notified in the event the Commission votes to remove the Director. In contrast, a statutory Inspector General for the NRC would be appointed by the President, by and with the advice and consent of the Senate, and could be removed only by Presidential action, with notice to Congress. With these protections, a statutory Inspector General at the NRC would be able to thoroughly investigate allegations of employee misconduct or mismanagement without fear of removal by the Commission.

This is no trivial matter. Despite the NRC's assertions to the contrary, the Committee finds that OIA has not performed all of the essential functions of a statutory OIG. For example, it is clear that evidence of potential wrongdoing by a Commissioner or employees in his office was intentionally withheld from OIA in 1985.⁵⁰ This episode demonstrates the NRC's need for a truly independent Inspector General, with the authority and expertise to investigate potential wrongdoing wherever it occurs, even if it involves a Commissioner's office.

At its April 9th hearing, the Committee heard disturbing testimony from NRC Commissioners and employees that serious deficiencies in OIA's objectivity and investigative practices have compromised the credibility of that office. Then Commissioner Asselstine testified that he had great difficulty in convincing agency employees to report their concerns about senior NRC Staff managers to OIA because they did not trust that office to do an adequate job. Moreover, this lack of credibility is not simply a problem with OIA's current management; rather, the problem goes back over several years.⁵¹

(3) *Transfer of the Office of Investigations.*—The bill would also transfer OI into the statutory OIG. Though the NRC opposes this initiative, the Chairman has indicated that this approach is one which could be made to work.⁵²

Until 1982, the NRC had no special office charged with investigating persons in the commercial nuclear industry who intentionally violate Commission regulations and license conditions, falsify records, lie, or otherwise manifest serious deficiencies of character to handle hazardous nuclear materials or to operate nuclear plants.⁵³ To correct this deficiency, the NRC created OI, staffed by trained investigators. From the beginning, the NRC intended that when these investigations indicated the possibility of criminal misconduct, OI would make appropriate referrals to the Department of Justice.⁵⁴

Like OIA, OI is not a statutory office. It enjoys no statutory protections. It depends upon a majority of the Commission to recognize that its continued existence helps assure the public that the NRC is truly interested in uncovering wrongdoing and enforcing its regulations. It depends upon a majority of the Commission to recognize that the credibility of OI is keyed to its independence from the

⁵⁰ April 1987 Senate Hearing [Transcript, pp. 25-33, 82-89]. See Case Study No. 1 (Appendix B).

⁵¹ April 1987 Senate Hearings [Transcript, pp. 17, 33-37, 89-93, 136-59]. See Case Study No. 2 and 3 (Appendix B).

⁵² Op. cit., fn. 49.

⁵³ April 1987 Senate Hearing [Transcript, pp. 10-11].

⁵⁴ April 1987 Senate Hearing [Transcript, p. 11].

NRC's regulatory Staff, supervised by the Executive Director for Operations (EDO).

At its April 9th hearing, the Committee heard disturbing testimony about Commission and EDO actions regarding OI. Their effect has been to limit OI's independence and effectiveness, and, in some cases, they have strained the NRC's important relationship with the Justice Department (DOJ). For example, on several occasions since 1982, the Commission has considered a plan to have OI report to the EDO.⁵⁵ A 1985 proposal was opposed by DOJ on the ground that:

Prior to and since the creation of OI there has been some opposition as well as resistance within the NRC to the detection and disclosure of deliberate wrongdoing by NRC licensees . . . Senior personnel within the NRC who could affect or influence OI's ability to detect and report violations if it were realigned may have contributed to this problem.⁵⁶

OI depends on the NRC Staff to report to it potential wrongdoing by licensees. In 1986 the NRC established "threshold" limitations for Staff referrals to OI. In addition to finding a reasonable basis for belief of wrongdoing, the Staff must determine that there is a regulatory need for the OI investigation.⁵⁷ This standard suggests that the Staff is the exclusive authority to determine "regulatory need" for OI investigations. This standard, and other Commission-level actions⁵⁸ have called into question OI's ability to self-initiate cases, thereby jeopardizing OI's usefulness.

To achieve uniformity in ensuring that these "threshold" limitations are met, the EDO proposed and the Commission agreed to establish the Investigation Referral Board (IRB) to function as a screening board for referrals to OI. This was done over the objection of Commissioner Asselstine, who saw the IRB as "a thinly veiled attempt by the EDO to control OI by controlling what referrals are made and thus what OI investigates. . . . The staff should not be performing investigations of wrongdoing. The staff's lack of expertise in this area and its inability to produce credible investigation reports is what led to the formation of OI in the first place."⁵⁹ The Committee finds that during the first five months of its existence, there was a dramatic downturn in the number of wrongdoing matters referred by the NRC Staff to OI for investigation.⁶⁰

This program is compounded by the NRC's limitation on the authority of OI to initiate investigations solely regarding the "charac-

⁵⁵ April 1987 Senate Hearing [Transcript, p. 100].

⁵⁶ Letter from Stephen S. Trott, Assistant Attorney General, Criminal Division, Department of Justice to Nunzio J. Palladino, Chairman, NRC, March 18, 1985. To date, the Commission has not agreed to proceed with any of these proposals.

⁵⁷ "Guidance for Initiation, Establishment of Priorities and Termination of Investigation," Appendix to SECY-85-369, January 10, 1986.

⁵⁸ April 1987 Senate Hearing [Transcript, pp. 98-99]. Commissioner Roberts has indicated that he favors repealing the authority of OI to initiate an investigation without the concurrence of either the Commission or its regulatory staff. See Memorandum from Samuel J. Chilk, Secretary, to Commissioner Asselstine/COMJA-86-1, February 10, 1986.

⁵⁹ Memorandum from James K. Asselstine to Chairman Zech/COMJA-86-10, September 24, 1986.

⁶⁰ April 1987 Senate Hearing [Transcript, pp. 40-41, 95-96].

ter and competence" of licensees. In those cases, OI is required to make a recommendation to the Commission as to whether the investigation is warranted, and then be guided by a majority vote of the Commission as to whether or not to open the case. On one occasion in 1984, the Commission refused to authorize an investigation involving serious alleged character flaws in senior licensee officials.⁶¹

The Committee believes that these limitations have compromised OI's independence and effectiveness. The safety of the industry depends on licensee trustworthiness and integrity. The NRC cannot adequately carry out its mission if licensees intentionally undermine the process. Uncovering wrongdoing and taking strong civil enforcement action based on a well-developed OI report has a deterrent effect not only on the licensee in question but on other licensees as well. Moreover, since OI investigations involve wrongdoing, there is often the potential that a licensee's actions, if proven, might also be a violation of federal criminal statutes. While civil enforcement action for wrongdoing has a deterrent effect, the possibility of criminal enforcement action has an even greater deterrent effect.

In those cases where a licensee's conduct might also be a violation of criminal statutes, the Committee believes the Commission has a responsibility to refer those cases to DOJ, and provide continued assistance to DOJ if requested. Most of these referrals involve alleged "material false statements" made by licensees. At the time of the Committee's April 9th hearing, the Commission required that all cases involving "material false statements" be reviewed by the Commission before referral to DOJ, and that all referrals required consultation with the NRC Office of General Counsel. Though these obstacles have since been lifted, the NRC has stated that it retains the authority not to refer cases of wrongdoing to DOJ.

The Committee finds that OI's functions are consistent with the Inspector General Act of 1978. To protect the integrity of OI's investigations and ensure that the NRC will pay sufficient attention to the character and integrity of its licensees, the Committee concludes that the only solution is to make OI a part of the new statutory OIG. This will ensure that OI's activities will be supervised by the NRC's Chairman, and investigation results will be reported directly to the Chairman, and when appropriate, the Justice Department.⁶²

⁶¹ April 1987 Senate Hearing [Transcript, pp. 97-99].

⁶² There is precedent for protecting OI's function in this fashion. The legislative history of the Inspector General Act of 1978 shows that at the time the statutory OIG for the Department of Labor was created, Congress transferred to that office the responsibility for investigating labor-management racketeering, a function previously performed by a unit in the administratively-established Office of Special Investigations. This transfer was justified on the ground that there were "shocking deficiencies in Labor Department efforts to combat labor-management racketeering." Testimony of Congressman L.H. Fountain before the Subcommittee on Governmental Efficiency and the District of Columbia of the Senate Committee on Governmental Affairs, June 14, 1978, Transcript, p. 6.

(4) Office of Personnel Management

S. 908 would establish a statutory Inspector General in OPM. Both OMB and GAO support this initiative, and OPM itself has stated that it has no strong objection.

In testimony before the Committee concerning its recent review of OPM's current organization and the functions of the existing audit and investigative units, GAO suggested changes in the bill's provisions transferring certain of these units into the proposed statutory OIG.⁶³ GAO recommended that, in addition to the non-statutory OIG, the Insurance Audits Division, located within OPM's Retirement and Insurance Group, and the Analysis and Evaluation Division, now part of the Administration Group, be included in the transfer. Both of these Divisions were previously part of OPM's non-statutory OIG. In fact, OPM officials advised GAO that they are now considering moving the Analysis and Evaluation Division back into that office. Taking this into consideration, the Committee amended the bill to propose the transfer of all three unit recommended by GAO.

OPM objected to the transfer of the Insurance Audits Division, which is responsible for audits of contractors providing health and life insurance to federal employees, and which was part of the non-statutory OIG until 1986. However, the Committee agrees with GAO's assessment that the Insurance Audits Division currently lacks organizational independence. The head of the Insurance Audits Division reports to the same OPM Associate Director who is ultimately responsible for negotiating and monitoring contracts with the insurance carriers. However, the Comptroller General Standards require that, for an internal audit function to be considered independent, it should report to the highest level within the agency, in this case, the OPM Director.

A more persuasive case was made by GAO and OPM to amend the bill to exclude the Program Integrity Section, also located within the Retirement and Insurance Group, from transfer into the statutory OIG. This unit assists management in carrying out program operating functions. Although the Committee amended Section 4's provision concerning OPM to exclude transfer of this unit, it is expected that the Inspector General will have the authority and sufficient resources to evaluate significant fraud problems in the retirement programs.

B. REQUIREMENTS AND PROTECTIONS FOR AUDIT AND INVESTIGATIONS UNITS

Section 5 of the bill applies the inspector general concept to 33 designated Federal entities.⁶⁴ The 33 designated Federal entities either have budget authority or program expenditures of \$100 million or more, or are independent regulatory agencies. Other Federal entities would be required to report to OMB annually on their audit and investigative coverage.⁶⁵

⁶³ May 1987 Senate Hearing [Transcript, pp. 47-49].

⁶⁴ For the definition of "designated Federal entity", see Sec. 8D(a)(2) as added by sec. 5(a) of S. 908, as reported.

⁶⁵ For the definition of "Federal entity", see Sec. 8D(a)(1) as added by sec. 5(a) of S. 908, as reported.

(1) Background: The Dearth of Audit and Investigative Coverage

Beyond the nineteen executive departments and federal agencies which already have statutory Offices of Inspector General (plus the four which would be established by this bill), there are over 90 entities in the Federal Government with combined budget authority (either direct appropriation, borrowing authority, or limit on expenditures) of over \$6 billion and full-time equivalent employment of over 800,000 (of which 740,000 belong to the U.S. Postal Service).⁶⁶

Since the enactment of the Inspector General Act of 1978, both the Carter and Reagan Administrations have issued directives designed to provide strong internal audit and investigative coverage in agencies without statutory IGs.

On December 13, 1978, President Carter issued a memorandum to the heads of executive departments and agencies directing that significant features of the inspector general concept be extended throughout the Federal Government.⁶⁷ On January 3, 1979, the Director of OMB sent a follow-up memorandum asking the agency heads to designate a single official accountable directly to them to "monitor the implementation of the plan to assure that your agency adheres to the same rigorous standard of audit and investigative efforts that we are expecting from the Inspector General agencies."⁶⁸

On June 20, 1983, OMB issued a revised Circular to heads of executive departments and agencies on policies to be followed in the audit of federal operations and programs. The Circular repeated the previously stated policy that, "Agencies are responsible for providing adequate audit coverage of their programs . . ." The Circular specified that the audit organization should be located outside the staff or program management structures of activities subject to audit and that it report to the head or deputy head of the agency.⁶⁹

Nevertheless, deficiencies remain in the audit and investigative activities of federal agencies which do not have statutory Inspectors General.

A May 1984 GAO report, based upon a survey of the internal audit capabilities of 99 federal entities without statutory Inspectors General, concluded that:

. . . some agencies are not complying with OMB Circulars A-50 and A-73, which address audits of federal operations and programs and audit followup; and with GAO's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." Some agencies have no audit coverage; at others the internal auditor does not report to the head or deputy head of the agency; and at several

⁶⁶ See Chart No. 1 (Appendix C).

⁶⁷ Waste, Fraud, and Error in Government Programs, Memorandum from the President, December 13, 1978.

⁶⁸ Steps to Eliminate Waste, Fraud, and Error in Government Programs, Memorandum for the Heads of Executive Departments and Agencies from James T. McIntyre, Jr., January 3, 1979.

⁶⁹ OMB Circular No. A-73, Revised, June 20, 1983.

agencies that have more than one audit or investigative unit, there are no procedures for coordination.⁷⁰

Of the 99 agencies surveyed by GAO, 44 were found to have an internal audit unit, while 20 reported no audit coverage. The other 35 agencies were serviced by external auditors.

A follow-on review by GAO of 41 of those agencies that had audit and/or investigative units “. . . uncovered many of the same problems that prompted Congress to establish statutory Inspectors General in other agencies, including:

- a lack of audit independence at many agencies because auditors were under the supervision of officials directly responsible for activities subject to audit;
- inadequate audit coverage of important and vulnerable agency operations;
- lack of evaluation of significant fraud problems by internal audit/investigative staffs; and,
- audit resolution and follow-up systems that did not meet governmental requirements.”⁷¹

(2) Development of a Legislative Solution

In 1986 Senator Roth, then Chairman of the Governmental Affairs Committee, asked the President's Council on Integrity and Efficiency (PCIE) to study the extent and effectiveness of small agency audit and investigative activities and to recommend the most appropriate and efficient methods of ensuring that adequate audits and investigations are carried out at those agencies. In developing those recommendations, the PCIE was asked to consider the extent to which the authorities and responsibilities specified in sections 4 through 7 of the Inspector General Act should be provided to those agencies.

The results of the PCIE study, presented to the Committee in May 1987 by the Department of Commerce IG Sherman Funk, built upon the factual foundation prepared by GAO and confirmed GAO's findings of deficiencies in audit and investigative coverage. Specifically, PCIE found that: half of the internal audit units that now exist are not organizationally independent; audit coverage by those units is “limited and sporadic”; and, there is a little internal investigative work. Perhaps most important was PCIE's reminder that, without statutory underpinning, internal audit units lacked permanence. Yet, PCIE also concluded that many agencies are too small to require a permanent, full-time, internal auditor.

Accordingly, the PCIE recommended a two-tiered approach to assure audit and investigative coverage in the smaller agencies:

- In 31 agencies which have budget authority of more than \$100 million or which are regulatory in nature, an IG-like, consolidated audit and investigative function should be statutorily established.

⁷⁰ Status of Internal Audit Capabilities of Federal Agencies Without Statutory Inspectors General, GAO Report/AFMD-84-45, May 4, 1984.

⁷¹ Hearing before the Committee on Governmental Affairs on the President's Management Legislative Initiatives, February 26, 1986, pp. 144-145 (Hereinafter “1986 Senate Hearing”); Internal Audit—Nonstatutory Audit and Investigative Groups Need to be Strengthened, GAO Report/AFMD-86-11, June 3, 1986.

- For each of the other agencies, a cognizant statutory inspector general should be designated to be responsible for providing reimbursable audit and investigative coverage to each agency for which cognizance is assigned.

Expanding on the PCIE's recommendations, Inspector General Funk, in testimony before the Committee, made the following points:

- Of the 31 agencies in which PCIE would recommend the establishment of an internal audit unit, only 5 currently do not have an internal audit unit.
- Regarding independent regulatory agencies, some of those agencies had budgets substantially less than \$100 million. "However," Funk stated, "in view of the sensitivity of their work, and the paramount need to assure the continuing integrity of their staffs and operations, we believe that all of the regulatory agencies warrant inclusion in this recommendation, regardless of their size."⁷²
- Regarding application of sections 4 through 7 of the Inspector General Act to the internal audit units in those 31 agencies, the PCIE stated that "full compliance with all of the sections of the IG Act . . . may well impose . . . an excessive administrative burden." For example, the PCIE cited the semi-annual reporting requirements, and the subpoena and hiring authorities. But, in response to questions, both OMB Deputy Director Wright and Inspector General Funk agreed that these agencies should have the subpoena power provided in the Inspector General Act.
- Regarding the establishment of cognizant relationships, the PCIE mentioned a number of items to be considered in designing the plan, including the criteria for matching particular small agencies with particular Inspectors General; the designating authority (Congress or OMB); and, the need to clarify the Inspector General Act so that the Inspectors General could exercise their authorities in the small agencies over which they would have cognizance.

After review of the results of the PCIE study, and the testimony received by the Committee from OMB, Inspector General Funk, and GAO, the Committee amended Section 5 of the bill to provide the following:

- Section 5 mandates the establishment of internal audit units in 33 designated Federal entities.⁷³ Those entities comprise the independent regulatory agencies and those agencies with budget authority or program expenditures of \$100 million or more.
- Section 5 provides that the internal audit unit director 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. Relevant criteria for consideration by the head of the designated Federal entity would include an individual applicant's integrity and demonstrated ability in accounting, auditing, financial analy-

⁷² May 1987 Senate Hearing [Transcript, p. 29].

⁷³ See Chart No. 1 (Appendix C).

sis, law, management analysis, public administration, or investigations.

- Section 5 applies all of the authorities and responsibilities of sections 4 through 7 of the Inspector General Act to those internal audit units in the 33 designated Federal entities.
- Section 5 requires other Federal entities to submit annual reports to OMB, stating what actions have been taken by the entity (including establishment of an internal audit unit) to ensure that audits are conducted of its programs and operations, and summarizing any matters relating to the personnel, programs, and operations of the entity referred to prosecutive authorities.

For the 33 designated Federal entities, the Committee acknowledges the testimony that granting the full panoply of authorities and responsibilities contained in sections 4 through 7 of the Inspector General Act (such as the semi-annual reporting requirement) may be burdensome to some of those entities. The Committee notes that Inspectors General (and the internal audit unit directors created by S. 908) have some discretion over the amount of detail in the semi-annual reports required by section 5 of the Inspector General Act. Nonetheless, audit resolution and audit follow-up are as important in the smaller agencies as in the executive department and major agencies. Thus, S. 908, as reported, applies the reporting requirements of the Act to the internal audit units in the designated Federal entities.

With respect to the provision of the subpoena authority contained in section 6(a)(4) of the Act, all witnesses agreed that these smaller agencies should have it, expressing only the concern that they have the resources to support it.⁷⁴ The Committee intends that procedures other than subpoenas be used by the internal audit unit directors to obtain documents and information from federal agencies.

S. 908, as reported, also grants internal audit unit directors the authority to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions of the unit and to obtain temporary or intermittent services of experts or consultants. These activities shall be governed by applicable laws and regulations governing selections, appointments, and employment, and the obtaining of such services, within the designated Federal entities. The internal audit director has the option of utilizing existing systems designed to assist personnel in exercising these authorities.

For the 60-plus non-designated Federal entities, the Committee chose not to mandate the establishment of cognizant relationships between these very small agencies and existing Offices of Inspector General. At this time the Committee is not convinced that this one approach is the solution for all of these agencies. As the PCIE report noted, several of these agencies currently have internal audit units, and some have previously obtained audit coverage on a reimbursable basis from statutory Inspectors General.⁷⁵ A number

⁷⁴ May 1987 Senate Hearing [Transcript, pp. 38, 61; Response of OMB Deputy Director Joseph R. Wright, Jr. to followup question number 4 from Senator Roth].

⁷⁵ In accordance with 31 U.S.C. section 1535.

of these agencies periodically obtain audit services from Certified Public Accountants and, while such firms would lack independence, they can and do provide audit coverage for a wide variety of Federal entities.⁷⁶

The Committee opted for a reporting requirement which would allow OMB to closely monitor the smaller agencies' compliance with OMB directives on internal audit and investigative coverage and follow-up. The Committee intends that those small agencies with audit and investigative coverage should maintain it and those that do not have it should obtain it. This provision allows for flexibility in obtaining audit and investigative coverage while providing a clear expectation that such coverage be obtained and maintained.

C. PROVISIONS TO ENSURE UNIFORMITY AND RELIABILITY OF REPORTS ON THE AUDIT RESOLUTION PROCESS

The IGs' semi-annual reports vary widely in format and in the terms used to describe the audit resolution process. As a result, it is difficult for Congress to analyze individual agencies and develop an overall picture of the Federal Government's progress against waste, fraud and mismanagement.

S. 908 would amend section 5 of the Act to require more uniform and statistically reliable reports from the Inspectors General, and for the first time require additional information on the progress made in implementing corrective actions from the heads of the affected establishments.

(1) Definition of Terms

The bill proposes uniform definitions for terms necessary to describe the audit resolution process. These terms are essential to obtain a more accurate picture of the savings attributable to the activities of the Inspectors General.

The current problem stems from OMB's directive that "audit resolution" occurs when the Inspector General and agency management agree on the action that should be taken to correct problems identified by the auditors.⁷⁷ GAO has documented that this definition leads Inspectors General to report dollar savings that may never actually materialize because the managers do not take the corrective action.⁷⁸ Moreover, this definition provides less incentive for agency management to follow up on its agreement to take corrective action.

To address this problem, the bill incorporates GAO's standard on "audit resolution", which states that resolution occurs at the point all agreed upon recommended action is completed. "Audit determination" is defined to mean the point at which the Inspector General and the establishment's managers reach agreement on the auditor's recommendations for corrective action. The bill also requires GAO to issue a new standard to ensure that an audit determina-

⁷⁶ Inspector General Funk testified that statutory Inspectors General currently contract out to CPA firms for some audit work. May 1987 Senate Hearing [Transcript, p. 39].

⁷⁷ OMB Circular No. A-50, Revised, September 29, 1982.

⁷⁸ February 1987 Senate Hearing, pp. 27-29; Audits of Federal Programs: Reasons for the Disparity Between Costs Questioned By Auditors and Amounts Agencies Disallow, GAO Report/AFMD-84-57, August 8, 1984.

tion generally be made within six months of completion of the auditors' report.

(2) Information Required from Inspectors General

Under current law, the semi-annual reports must include a list of each audit report completed by the Office of Inspector General during the reporting period. The bill would require the Inspectors General to summarize the significant reports as well, and provide other information concerning problems the Inspector General may have faced in the audit determination process.

The bill initially proposed that the Inspectors General include a statistical analysis containing information on the status of audit reports through the point of audit determination. In testimony before the Committee, GAO recommended that Inspectors General also include data on audits through the point of resolution so that together, this information would provide a more complete picture of whether the auditors' recommendations are being considered and acted upon by agency managers in a timely fashion. The Committee notes that pursuant to section 4(a)(5) of the Inspector General Act, the Inspectors General must report on the "progress made in implementing" corrective action. Taking this into consideration, the Committee amended the bill's provision requiring a statistical analysis to include tracking of audit reports through the point of audit resolution.⁷⁹

(3) Additional Information Required of Agency Heads

Although section 5(b) of the Inspector General Act states that the agency heads shall submit to Congress a "report" to accompany the Inspector General semi-annual reports, the Committee finds that the agency heads rarely attempt to analyze the data contained therein. OMB and GAO have testified in favor of increasing the accountability of the agency managers in the audit resolution process.

The bill would amend section 5(b) of the Inspector General Act to require agency heads to include in their reports to Congress information on audit reports which were not resolved within one year after the date on which audit determinations were made. This provision is intended to draw needed attention to cases that may be taking too long to resolve. The agency heads will be required to report on the lack of progress in resolving both monetary and non-monetary findings. The Committee recognizes that, in some cases, litigation or other administrative appeals may be responsible for this situation. In other cases, it may be the result of agency management's lack of commitment to implementing agreed upon corrective action. For example, GAO testified that its recent review of the Department of Defense shows that the lack of commitment on the part of DOD managers to audit follow-up has resulted in over \$300 million in unachieved savings.⁸⁰

⁷⁹ Chart No. 2 represents a recommended format for providing the information required by the statistical analysis (Appendix D).

⁸⁰ May 1987 Senate Hearing [Transcript, pp. 50-52].

D. OTHER AMENDMENTS

(1) Standardizing Authorizing Legislation

At present, sixteen of the 19 Offices of Inspector General were established by the Inspector General Act of 1978, or amendments thereto. The Offices of Inspector General in the Departments of Energy and Health and Human Services and in the Railroad Retirement Board were authorized by separate legislation. In the interest of uniformity and clarity, section 2 of S. 908 would bring these three OIGs under the Inspector General Act. This move will not change the fundamental powers and duties of those Inspectors General. Moreover, the bill explicitly provides that the persons occupying those positions on the date of enactment of the bill, shall not be affected. GAO and OMB testified in support of this proposal.

(2) Executive Schedule Amended

Under present law, statutory Inspectors General are compensated at different rates even though their powers and duties are essentially the same. In addition, they are all Presidential appointees, who are required to meet the same qualifications criteria for their appointment. Some Inspectors General are at Level V and others are at Level IV of the Executive Schedule. The Committee believes that these positions deserve the higher pay level, and section 3 of S. 908 would place all Inspectors General at Level IV. OMB endorses this change.

(3) Administration of Oaths

Section 7 of S. 908 would amend section 6(a) of the Inspector General Act to authorize investigators or other Office of Inspector General employees designated by Inspectors General to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by the Act.

During the conduct of investigations, it is often necessary for IG personnel to take voluntary sworn statements. Most Offices of Inspector General now have this authority, but a few do not. This amendment to the Act provides uniform authority to all Inspectors General (and internal audit unit directors) to administer oaths. It does not affect the subpoena authority of Inspectors General. OMB and GAO favor this change.

(4) Separate Appropriation Accounts

Section 8 of S. 908 would amend section 1105(a)(25) of title 31, United States Code, to require the President to include in his budget submission a "separate appropriation account" for each statutory Office of Inspector General. At present, many, but not all, of the Offices of Inspector General receive their appropriations through such separate accounts. The others have their funds commingled in accounts which include funds for other agency activities. Funds which are appropriated for Offices of Inspector General through a separate appropriation account cannot be reprogrammed by agency management for any other purpose. This method is preferable because it enhances each Inspector General's independence

and control over resources. OMB and GAO support this amendment.

(5) Disclosure of Tax Returns and Return Information

Nothing in the 1978 Inspector General Act requires that sensitive information be included in the semi-annual reports of the Inspectors General. In fact, section 5(e)(1) of the Act specifically provides for the non-disclosure of information required by law to be protected from public disclosure. See, e.g., sections 6103 and 7213 of the Internal Revenue Code (relating to the protection of the confidentiality of tax returns and return information).

At the same time, section 5(e)(3) of the Inspector General Act provides that nothing in the Act "shall be construed to authorize or permit the withholding of information from the Congress, or from any committee or subcommittee thereof." Pursuant to the request of the Treasury Secretary, the Committee agreed to propose an amendment to section 5(e)(3) of the Act, contained in section 9 of S. 908, to reference the Internal Revenue Code's provision governing disclosure of tax returns and return information to Committees of Congress.⁸¹

IV. HEARINGS

The Committee on Governmental Affairs held three days of hearings on the need for additional statutory inspectors general and other legislation addressing inspector general operations and needs. The following individuals provided testimony:

February 19, 1987—Waste, Fraud and Abuse, Part II: Inspector General Operations and Needs

Richard P. Kusserow, Inspector General, Department of Health and Human Services, and James R. Richards, Inspector General, Department of the Interior
 Charles R. Clauson, Chief Postal Inspector, United States Postal Service
 John J. Adair, Associate Director, Fraud Prevention and Audit Oversight Group, General Accounting Office

April 9, 1987—The Need for an Inspector General at the NRC

Lando W. Zech, Jr., Chairman, NRC
 Thomas M. Roberts, Commissioner, NRC
 James K. Asselstine, Commissioner, NRC
 Frederick M. Bernthal, Commissioner, NRC
 Kenneth M. Carr, Commissioner, NRC
 Ben B. Hayes, Director, Office of Investigations, NRC
 Julian S. Greenspun, Esq., Former Justice Department Attorney
 George A. Mulley, Jr., Assistant Director for Investigations, Office of Inspector and Auditor, NRC
 H. Shannon Phillips, Senior Resident Inspector, NRC
 Victor Stello, Jr., Executive Director for Operations, NRC

⁸¹ 26 U.S.C. section 6103(f).

May 12, 1987—S. 908, the Inspector General Act Amendments of 1987

Joseph R. Wright, Jr., Deputy Director, Office of Management and Budget
 Sherman M. Funk, Inspector General, Department of Commerce
 John J. Adair, Associate Director, Fraud Prevention and Audit Oversight Group, General Accounting Office
 Stephen J. Markman, Assistant Attorney General, Office of Legal Counsel, and Michael E. Shaheen, Jr., Counsel, Office of Professional Responsibility, Department of Justice.

V. TABULATION OF VOTES

The Committee met on June 30, 1987 to consider S. 908. Senator Glenn offered an amendment in the nature of a substitute for the bill.

The Committee considered the amendment in the nature of a substitute offered by Senator Glenn. Upon a motion by Senator Roth, it was adopted unanimously on a voice vote.

Senator Roth offered an amendment in the second degree to strike the provisions in Section 4 which would transfer the internal audit function at the Internal Revenue Service into the new statutory Office of Inspector General in the Department of the Treasury, and to add provisions which would authorize the Inspector General for the Treasury Department to hire up to 50 additional auditors to perform internal audits in the Internal Revenue Service. This amendment was discussed by the Committee. The amendment failed upon a roll-call vote of 5 to 8.

YEAS—5

William V. Roth, Jr. (R-DE)
 Ted Stevens (R-AL) (P)
 William S. Cohen (R-ME)
 Warren B. Rudman (R-NH)
 John Heinz (R-PA) (P)

NAYS—8

Lawton Chiles (D-FL)
 Sam Nunn (D-GA) (P)
 Carl Levin (D-MI)
 Jim Sasser (D-TN) (P)
 David Pryor (D-AR)
 George J. Mitchell (D-ME) (P)
 Jeff Bingaman (D-NM) (P)
 John Glenn (D-OH)

(P) denotes Proxy.

A quorum being present, the Committee had already agreed to report favorably S. 908, as amended, by unanimous vote of 9 to 0.

YEAS—9

Lawton Chiles (D-FL)
 Carl Levin (D-MI)
 David Pryor (D-AR)
 William V. Roth, Jr. (R-DE)
 Ted Stevens (R-AL)
 Warren B. Rudman (R-NH)
 John Heinz (R-PA)
 Paul S. Trible, Jr. (R-VA)
 John Glenn (D-OH)

NAYS—0

Senators Nunn, Sasser, Mitchell and Bingaman, not present when the vote was taken, also expressed their approval of S. 908, as amended.

VI. SECTION-BY-SECTION ANALYSIS

A. SHORT TITLE

The opening section states the title of this bill as the "Inspector General Act Amendments of 1987".

B. CONFORMATION OF AUTHORITIES OF EXISTING OFFICES OF INSPECTORS GENERAL

Section 2(a) is a technical amendment.

Sections 2 (b) and (c) bring the statutory Offices of Inspector General in the Departments of Energy and Health and Human Services and in the Railroad Retirement Board under the Inspector General Act of 1978. *Sections 2 (d) and (e)* repeal existing laws establishing these three statutory offices, but also provide that the persons occupying such Inspector General positions on the date of enactment shall not be affected. References to the Community Services Administration are deleted because that agency was abolished.

C. UNIFORM SALARIES FOR INSPECTORS GENERAL

Section 3 provides that all statutory Inspectors General will be compensated at the Executive Level IV rate, regardless of the establishment in which they serve.

D. ESTABLISHING AN OFFICE OF INSPECTOR GENERAL IN TREASURY DEPARTMENT, FEMA, NRC AND OPM

Section 4(b) establishes new statutory Offices of Inspector General in the Department of the Treasury, the Federal Emergency Management Agency (FEMA), the Nuclear Regulatory Commission (NRC), and the Office of Personnel Management (OPM).

Section 4(a) mandates the transfer of certain existing audit and investigative units in these establishments to the newly-created statutory IG offices. Notwithstanding any other provision of law, the statutory OIG in the Treasury Department will have sole responsibility for internal audits in the Department and in the Customs Service, Secret Service, Bureau of Alcohol, Tobacco and Firearms (BATF), and the Internal Revenue Service (IRS). Except in certain specified cases, the internal investigations function will remain the responsibility of these four bureaus of the Treasury Department.

The "Notwithstanding . . . law," language in section 4(a) refers to provisions in Treasury appropriation measures which have prohibited the use of funds to place the Customs Service, Secret Service and BATF under the Inspector General's jurisdiction.

The new Office of Inspector General in the NRC will include the functions performed by the NRC's Office of Inspector and Auditor and Office of Investigations.

Section 4(c) adds a specific provision to the IG Act of 1978 (in new Section 8B) concerning the authority of the Chairman of the NRC,

as "head of [that] establishment", to delegate supervision of the new Inspector General to another member of the Commission, and to no other officer or employee of the Commission. This provision is necessary to prevent delegation of the Chairman's supervisory authority to a program manager at the NRC.

Section 4(c) also sets forth special provisions (in new Section 8C) regarding the authority of the Inspector General established in the Treasury Department over internal investigations, especially those involving the Customs Service, Secret Service, BATF, and IRS.

Section 4(c) also contains a provision in new Section 8C which potentially restricts the Treasury Inspector General's activities when they involve sensitive information relating to law enforcement activities, national security and intelligence and counterintelligence matters, deliberations and decisions on certain policy matters, and Secret Service protection responsibilities. By invoking this provision, the Treasury Secretary may control or quash any audit or investigation, or issuance of subpoena, but notice of such action will be provided to Congress.

Section 4(d) amends section 5315 of title 5 (as previously amended by section 3 of this bill) to provide the uniform rate of pay for the newly-created Inspectors General.

E. REQUIREMENTS AND PROTECTIONS FOR AUDIT AND INVESTIGATION UNITS

Section 5(a) amends the Inspector General Act of 1978 by inserting a new Section 8D which sets requirements for establishing internal audit units in specifically designated Federal entities not now covered by the Act, and requires the remaining Federal entities annually to report to OMB on the status of their audit and investigation coverage.

The provisions of new Section 8D are summarized below:

Subsection (a) provides definitions for (1) "Federal entity", (2) "designated Federal entity", (3) "head of the Federal entity", (4) "head of the designated Federal entity", (5) "internal audit unit", and (6) "internal audit unit director".

Subsection (b) requires that within 180 days of passage of the bill, there shall be established in each of the 33 designated Federal entities an internal audit unit. An internal audit unit is defined as a component of a Federal entity which carries out audits or investigations, or both, of the programs and operations of such entity, but does not include a component that carries out audits or investigations as an integral part of the conduct of the programs and operations of such entity. All current internal audit and investigative resources within those entities shall be transferred into these units, but no program operating responsibilities shall be transferred to an internal audit unit. For example, there are components within these entities that perform audit-like functions, such as bank examinations, as an integral part of program operations. These functions would not be affected by this provision.

For almost all of the designated Federal entities, this provision will require the consolidation of all existing internal and audit and investigation resources into a single unit headed by an appointed internal audit unit director. However, in several cases, the heads of

the designated Federal entities shall be required to create an internal audit unit and appoint a director of such unit where none existed before.

Subsection (c) requires the internal audit unit director to be appointed by the Federal entity head in accordance with the applicable laws and regulations governing appointments within the Federal entity.

Subsection (d) provides that the internal audit unit director is to report to and be under the general supervision of the head of the designated Federal entity. The head of the designated Federal entity shall not prevent or prohibit the internal audit unit director from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

Subsection (e) provides that if an internal audit unit director is removed from office or transferred to another position or location within the designated Federal entity, the head of the designated Federal entity shall promptly communicate to both Houses of Congress the reasons for such action.

Subsection (f) provides additional protection against unilateral removal or transfer of the Chief Postal Inspector of the United States Postal Service, who is deemed to be the "internal audit unit director" at that designated Federal entity. The Postmaster General's order removing or transferring the Chief Postal Inspector would require ratification by a vote of two-thirds of the Governors of the United States Postal Service.

Subsection (g) extends to the internal audit units in the designated Federal entities those powers and duties contained in sections 4-7 of the Inspector General Act of 1978, other than the specific authorities concerning hiring and contracting out for the temporary services of experts and consultants. Regarding those latter two authorities, the applicable laws and regulations which govern those activities in the designated Federal entity shall govern the internal audit unit director.

Subsection (g) also provides that the internal audit unit director of the Board of Governors of the Federal Reserve System is subject to limitations similar to those placed on the Inspector General of the Treasury Department as provided in new section 8C of the Act (as added by section 4(c) of S. 908).

Subsection (h) requires the head of each Federal entity which is not a designated Federal entity to file a report annually with OMB which (1) states whether there has been established in the Federal entity an internal audit unit that meets the requirements of the new section 8D, (2) specifies the actions taken by the Federal entity to ensure that audits are conducted of its programs and operations, including a list of such audits completed during the year, and (3) summarizes those matters relating to the Federal entity which have been referred to prosecutive authorities, including a description of any preliminary investigation conducted by or at the request of the Federal entity.

Section 5(b) is a technical amendment.

F. PROVISIONS TO ENSURE UNIFORMITY AND RELIABILITY OF INSPECTOR GENERAL REPORTS

Section 6 amends section 5 of the Inspector General Act of 1978 to require more uniform and statistically reliable reports from the Inspectors General, and to require additional information on the audit resolution process from the heads of the respective establishments. (The requirements of the Act's section 5 will also apply to internal audit unit directors and heads of designated Federal entities.)

Section 6(a) sets forth specific information on audit reports completed by the Inspector General to be provided to heads of establishments and Congress.

Sections 6(b) and (c) concern the additional information on certain unresolved audit reports required of the head of an establishment, to accompany the transmittal of the Inspector General's semi-annual report to Congress.

Section 6(d) adds a new section 5(f) of the Act containing definitions of: (1) "ineligible cost", (2) "unsupported cost", (3) "disallowed cost", (4) "audit determination", (5) "audit resolution", and (6) "audit status".

Section 6(e) amends section 3512(b)(2) of title 31 to establish a standard definition for the term "audit resolution" and to ensure that audit determinations are made within six months after the completion of audit reports.

G. OATH ADMINISTRATION AUTHORITY

Section 7 amends section 6(a) of the Inspector General Act of 1978 to authorize all Inspectors General to administer oaths, affirmations and affidavits in the performance of their assigned duties.

H. APPROPRIATION ACCOUNTS

Section 8 amends section 1105(a)(25) of title 31 to require the President to include in his budget submission a "separate appropriation account" for appropriations for each Office of Inspector General.

I. DISCLOSURE OF TAX RETURNS AND RETURN INFORMATION

Section 9 amends section 5(e)(3) of the Inspector General Act of 1978 to incorporate a reference to the Internal Revenue Code's provision governing disclosure of sensitive tax returns and return information to Committee of Congress.

VII. COST ESTIMATE OF LEGISLATION

(1) The cost estimate prepared by the Congressional Budget Office is contained in the following letter from its Director:

U.S. CONGRESS,
 CONGRESSIONAL BUDGET OFFICE,
 Washington, DC, July 17, 1987.

HON. JOHN GLENN,
 Chairman, Committee on Governmental Affairs, U.S. Senate, Wash-
 ington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has re-
 viewed S. 908, the Inspector General Act Amendments of 1987, as
 ordered reported by the Senate Committee on Governmental Af-
 fairs, June 30, 1987.

The bill would amend the Inspector General Act of 1978 by estab-
 lishing an office of Inspector General in four agencies not already
 covered by the act and by setting a uniform salary level for all In-
 spectors General. The bill also would consolidate the existing audit-
 ing functions in 28 federal agencies and would create an audit unit
 at five agencies where audit functions do not currently exist. These
 changes would result in increased costs of about \$1 million per
 year, largely for the creation of the five new audit units and for
 increasing the salaries of certain Inspectors General. Other provi-
 sions of S. 908, designed to improve the effectiveness of audit units
 in federal agencies, are estimated to have no significant cost.

Enactment of this bill would not affect the budget of state or
 local governments.

If you wish further details on this estimate, we will be pleased to
 provide them.

With best wishes,
 Sincerely,

EDWARD M. GRAMLICH,
 Acting Director.

(2) The Committee notes that in 1986, OMB Director James C.
 Miller III testified before the Committee on the President's Man-
 agement Legislative Initiatives, and responded to questions from
 Senator Roth, as follows:

Chairman ROTH. As a strong supporter of the inspector
 general concept, I do think it is important that we extend
 that concept to the other [small] agencies.

The major complaint is that this could be costly or ex-
 pensive. Is that necessarily inherent in setting up an inde-
 pendent audit office?

Mr. MILLER. I don't think so. Our finding is that inspec-
 tors general tend to, by far, pay for themselves.

Chairman ROTH. Do you support, in principle, the exten-
 sion of this concept to the independent agencies?

Mr. MILLER. Yes.⁸²

VIII. REGULATORY IMPACT OF LEGISLATION

In accordance with paragraph 11(b) of Rule XXVI of the Stand-
 ing Rules of the Senate, the following statement of the regulatory
 impact of S. 908 is made.

⁸² Sen. Rpt. 99-351, p. 6.

(7) a detailed statistical analysis of audit reports, depicting in tables arranged by audit status information concerning—

(A) the number of audit reports in each audit status;

(B) the number of such reports for which an audit determination was not made within 6 months of the date of completion of such reports;

(C) where applicable, the amounts of ineligible costs, ineligible costs that were disallowed, unsupported costs, and unsupported costs that were disallowed; and

(D) where applicable, the amount of disallowed costs returned to, or offset by, the Government;

(8) a summary of each significant audit report completed before the commencement of the reporting period and identified under paragraph (7)(B), together with an explanation of the reason the audit determination was not made during the period described in such paragraph;

(9) a description of, and an explanation of the reasons for, any significant revised audit determinations made during the reporting period; and

(10) information concerning any significant audit determination with which the Inspector General is in disagreement.

(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 deems appropriate, (2) a list of each audit report made by the establishment's Office of Inspector General which was not resolved within one year after the date on which an audit determination was made on such report, (3) an explanation of the reason such audit was not resolved, and (4) for each such audit report, the amount of disallowed costs that are under administrative or judicial appeal and the amount of any disallowed costs returned to, or offset by, the Government.

(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. The head of each establishment shall also make copies of the report of such head required under subsection (b) available to the public upon request and at a reasonable cost.

* * * * *

(e)(3) **[Nothing]** Except to the extent provided in section 6103(f) of the Internal Revenue Code of 1986 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 "ineligible cost" means an incurred cost that is questioned by the Office of Inspector General because of an alleged violation of a provision of a law, regulation, contract,

grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

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

(3) the term "disallowed cost" means an ineligible cost or unsupported cost that the management of an establishment has concluded, in an audit determination, should not be charged to the Federal Government;

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

(5) the term "audit resolution" means the completion of all corrective actions that the management of an establishment has concluded, in an audit determination, are necessary with respect to the findings and recommendations included in an audit report, and, in the event that the management of an establishment concludes no corrective action is necessary, "audit resolution" occurs when an audit determination has been reached; and

(6) the term "audit status" includes the following six categories:

(A) audits for which the audit report was completed before the commencement of the reporting period and for which—

(i) the audit determination was not made by the end of such period;

(ii) the audit determination was made during such period and for which audit resolution has not occurred; and

(iii) the audit determination was made during such period and for which audit resolution has occurred; and

(B) audits for which the audit report was completed during the reporting period and for which—

(i) the audit determination was not made by the end of such period;

(ii) the audit determination was made during such period and for which audit resolution has not occurred; and

(iii) the audit determination was made during such period and for which audit resolution has occurred.

AUTHORITY; ADMINISTRATION PROVISIONS

SEC. 6. (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) * * *

* * * * *

(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 investigator or such other 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;

[(5)] (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;

[(6)] (7) to select, appoint, and employ such officers and employee 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, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

[(7)] (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

[(8)] (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.

* * * * *

**SPECIFIC PROVISION CONCERNING THE NUCLEAR REGULATORY
COMMISSION**

SEC. 8B. 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, and shall not delegate such authority to any other officer or employee of the Commission.

SPECIAL PROVISIONS REGARDING THE DEPARTMENT OF THE TREASURY

SEC. 8C. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall have general 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, the Office of Inspections of the Internal Revenue Service, and the Office of Inspections of the United States Secret Service. The head of each such office shall periodically report to the Inspector General the significant investigative activities being carried out by such office.

(b) Notwithstanding subsection (a), the Inspector General of the Department of the Treasury may conduct an investigation of any officer or employee of such Department if—

(1) the Secretary of the Treasury or the Deputy Secretary of the Treasury requests the Inspector General to conduct an investigation;

(2) the investigation concerns senior officers or employees of the Department of Treasury, including officers appointed by the President, members of the Senior Executive Service, and individuals in positions classified at grade GS-15 of the General Schedule or above or classified at a grade equivalent to such grade or above such equivalent grade; or

(3) the investigation involved alleged notorious conduct or any other matter which, in the opinion of the Inspector General, is especially sensitive or of departmental significance.

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

(d)(1) Notwithstanding the last two sentences of section 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 information concerning—

(A) ongoing criminal investigations or proceedings;

(B) sensitive 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; or

(E) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person authorized protection by section 3056 of title 18, United States Code.

(2) With respect to the information described in paragraph (1), the Secretary of the Treasury 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 of the Treasury determines that such prohibition is necessary to preserve the confidentiality of or prevent the disclosure of any information described in paragraph (1).

(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 of 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 Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives, and to other appropriate committees or subcommittees of Congress, together with any comments the Inspector General deems appropriate.

SPECIFIC REQUIREMENTS FOR FEDERAL ENTITIES

SEC. 8D. (a) 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 in section 11(2) of this Act) or part of an establishment;

(B) the Executive Office of the President;

(C) the Central Intelligence Agency;

(D) the General Accounting Office;

(E) the Department of Justice; 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 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 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 the director, administrator, president, chairman, or chief executive officer of a Federal entity, or any other body designated by statute as the head of a Federal entity;

(4) the term "head of the designated Federal entity" means the director, administrator, president, chairman, or chief execu-

(P) of the Nuclear Regulatory Commission, the offices of that commission referred to as the "Office of Inspector and Auditor" and the "Office of Investigations";

(Q) 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";

(R) of the Railroad Retirement Board, the Office of Inspector General (as established by section 23 of the Railroad Retirement Act of 1974);

[(M)] (S) of the Small Business Administration, the office of that agency referred to as the "Office of Audits and Investigations"; and

[(N)] (T) of the Veterans' Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations"; and

* * * * *

DEFINITIONS

SEC. 11. 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, [or Transportation or] *Transportation*, or the *Treasury*; 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]; the *Director of the Federal Emergency Management Agency*, the *Office of Personnel Management*, or the *United States Information Agency*; or 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, Labor, State, [or Transportation or] *Transportation*, or the *Treasury*; the Agency for International Development, [the Community Service Administration,] 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;

* * * * *

TITLE 5, UNITED STATES CODE

* * * * *

PART III—EMPLOYEES

* * * * *

Subpart D—Pay and Allowances

* * * * *

CHAPTER 53—PAY RATES AND SYSTEMS

* * * * *

Subchapter II—Executive Schedule Pay Rates

* * * * *

SEC. 5315. POSITIONS AT LEVEL IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

* * * * *

Inspector General, Department of Commerce.

Inspector General, Department of the Interior.

Inspector General, Agency for International Development.

Inspector General, Environmental Protection Agency.

Inspector General, General Services Administration.

Inspector General, National Aeronautics and Space Administration.

Inspector General, Railroad Retirement Board.

Inspector General, Small Business Administration.

Inspector General, Department of the Treasury.

Inspector General, Federal Emergency Management Agency.

Inspector General, Nuclear Regulatory Commission.

Inspector General, Office of Personnel Management.

SEC. 5316. POSITIONS AT LEVEL V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Administrator, Agricultural Marketing Service, Department of Agriculture.

* * * * *

[Inspector General, Agency for International Development.]

* * * * *

[Inspector General, Department of Commerce.]

Members, Federal Labor Relations Authority (2) and its General Counsel.

[Inspector General, Department of the Interior.]

Director of the Office of Government Ethics.

[Inspector General, Community Services Administration.]

[Inspector General, Environmental Protection Agency.]
 [Inspector General, General Services Administration.]
 [Inspector General, National Aeronautics and Space Administration.]
 [Inspector General, Small Business Administration.]

* * * * *

Public Law 94-505 [H.R. 11347]; Oct. 14, 1976

SHRINERS' HOSPITAL FOR CRIPPLED CHILDREN—COLORADO
CORPORATION—CONVEYANCE

* * * * *

[TITLE II—OFFICE OF INSPECTOR GENERAL

[SEC. 201. In order to create an independent and objective unit—

[(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Health, Education, and Welfare;

[(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy and efficiency 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 Secretary 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 hereby established in the Department of Health, Education, and Welfare an Office of Inspector General.

[OFFICERS

[SEC. 202. (a) There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the Under Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

[(b) There shall also be in the Office a Deputy Inspector General appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall during the absence or temporary incapacity of the Inspector General, or during a vacancy in that office, act as Inspector General.

[(c) The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

[(d) The Inspector General and the Deputy shall each be subject to the provisions of subchapter III of chapter 73, title 5, United States Code, notwithstanding any exemption from such provisions which might otherwise apply.

[(e) 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 the functions, powers, and duties transferred by section 6(a)(1), and

[(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of the functions, powers, and duties transferred by section 6(a)(2).

[DUTIES AND RESPONSIBILITIES

[SEC. 203. (a) It shall be the duty and responsibility of the Inspector General—

[(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to programs and operations of the Department;

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

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

[(4) to keep the Secretary and the Congress fully and currently informed by means of the reports required by section 4 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the Department, to recommend corrective action concerning such problems, abuses and deficiencies, and to report on the progress made in implementing such corrective action.

[(b) In carrying out the responsibilities specified in subsection (a)(1), the Inspector General shall have authority to approve or disapprove the use of outside auditors or to take other appropriate steps to insure the competence and independence of such auditors.

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

[(d) The Inspector General shall establish within his office an appropriate and adequate staff with specific responsibility for devoting their full time and attention to antifraud and antiabuse activities relating to the medicaid, medicare, renal disease, and maternal and child health programs. Such staff shall report to the Deputy.

【REPORTS

【Sec. 204. (a) The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to—

【(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities;

【(2) a description of recommendations for corrective action made by the Office with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1);

【(3) an evaluation of progress made in implementing recommendations described in the report or, where appropriate, in previous reports; and

【(4) a summary of matters referred to prosecutive authorities and the extent to which prosecutions and convictions have resulted.

【(b) The Inspector General shall make reports on a quarterly basis to the Secretary and to the appropriate committees or subcommittees of the Congress identifying any significant problems, abuses, or deficiencies concerning which the Office has made a recommendation for corrective action and on which, in the judgment of the Inspector General, adequate progress is not being made.

【(c) The Inspector General shall report immediately to the Secretary, and within seven calendar days thereafter to the appropriate committees or subcommittees of the Congress, whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

【(d) The Inspector General (A) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (B) shall provide such additional information or documents as may be requested by either House of Congress or, with respect to such matters within their jurisdiction, by any committee or subcommittee thereof.

【(e) Notwithstanding any other provisions of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasi-

ble, provide copies of the reports required under subsections (a) and (b) to the Secretary sufficiently in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

[AUTHORITY; ADMINISTRATION PROVISIONS

[SEC. 205. (a) In addition to the authority otherwise provided by this Act, the 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 Department which relate to programs and operations with respect to which the Inspector General has responsibilities under this Act;

[(2) 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;

[(3) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data 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;

[(4) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

[(5) in the event that a budget request for the Office of Inspector General is reduced, before submission to Congress, to an extent which the Inspector General deems seriously detrimental to the adequate performance of the functions mandated by this Act, the Inspector General shall so inform the Congress without delay;

[(6) 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, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

[(7) 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;

[(8) 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 the Inspector General for information or assistance under subsection (a)(2), 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, furnish to the Inspector General, or to an authorized designee, such information or assistance.

[(2) Whatever information or assistance requested under subsection (a)(1) or (a)(2) is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Secretary and to the appropriate committees or subcommittees of the Congress without delay.

[(3) In the event any record or other information requested by the Inspector General under subsection (a)(1) or (a)(2) is not considered to be available under the provisions of section 552a(b) (1), (3), or (7) of title 5, United States Code, such record or information shall be available to the Inspector General in the same manner and to the same extent it would be available to the Comptroller General.

[(c) The Secretary shall provide the Inspector General and his staff with appropriate and adequate office space at central and field office locations of the Department, 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) The Inspector General shall receive compensation at the rate provided for level IV of the Executive Schedule by section 5315 of title 5, United States Code.

[(2) The Deputy shall receive compensation at the rate provided for level V of the Executive Schedule by section 5316 of title 5, United States Code.

[TRANSFER OF FUNCTIONS

[SEC. 206. (a) There are hereby transferred to the Office of Inspector General the functions, powers, and duties of—

[(1) the agency of the Department referred to as the "HEW Audit Agency";

[(2) the office of the Department referred to as the "Office of Investigations"; and

[(3) such other offices or agencies, or functions, powers, or duties thereof, as the Secretary may, with the consent of the Inspector General, 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 the Inspector General under clause (3) program operating responsibilities.

[(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, 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 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, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in the Office 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.

【DEFINITIONS

【SEC. 207. As used in this Act—

[(1) the term “Secretary” means the Secretary of Health, Education, and Welfare;

[(2) the term “Department” means the Department of Health, Education, and Welfare;

[(3) the term “Inspector General” means the Inspector General of the Department;

[(4) the term “Deputy” means the Deputy Inspector General of the Department; and

[(5) the term “Federal agency” means an agency as defined in section 552(e) of title 5, United States Code, but shall not be construed to include the General Accounting Office.】

* * * * *

Public Law 95-91 [S.826]; Aug. 4, 1977

DEPARTMENT OF ENERGY ORGANIZATION ACT

TABLE OF CONTENTS

* * * * *

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

- Sec. 201 Establishment.
- Sec. 202 Principal officers.
- Sec. 203 Assistant Secretaries.
- Sec. 204 Federal Energy Regulatory Commission.
- Sec. 205 Energy Information Administration.
- Sec. 206 Economic Regulatory Administration.
- Sec. 207 Comptroller General Functions.
- 【Sec. 208 Office of the Inspector General.】
- Sec. 209 Office of Energy Research.
- Sec. 210 Leasing Liaison Committee.

* * * * *

【SEC. 208. (a)(1) There shall be within the Department an Office of Inspector General to be headed by an Inspector General, who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demon-

strated ability and without regard to political affiliation. The Inspector General shall report to, and be under the general supervision of, the Secretary or, to the extent such authority is delegated, the Deputy Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

[(2) There shall also be in the Office a Deputy Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that Office, act as Inspector General.

[(3) The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

[(4) The Inspector General shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Audits and an Assistant Inspector General for Investigations.

[(5) The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and the Deputy Inspector General shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

[(b) It shall be the duty and responsibility of the Inspector General—

[(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to the promotion of economy and efficiency in the administration of, or the prevention or detection of fraud or abuse in, programs and operations of the Department;

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

[(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department 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 Department, and (B) the identification and prosecution of participants in such fraud or abuse;

[(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports required by subsection (c) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the Department, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action; and

[(5) to seek to coordinate his actions with the actions of and Comptroller General of the United States with a view to avoiding duplication.

[(c) The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary, to the Federal Energy Regulatory Commission, and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to—

[(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities;

[(2) a description of recommendations for corrective action made by the Office with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1);

[(3) an evaluation of progress made in implementing recommendations described in the report or, where appropriate, in previous reports; and

[(4) a summary of matters referred to prosecutive authorities and the extent to which prosecutions and convictions have resulted.

[(d) The Inspector General shall report immediately to the Secretary, to the Federal Energy Regulatory Commission as appropriate, and, within thirty days thereafter, to the appropriate committees or subcommittees of the Congress whenever the Office becomes aware of particularly serious or flagrant problems, abuses or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

[(e) The Inspector General (1) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (2) shall provide such additional information or documents as may be requested by either House of Congress or, with respect to matters within their jurisdiction, by any committee or subcommittee thereof.

[(f) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary, to the Federal Energy Regulatory Commission, if applicable, and to the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasible, provide copies of the reports required under subsection (c) to the Secretary and the Commission, if applicable, sufficiently in advance of the due date for the submission to Congress to provide a reasonable opportunity for comments of the Secretary and the Commission to be appended to the reports when submitted to Congress.

[(g) In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

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

[(2) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this section, which subpoena, in the case of contumacy or refusal, to obey, shall be enforceable by order of any appropriate United States district court; and

[(3) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions under this section.]

* * * * *

SECTION 23 OF THE RAILROAD RETIREMENT ACT OF 1974

[INSPECTOR GENERAL

[SEC. 23. For the purposes of the Inspector General Act of 1978 (5 U.S.C. App.) the Railroad Retirement Board is an "establishment" and the chairman of the Railroad Retirement Board is the "head of the establishment" with respect to such Board. For the purpose of section 2 of such act, the Railroad Retirement Board is one of "such establishments."]

* * * * *

SECTION 1105 OF TITLE 31, UNITED STATES CODE

SEC. 1105(a) On or before the first Monday after January 3 of each year (or on or before February 5 in 1986), the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following:

(1) * * *

* * * * *

[(25) a separate statement, for each agency having an Office of Inspector General, of the amount of the appropriation requested for the Office.]

(25) a separate appropriation account for appropriations for each Office of Inspector General established by the Inspector General Act of 1978.

* * * * *

SECTION 3512 OF TITLE 31, UNITED STATES CODE

SEC. 3512. EXECUTIVE AGENCY ACCOUNTING SYSTEMS

(a) * * *

(b)(1) To ensure compliance with subsection (a)(3) of this section and consistent with standards the Comptroller General prescribes,

the
g

(
sec
all
auc
era
mit
the
a F
tive
eac
or
anc
wit

2C
(2
(1

the head of each executive agency shall establish internal accounting and administrative controls that reasonably ensure that—

- (A) obligations and costs comply with applicable law;
- (B) all assets are safeguarded against waste, loss, unauthorized use, and misappropriation; and
- (C) revenues and expenditures applicable to agency operations are recorded and accounted for properly so that accounts and reliable financial and statistical reports may be prepared and accountability of the assets may be maintained.

(2) Standards the Comptroller General prescribes under this subsection shall include standards to ensure the prompt resolution of all audit findings. *Such standards shall include (A) a definition of audit resolution consistent with section 5(f)(5) of the Inspector General Act of 1978, and (B) a standard to ensure that an audit determination will be made on each audit report within 6 months after the completion of such report, in the case of an audit performed by a Federal auditor, and within 6 months after receipt by the executive agency responsible for the program concerned, in the case of each audit performed by a non-Federal auditor. No order, circular, or directive prescribed by the Director of the Office of Management and Budget shall include an inconsistent definition or standard with respect to audit resolution.*

* * * * *

SECTION 410 OF TITLE 39, UNITED STATES CODE

SEC. 410. APPLICATION OF OTHER LAWS

(a) * * *

(b) The following provisions shall apply to the Postal Service:

(1) * * *

* * * * *

(6) sections 2000d, 2000-1-2000d-4 of title 42 (title VI, the Civil Rights Act of 1964); [and]

(7) section 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668)[.];

(8) [The] *the* provisions of the Act of August 12, 1968 (42 U.S.C. 4151-4156)[.]; and

(9) *the provisions of section 8D of the Inspector General Act of 1978.*

APPENDIX A

[From the Department of the Treasury Order, Number: 100-02]

Date: January 13, 1987.

Establishment of the Office of the Inspector General and Delegation of Authority to the Inspector General.

By virtue of my authority as Secretary of the Treasury, including the authority contained in 31 U.S.C 321(b), and 5 U.S.C 301 and 302, it is hereby ordered that:

1. *Establishment of the Office of the Inspector General (OIG)*

a. There is hereby established within the Department of the Treasury, *the Office of the Inspector General*, which shall conduct and supervise audits and investigations relating to programs and operations within the Department as detailed in this order.

b. *The Office of the Inspector General* shall also provide leadership and coordination and recommend policies for activities designed to:

(1) promote economy, efficiency, and effectiveness in the administration of Departmental programs and activities;

(2) prevent and detect fraud, waste, and abuse in Departmental programs and operations; and

(3) inform the Secretary and Deputy Secretary of any problems or concerns with the administration of such programs and operations and the need for and progress of corrective action.

c. *The Office of the Inspector General* shall be independent of all other offices and bureaus within the Department.

d. *The head of the Office of the Inspector General* shall be the Inspector General (IG) who shall be appointed by the Secretary of the Treasury and who shall report to and operate under the general supervision of the Secretary and/or the Deputy Secretary.

e. *No officer or employee of the Department* shall prevent the Inspector General from initiating, carrying out, or completing any duly authorized audit or investigation, or prevent any duly appointed officer or employee of the Office of the Inspector General from obtaining access to any information or documentation which the Inspector General has determined is necessary to the execution of an audit or investigation.

2. *Authority and Responsibility of the Inspector General for the Conduct and Oversight of Investigations*

a. *The Inspector General* is hereby delegated the authority to receive, analyze and evaluate allegations of illegal acts, violations of the Rules of Conduct of the Treasury Department and of the bureaus, violations of the merit system, and any other misconduct concerning any official or employee of any Treasury office or

bureau or, in the case of alleged illegal acts or misconduct, any Treasury contractor, subcontractor, or offeror.

b. *All employees and officials of the Department of the Treasury* shall report to the Inspector General all matters which they believe raise questions of illegality or wrongdoing pursuant to paragraph a. above. Employees and officials who work in bureaus or offices with internal affairs or inspection offices, shall report such matters either to the head of those offices or to the Inspector General.

c. *The Inspector General* is hereby delegated the authority to initiate, organize, conduct, direct and control investigations of any allegations received pursuant to paragraph a. above, concerning the Department's senior officials, i.e., Presidential appointees, SES members, and GS or GM-15s and above.

d. If the allegation to be investigated involves a non-senior official or employee of a Treasury law enforcement bureau, the Inspector General shall refer the investigation to that bureau's internal affairs or inspection office and shall receive a full report of the investigation and any action taken on the matter referred.

e. If the allegation to be investigated involves a non-senior official or employee of a Treasury bureau or office that does not have an internal affairs or inspection office, the Inspector General may refer the investigation to a bureau which has such an office, which will undertake the investigation and will prepare a full report for the Inspector General of the investigation and of any action taken on the matter referred.

f. Paragraphs d. and e. above notwithstanding, the Inspector General shall conduct any investigation which he or she is directed to conduct by the Secretary or Deputy Secretary concerning any allegation of misconduct by an official, employee or contractor of the Treasury. The Inspector General may also conduct any investigation which involves alleged notorious conduct or other matter which, in his or her opinion, is especially sensitive or of Departmental significance.

g. If an allegation involves a matter which is appropriate for the Departmental or a bureau grievance or appeal procedure, or other routine management action, the Inspector General may refer such matter to the appropriate office or bureau for handling.

h. This Order does not change or reduce the authority of Treasury offices or bureaus which had established internal affairs and inspection offices as of July 18, 1978, to conduct investigations in accordance with their own internal procedures, with the exception of those investigations being conducted by the Inspector General. However, when the Inspector General gives notice to a bureau or office that an OIG investigation is being conducted in that bureau or office, no internal investigation will be initiated and any ongoing investigation into the same matter will immediately cease.

i. *All law enforcement bureau internal affairs and inspection offices* shall periodically report to the Inspector General their significant current investigative activities.

j. *The Inspector General* may review, evaluate, and approve all Departmental and bureau programs, plans, policies and operations for investigative misconduct and may make recommendations for changes.

k. *The Inspector General* shall require, receive, review, and analyze all reports informing the Secretary or Deputy Secretary of any significant problems, abuses, or deficiencies disclosed in any bureau or office investigation and the actions taken to correct them.

l. *The Inspector General* may, at his or her discretion, report the results of the investigation of any senior official to the Secretary or Deputy Secretary or other appropriate management official for action.

m. *The Inspector General* is hereby delegated authority to receive all matters referred to the Department of the Treasury by the Special Counsel of the Merit Systems Protection Board, regarding allegations or prohibited personnel practices. He or she may investigate such matters or, as appropriate, may refer such matters for investigation to a law enforcement bureau internal affairs or inspection office, except for matters concerning the Internal Revenue Service (IRS), which shall be referred directly to that Bureau.

n. *The Inspector General* shall receive and review reports of investigations by any bureau or office conducting such investigations, except for IRS, and may prepare or delegate to the appropriate bureau or office for preparation, final reports to the Special Counsel for review and signature of the Deputy Secretary or Under Secretary as the Secretary's designees, except for IRS which shall prepare its own final reports to the Special Counsel.

3. Authority and Responsibility of the Inspector General for the Conduct and Oversight of Audits

a. *The Inspector General* is hereby delegated complete authority for performing internal audits of all Treasury bureaus and offices, with the exception of the law enforcement bureaus. The law enforcement bureaus are the: Internal Revenue Service, U.S. Customs Service, Bureau of Alcohol, Tobacco and Firearms, and U.S. Secret Service.

b. *The Inspector General* may audit or authorize law enforcement bureau internal affairs or inspection offices to audit any Treasury program, activity, or function, including any Treasury or bureau contractor, subcontractor, or offeror.

c. *The Inspector General* shall coordinate all requests submitted by IGs from other Government departments and agencies for audit services within the Department.

d. *The Inspector General and, as appropriate, the Heads of Internal Audit in the law enforcement bureaus* shall distribute copies of final audit reports to all headquarters and field officials responsible for taking corrective action on matters covered by those reports.

e. *The Inspector General* shall keep the Secretary or Deputy Secretary informed of any significant problems, abuses, or deficiencies disclosed in audits and the actions taken to correct them.

f. *The Inspector General* is responsible for formulating Departmental audit policies and priorities and assuring implementation of Federal audit standards in the Department.

g. *The Inspector General* may review, evaluate, and approve law enforcement bureau internal affairs and inspection offices' programs, plans, policies, reports and operations for internal auditing and may make recommendations for changes.

h. *The Inspector General* shall receive and may review and analyze all law enforcement bureau internal affairs and inspection offices' audit plans and reports as a basis for evaluating audit services to management.

i. *All law enforcement bureau internal affairs and inspection offices* shall periodically report to the Inspector General their significant current audit activities.

4. *Authority of the Inspector General for Intelligence Activities*

a. Pursuant to Section 4 of Executive Order 12334, *the Inspector General shall, together with the General Counsel*, to the extent permitted by law, report to the President's Intelligence Oversight Board, concerning intelligence activities that he or she has reason to believe may be unlawful or contrary to Executive order or Presidential directive.

b. *All Treasury employees* shall report to the Inspector General, the General Counsel, or the head of the inspection or internal affairs office of their bureau, any matters which they believe raise questions of propriety or legality under Executive Order 12333.

c. At appropriate intervals, *The Inspector General* shall review any foreign intelligence activities of the Treasury Department to determine whether any such activities raise questions of propriety under Executive Order 12333. Any questions arising from this review as to the legality of such activities shall be referred to the General Counsel.

d. *All law enforcement bureau internal affairs and inspection offices* shall review at appropriate intervals the activities of their bureaus in their relations with the United States foreign intelligence agencies to determine whether such activities raise questions of legality or propriety. Any questions of legality or propriety arising from this review shall be reported to the Inspector General who shall refer to the General Counsel any illegal activities.

e. *The Inspector General, together with the General Counsel*, shall review any agreement between the Treasury Department or any of its bureaus or offices and the Central Intelligence Agency (CIA), dealing with arrangements of a continuing nature.

f. *The Inspector General, together with the General Counsel*, shall, when requested, consult with the Office of Intelligence Support regarding CIA or Treasury requests for support or assistance where there is no current written arrangement for such support or assistance.

g. *The Inspector General shall, together with the General Counsel*, consult with the Under Secretary, when requested, with regard to arrangements for support or assistance between the Treasury and any other intelligence agency of the Federal government except for arrangements between the Federal Bureau of Investigation and the Internal Revenue Service, which shall be the responsibility of the Commissioner of Internal Revenue.

5. *Personnel Authority*

a. *The Inspector General* may obtain as needed, under procedures he or she develops, investigative, audit, and support personnel from

law enforcement bureau internal affairs and inspection offices for conducting investigations or audits under his or her direct supervision. Any detailed personnel shall remain on the rolls of the service or office from which they were detailed but will report exclusively to the Inspector General regarding the matter being investigated or audited.

b. *Bureau heads* shall consult with the Inspector General in recruiting and selecting candidates to head the internal affairs or inspection offices of the law enforcement bureaus. Bureau heads shall, prior to issuance, submit annual performance evaluations of incumbent heads of internal affairs or inspection offices to the Inspector General for review.

6. Regulatory Authority

The Inspector General is hereby delegated authority to promulgate any rules, regulations, directives, memoranda of understanding, policies and procedures necessary to implement his or her duties and responsibilities pursuant to this Order.

7. Cancellation and Consolidation of Previous Orders

a. This Order supersedes the following Treasury Department Orders (TDO):

(1) TDO 256, "Establishment of the Position of Inspector General," dated July 18, 1978;

(2) TDO 101-14, "Transfer of the Office of Audit to the Inspector General," dated February 20, 1980; and

(3) TDO 101-28, "Transfer of Internal Audit Function and Internal Investigative Functions and Positions to the Office of the Inspector General," dated June 7, 1982.

b. This Order supersedes those parts of the following orders which set forth duties of the Inspector General:

(1) TDO 240 (Revision 1), "Liaison Between Subordinate Organizational Units of the Treasury and the Central Intelligence Agency," dated July 18, 1978;

(2) TDO 246 (Revision 1), "Responsibilities for Oversight of Foreign Intelligence Activities Under Executive Order 12036," dated July 18, 1978. Inspector General's duties are set forth in paragraph number 1, 3, 5, and 6;

APPENDIX B

Three case studies presented at the Committee's April 9th hearing demonstrate OIA's lack of authority, competence and independence.

Case Study No. 1: OIA is Not Informed of Potential Wrongdoing By A Commissioner or His Staff

On or about June 15, 1983 a Vice President of Middle South Service, Inc.—a company affiliated with the utility licensed to operate the Waterford nuclear power plant in Louisiana—dictated a memo to other senior executives affiliated with the utility. The memo from Mr. George White states:

Attached is a memorandum which I have received from sources *inside* the Nuclear Regulatory Commission regarding Waterford Quality Assurance matters. This memo is for your information but *I would hope that you would limit its distribution to protect the source within the NRC.* (Emphasis added).

The attached NRC memorandum is dated June 8, 1983. Thus, it took less than 7 days for this NRC memorandum to be leaked from the NRC and reach the attention of the NRC licensee.

The leaked NRC memorandum is an internal agency document addressed to the head of the NRC's Office of Inspection and Enforcement. It contains a discussion of allegations raised by a Louisiana-based reporter concerning "base mat" cracks in the concrete under the Waterford plant's containment vessel, as well as "evidence to suggest collusion" by NRC inspectors "with the Licensee". The author of the NRC memorandum, a Technical Assistant to one of the Commissioners, concluded: "In view of this, I would strongly suggest that appropriate measures be taken to assure an objective review of [the reporter's] allegations". A copy of this memorandum was sent to each of the Commissioner's offices.

This was a sensitive document, containing information that was obviously not intended to be shared by the NRC with the licensee outside the appropriate channels. Subsequently, several NRC offices, including the Office of Inspection and Enforcement, conducted investigations of the issues raised by the reporter.

In March 1985, an investigator in the NRC's Office of Investigations accidentally found a copy of Mr. White's cover memo and the leaked NRC memo while examining the licensee's files and brought the matter to the attention of OI Director Ben Hayes. Hayes then brought the documents to the attention of NRC Chairman Nunzio Palladino because the evidence suggested that the source of the NRC's internal memo was the Office of Commissioner Thomas Roberts. Hayes told Palladino that he believed the matter should be investigated by the NRC's Office of Inspector and Auditor.

Palladino responded in writing to Hayes that he had discussed the matter with Roberts, and that:

Since, under the reorganization plan of 1980, supervision of personnel within the immediate office of each member of the Commission is that Commissioner's responsibility, Commissioner Roberts believes (and I concur) that this is a matter for him to deal with. Therefore, you should discuss it with him as soon as possible.

Subsequently, Hayes met with Commissioner Roberts as directed. At the meeting Commissioner Roberts compared his copy of the leaked NRC document with the one OI had found in the licensee's files. The copies were identical. Roberts asked why Hayes had not initially brought the matter directly to him. Roberts stated that he had asked his staff if they had distributed the memo to the Middle South utility, but each staff member said no. Roberts indicated that the memo might have been obtained and sent to the utility by office cleaning personnel or interns temporarily assigned to his office. Roberts then directed Hayes to give him *all* the copies of the documents in OI's possession, including all the notes Hayes or others had made on the issue. All of this occurred within a few months of Mr. Roberts' confirmation for a second full term as an NRC Commissioner. This episode was not made known to the Senate Committee reviewing Roberts' qualifications.

The Committee finds there are troubling aspects to this episode, chief among them that this matter was not referred to OIA for investigation. The significance of this decision is that potential wrongdoing by Commissioners or their staff appear to be off-limits to OIA. Moreover, at no time prior to the Committee's April 9th hearing did the NRC undertake a vigorous investigation of the matter. For example, no one questioned Mr. White under oath concerning the identity of his "source" within the NRC. In his sworn statement to the Committee made in 1987, Mr. White claimed he could not recall any facts related to his receipt of the NRC memo. He did recall that he lunched with Commissioner Roberts in 1986, and Roberts failed to raise the matter with him.

In his testimony before the Committee on April 9th, Roberts stated that he had deliberately destroyed his copies of the potentially incriminating documents. On April 21, Senator Glenn referred the matter of Roberts' handling of these documents to the U.S. Attorney for the District of Columbia, and called for Roberts to resign from office. On April 28, Roberts wrote Senator Glenn that he was mistaken in his recollection that he had destroyed the documents, and that a search of his files *after* the April 9th hearing caused him to locate copies of the documents in his possession.

This entire episode underscores the need for a statutory Office of Inspector General in the NRC, with the authority and expertise necessary to investigate potential wrongdoing wherever it occurs, even if it involves the Office of a Commissioner.

Case Study No. 2: OIA's Incompetent Investigation of the NRC's Top Staff Person

In April 1986, OIA received allegations of potential wrongdoing by the Executive Director for Operations, Victor Stello, Jr. The subsequent OIA investigation was conducted so incompetently, and

pursued with such lack of vigor that it casts doubt upon the ability of the NRC to effectively review a senior agency manager's conduct.

In December 1985, Commissioner James Asselstine visited a troubled Tennessee Valley Authority (TVA) nuclear plant construction site at Watts Bar, Tennessee. TVA had already requested permission to load fuel and begin operating. Asselstine was told by TVA personnel that the facility did not comply with Appendix B, the compendium of NRC requirements and regulations concerning the quality of construction of nuclear power plants. Since TVA would not be allowed to load fuel and begin operations at Watts Bar unless it was in compliance with Appendix B, these were very serious charges. Based on these allegations, on January 3, 1986, the NRC wrote to TVA, asking TVA to state under oath and within 6 days whether Watts Bar complied with Appendix B.

At this time, former Navy Admiral Steven A. White had been brought in to lead TVA's nuclear program. White participated in drafting a written response to the NRC's January 3, 1986, letter. The letter posed a problem for TVA. If TVA answered that the plant complied with Appendix B, and it was later proven that it did not, TVA could be subject to possible criminal prosecution or civil penalties imposed by the NRC. On the other hand, if TVA stated that Watts Bar failed to comply with Appendix B, the NRC might shut down construction at the site.

On or about March 20, 1986, White telephoned Stello to discuss TVA's draft response. Stello returned White's call while riding in an NRC van accompanied by two senior NRC officials, Harold R. Denton and James E. Taylor. During the conversation Stello discussed with White how TVA might answer the letter. On the day following this discussion, White submitted to the NRC a different version of the TVA response than the one he had discussed with Stello. Subsequently, Denton and Taylor informed OI Director Ben Hayes of Stello's telephone conversation. During this entire period of time, OI was conducting an investigation of alleged material false statements submitted by TVA on its request to load fuel at Watts Bar. Hayes, in turn, requested that OIA investigate Stello's conduct.

The central issue for the OIA investigation was whether Stello provided any inappropriate advice or assistance to White as he prepared TVA's response to the critical NRC inquiry. At a minimum, the OIA investigators would need to know exactly what statements were made by both parties to the telephone call.

Hayes, who had not been present at the conversation, was formally deposed by OIA in April 1986, a few days after he referred the issue to OIA. Neither Denton or Taylor, who heard Stello's part of the conversation, were ever asked to submit sworn statements to OIA, and informal interviews with them were not conducted by OIA until June 1986. At his interview Taylor stated the conversation was "inappropriate" and both Denton and Taylor stated they were "uncomfortable" with Stello's conversation. The failure to take formal statements from Denton and Taylor has caused significant problems in evaluating the propriety of Stello's conduct. For example, at no point in the interview statement of Mr. Denton does it indicate that Denton himself had participated in a long tele-

phone call with White on March 20, 1986, concerning the same issues. Although Denton recalls describing this call to OIA Director Sharon Connelly and several OIA investigators in his informal interview, no record of this fact appears in the OIA report on this matter.

OIA waited until July 30, 1986 to formally depose Stello. The reason for such a delay is not apparent. During this deposition Stello stated that he tried to indicate to White his doubts as to whether White had enough information to answer the NRC inquiry, and suggested that White include in his letter some explanation that White was still looking at the issue and would provide more information as it became available. Stello indicated in his deposition that he may have had more than one conversation with White on this matter. Based on the interviews with Denton and Taylor, and the depositions of Stello and Hayes, OIA concluded that Stello's conduct was not improper.

During its investigation, OIA never contacted TVA's White, effectively precluding the NRC's ability to evaluate both sides of the conversation and the accuracy of Stello's statements. Given that this case involved the Executive Director for Operations, the NRC's top Staff person, it would seem incumbent on OIA to have fully investigated and resolved this matter in a timely manner. At worst this hole in the investigation could leave an impression that OIA did not adequately investigate because the results might embarrass the EDO. This situation leaves Stello in a position where his credibility and conduct have been questioned, and the passage of time makes it increasingly difficult to ascertain what actually happened.

Committee staff interviewed White in June 1987. Had OIA interviewed White it would have found that White and Stello had at least three telephone conversations concerning TVA's draft response in a single twenty-four hour period; and that he had two telephone conversations with Denton. White, assisted by contemporaneously created notes and telephone toll records, was able to recall that on the same evening as the van conversation, he spoke with Stello at his home. According to White, during this conversation, Stello specifically suggested that White should not answer the NRC's letter at that time, but should study the issue further. White characterized Stello's position on this issue during this conversation as being very different from the position Stello took in previous conversations. White did not know what caused Stello to change his opinion. White also indicated that he spoke with Stello again about the letter the following morning, to confirm changes he had made based on discussions with Denton.

According to White, TVA's changes to the letter were based on White's conversation with Denton. White maintained that Stello and Denton had been proper in their telephone conversations with him. It was, of course, Denton who was "uncomfortable" with Stello's van conversation. Committee staff took depositions of Stello and Denton in July 1987. During this deposition Stello did not deny having the other phone conversations White had recalled, but stated he could not recall such conversations, or their content. He claimed again there was nothing inappropriate in his conversations with White. Denton stated that he believed Stello was providing

advice to White that crossed the line of propriety, considering the entire TVA problem.

The Committee finds that OIA's investigation of Stello failed to gather all of the relevant facts. In presenting this case study, the Committee does not attempt to draw any conclusions about whether Stello engaged in improper conduct.

Case Study No. 3: OIA's Lack of Objectivity and Independence

In 1986 NRC inspectors in Region IV (Dallas) accused their superiors of harassing and intimidating them for reporting safety problems at the Comanche Peak nuclear power plant. This troubled plant has been under construction for 14 years. The Comanche Peak case provides an inside view of a general lack of regulatory zeal on the part of the NRC's Region IV management, and OIA's lack of objectivity and independence in reporting on this problem.

Between 1984 and 1986, NRC inspectors from Region IV conducted inspections and audits of the possible extent of quality assurance and quality control breakdowns, and related engineering and technical deficiencies at Comanche Peak. The problems the inspectors found were significant and potentially affected the safety and licensability of the plant, as well as the health and safety of the public living in central Texas.

The inspectors cited their negative findings in draft inspection reports, and categorized them as violations of NRC regulations, deviations from commitments, or unresolved items. Beginning in the fall of 1985, the Chief of Region IV's Comanche Peak Task Group and the Division Director began vigorously to challenge inspection findings, and in some cases suggest that they be removed or downgraded to a less serious category. When inspectors did not agree to remove or downgrade the findings, certain senior managers subjected the inspectors to harassment and intimidation. Some of the inspectors gave into the pressure to change their findings. Testimony received by the Committee indicates that the basis for the intimidating conduct was Region IV management's concern that negative inspection findings might reflect unfavorably on the utility's performance and reduce its chances of getting a license.

On one occasion, the Region issued a report of a major inspection without including several of the violations cited in the draft report. The Region issued the report to the public using the draft inspectors' signature sheet as part of the final report. One of the inspectors, Shannon Phillips, testified at the Committee's April 9th hearing that, when he learned of this incident, he knew he had to report the matter and his overall concerns to someone independent of Region IV management. He was aware of OIA's reputation of being unable or unwilling to investigate this type of serious management issue. Therefore, Phillips raised his concerns with Commissioner Asselstine in March 1986, and other Region IV inspectors apparently did the same.

The inspectors' allegations were referred to OIA's Assistant Director for Investigations, George Mulley, the senior OIA investigator in whom Phillips had expressed confidence due to Mulley's personal reputation for professionalism. Asselstine required that transcripts be kept of OIA's interviews with all witnesses. Mulley's field work lasted five months (April-July 1986), and involved interviews with numerous inspectors, consultants, and eventually

Region IV managers. Mulley testified that after he heard Phillips' and other inspectors' evidence, he became concerned that NRC managers in the Region and Washington would interfere with his investigation if they knew the full scope of the management problems in Region IV.

In June 1986 Mulley learned that the Administrator of Region IV was going to remove Phillips from the Comanche Peak site because Phillips was getting other people to cooperate with the OIA investigation. Mulley got NRC headquarters to stop the removal, but from that point forward, he came under pressure from the NRC's Executive Director for Operations, Victor Stello, Jr., to complete the investigation and write the report. At the Committee April 9th hearing, Stello agreed: "[The NRC's] Regional IV office has been under criticism for quite some time. I have been and continue to be very, very concerned about morale in that Region . . . If what you heard was pressure, that is exactly what I did. I felt the need to have that investigation done, and done quickly. The impact it was having was great."¹

Mulley testified that given this pressure, he felt he had no choice but to limit his investigation to the specific concerns originally raised by Phillips and ignore, for the time being, the other witnesses' complaints of Region IV's mismanagement of safety issues involving other plants and the evidence of harassment, intimidation and pressure on other inspectors. The pressure to finish the report came also from OIA Director Sharon Connelly. Mulley requested a meeting with Chairman Lando Zech, Jr. to determine if the pressure was actually coming from the Chairman's office, as Connelly indicated. Chairman Zech assured Mulley that he should not be hasty in the course of the investigation or writing the report. Mulley pulled together the 3,000 page investigative record and wrote a draft report containing negative conclusions about management of Region IV, including that managers acted inappropriately to limit violations assessed at Comanche Peak and that Phillips was harassed and intimidated by Region IV management.

Along with a team of OIA auditors, Director Connelly substantially modified Mulley's draft report, removing the conclusions Mulley had written concerning Region IV management problems. Also deleted were quotations obtained by Mulley from Region IV managers which substantiated the conclusions Mulley had reached and demonstrated the lax enforcement attitudes of Regional management, e.g., the Division Director's statement about verifying Comanche Peak's safety in the absence of critical records: "We shouldn't worry about the past, and you just go out and kind of kick the tires and if it feels good, you go on from there."²

The final report, as shaped by Director Connelly, focused on the merits of the technical issues underlying the violations the inspectors had found at Comanche Peak, an area outside the expertise of OIA. It appears that the removal of the conclusions and quotations resulted in a minimizing of the severity of the Region IV management problem. This editing also prevented individual Region IV managers from being informed that lax enforcement attitudes are

¹ April 1987 Senate Hearing [Transcript, pp. 170-71].

² April 1987 Senate Hearing [Transcript, p. 142].

not condoned by the NRC and it denied the Commissioners the opportunity to protect the integrity of the NRC's enforcement program.

The report was released in November 1986 and within days, distributed throughout the agency in such a way that all of the witnesses who had talked to Mulley were identified. The widespread distribution was unusual, and witnesses complained about being betrayed "for possible future retaliation." After distribution of the report, one of the Region IV managers under investigation was awarded a monetary bonus for his work at Comanche Peak. Mulley went to Stello's office to state his concerns about the inappropriateness of this action. On the other hand, Phillips received the first derogatory comments in his NRC career on his performance appraisal. The NRC later agreed to withdraw the comments after Phillips filed a grievance.

The Comanche Peak case demonstrates the failure of OIA to investigate and report on serious management problems in the agency. This is evidenced by the narrow focus of the investigation, the pressure from the top NRC Staff official to complete the investigation out of his concern for the "morale" in Region IV, and the Director's failure to communicate to the Commission the full extent of the management problems clearly identified in the 3,000 page investigative record.

APPENDIX C

CHART NO. 1

Federal entity	Fiscal year 1986 BA1 (thousands)	Employ- ment ¹ FTE	PCIE cat.	Designat- ed in S. 908
ACTION.....	144,782	483	I	X
Administrative Conference of the United States.....	1,369	26	II	
Advisory Committee on Federal Pay.....	201	2	II	
Advisory Commission on Intergov'tal Relations.....	1,953	23	II	
Advisory Council on Historic Preservation.....	1,507	33	II	
African Development Foundation.....	3,706		II	
Alaska Land Use Council.....				
Alaska Natural Gas Transportation System Office of Federal Inspector.....	230		II	
American Battle Monuments Commission.....	11,921	387	II	
Appalachian Regional Commission.....	116,945	23	I	X
Architectural and Transportation Barriers Compliance Board.....	1,890	26	II	
Arms Control and Disarmament Administration.....	24,738	208	II	
Barry Goldwater Scholarship Foundation.....	² 40,000	2		
Board for International Broadcasting.....	117,084	9	II	X
Commission on Fine Arts.....	364	6	II	
Commission on Civil Rights.....	11,771	193	II	
Commission on Constitution Bicentennial.....	12,226	79		
Commission on Education of the Deaf.....	² 750	5		
Commission on Ukraine Famine.....	383	5		
Center for Cultural and Technical Interchange Between East and West.....	⁷ 19,858			
Columbus Quincentenary Commission.....	² 220	3	II	
Commission for Purchase from the Blind and Other Severely Handicapped.....	699	11	II	
Commodity Futures Trading Commission.....	27,983	480	I	X
Consumer Product Safety Commission.....	34,452	556	I	X
Corporation for Public Broadcasting.....	159,500	0	I	X
Delaware River Basin Commission.....	161	2	II	
Equal Employment Opportunity Commission.....	157,905	3,107	I	X
Export-Import Bank.....	³ 17,568	326	II	
Farm Credit Administration.....	³ 23,176	353	I	X
Federal Communications Commission.....	90,341	1,820	I	X
Federal Deposit Insurance Corporation.....	⁴ 472,000	3,655	I	X
Federal Election Commission.....	11,898	230	I	X
Federal Home Loan Bank Board.....	³ 29,150	259	I	X
Federal Labor Relations Authority.....	16,330	269	I	X
Federal Maritime Commission.....	11,360	206	I	X
Federal Mediation and Conciliation Service.....	22,388	329	II	
Federal Mine Safety and Health Review Commission.....	3,651	47	II	
Federal Reserve Board of Governors.....	⁵ 84,197	1,496	I	X
Federal Retirement Thrift Investment Board.....	250	0		
Federal Savings and Loan Insurance Corporation.....	³ 1,378	15	I	
Federal Trade Commission.....	62,683	1,107	I	X
Franklin Roosevelt Memorial Commission.....	20	0	II	
Harry Truman Scholarship Foundation.....	634	4	II	
Holocaust Memorial Commission.....	2,021	29	II	
Illinois and Michigan Canal National Heritage Corridor Commission.....	236	1		
Institute for Museum Services.....	20,474	13	II	
Intelligence Community Staff.....	21,001	212		
Inter-America Foundation.....	11,454	66	II	
International Trade Commission.....	27,370	505	I	X
Interstate Commerce Commission.....	46,108	804	I	X
James Madison Fellowship Foundation.....	⁶ 33,842	4		

CHART NO. I—Continued

Federal entity	Fiscal year 1986 BA1 (thousands)	Employ- ment ¹ FTE	PCIE cat.	Designat- ed in S. 908
Japan-United States Friendship Commission.....	2,563	4	II	
Jefferson National Expansion Memorial Commission.....	72	1		
Legal Services Corporation.....	292,363	117	I	X
Marine Mammal Commission.....	861	10	II	
Merit Systems Protection Board.....	19,140	325	II	
Office of Special Counsel.....	4,396	84		
National Afro-American History Commission.....	191			
National Archives and Records Administration.....	97,004	1,812	I	X
National Board for Promotion of Rifle Practice.....	875	16		
National Capital Planning Commission.....	2,580	50	II	
National Consumer Coop Bank.....				
National Commission on Libraries and Information Science.....	660	11	II	
National Council on Employment Policy.....				
National Council on Handicapped.....	732	9	II	
National Council on Public Works Improvement.....	² 1,750	5	II	
National Credit Union Administration.....	0	625	I	X
National Critical Materials Council.....	475			
National Endowment for Democracy.....	⁷ 17,226	0		
National Endowment for the Arts.....	158,537	251	I	X
National Endowment for the Humanities.....	134,582	248	I	X
National Institute of Building Sciences.....	753	0	II	
National Labor Relations Board.....	129,055	2,421	I	X
National Mediation Board.....	6,085	57	II	
National Rail Passenger Corporation (AMTRAK).....	⁸ 562,237	0	I	X
National Science Foundation.....	1,294,060	1,124	I	X
National Transportation Safety Board.....	21,341	323	II	
Navajo-Hopi Relocation Commission.....	21,395	57		
Neighborhood Reinvestment Corporation.....	17,669	201	II	
Occupational Safety and Health Review Commission.....	5,647	78	II	
Office(s) of Independent Counsel(s).....				
Overseas Private Investment Corporation.....		136		
Panama Canal Commission.....	450,534	8,336	I	X
Peace Corps.....	120,410	1,013	I	X
U.S. Institute for Peace.....	² 625	2		
Pennsylvania Avenue Development Corporation.....	2,215	37	II	
Pension Benefit Guaranty Corporation.....	³ 31,631	459	II	X
U.S. Postal Service.....	715,836	739,511		X
Postal Rate Commission.....				
Potomac River Basin Commission.....	79	0	II	
Securities and Exchange Commission.....	106,323	1,898	I	X
Selective Service System.....	26,128	268	II	
U.S. Sentencing Commission.....	1,053	37		
Smithsonian Institution.....	169,384	3,734	I	X
State Justice Institute.....	8,344	0		
Susquehanna River Basin Commission.....	156	2	II	
Tennessee Valley Authority.....	⁹ 99,528	27,613	I	X
Washington Metropolitan Transit Authority.....	51,664	0		

¹ Appendix, Budget of the United States Government, Fiscal Year 1988.

² Fiscal Year 1987.

³ Limitation on Administrative Expenses in Appropriations Act, rather than budget authority.

⁴ Statutory Borrowing Authority, rather than budget authority.

⁵ Total Program Costs (no appropriations).

⁶ Fiscal Year 1988.

⁷ Appropriation to USIA for grant.

⁸ Appropriation to Secretary of Transportation for grant to Nat'l. Rail Passenger Corp.

⁹ Appropriated funds; actual BA is 1,084,178.

INSPECTOR GENERAL ACT AMENDMENTS OF 1988

JULY 13, 1988.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BROOKS, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H.R. 4054]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Operations, to whom was referred the bill (H.R. 4054) to amend the Inspector General Act of 1978 to establish offices of inspector general in certain departments, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment strikes out all after the enacting clause of the bill and inserts a new text which appears in italic type in the reported bill.

EXPLANATION OF AMENDMENT

Inasmuch as all after the enacting clause of H.R. 4054 was stricken and all language incorporated into the amendment, this report constitutes an explanation of the amendment.

SUMMARY AND PURPOSE

Over the years, the Committee on Government Operations has placed a high priority on improving the management of the Federal Government. Among its many activities aimed at achieving this goal was the establishment of the first statutory inspector general in 1976 in the then-Department of Health, Education, and Welfare. Statutorily established Offices of Inspectors General have subsequently been authorized in 20 other departments and agencies.

These offices have made outstanding contributions toward improving the operations of their respective departments and agencies.

The Justice and Treasury Departments are the only two departments without statutorily established, Presidentially appointed inspectors general. H.R. 4054 would amend the Inspector General Act of 1978¹ by establishing Offices of Inspector General in these two Departments and in the Federal Emergency Management Agency (FEMA). The bill would also conform the Offices of Inspector General already established in the Departments of Health and Human Services² and Energy³ and the Railroad Retirement Board⁴ by including them in the Inspector General Act of 1978.

Additionally, H.R. 4054 would establish Offices of Inspector General in designated Federal entities, which do not have a Presidentially appointed statutory inspector general. These entities (1) are regulatory agencies of the Federal Government or (2) were established by the Federal Government and receive over \$100 million annually in Federal funds.⁵ In each of these entities, the existing audit and investigative activities would be combined. Each inspector general would report directly to the head of the respective entity. The head of each entity would be required to notify Congress should the inspector general be removed or transferred. All other Federal entities would be required to report annually to the Office of Management and Budget on their audit and investigative activities.

The bill would establish procedures to assure greater uniformity and reliability in the reporting of audit results by inspectors general and would require the head of each entity subject to the 1978 act to report to Congress on the implementation of management decisions on audit findings and recommendations. Uniform salary levels for presidentially-appointed inspectors general would also be provided, and all inspectors general would be authorized to administer or take oaths, affirmations, and affidavits. In addition, an Office of Inspector General would be established for the Government Printing Office.

COMMITTEE ACTION AND VOTE

H.R. 4054 was reported by the full Committee on Government Operations by unanimous voice vote at a duly called meeting of the committee on June 9, 1988, with a quorum present.

HEARING

A hearing on H.R. 4054 was held by the Legislation and National Security Subcommittee, Committee on Government Operations, on May 17, 1988.⁶ Testimony was received from Congressman Samuel

¹ Public Law 95-452, 92 Stat. 1101, 5 U.S.C. App.

² Public Law 95-505, 90 Stat. 2429, 42 U.S.C. 3521 (1976).

³ Public Law 95-91, 91 Stat. 575, 42 U.S.C. 7138 (1977).

⁴ Public Law 95-76, 97 Stat. 438, 45 U.S.C. 231v (1983).

⁵ For the purpose of this determination, the committee considered the actual appropriation for fiscal year 1987 and the request for fiscal year 1988.

⁶ "Inspector General Act Amendments of 1988," Hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, May 17, 1988 (hereinafter referred to as "1988 hearing").

Gejdenson, Chairman, Subcommittee on General Oversight and Investigations, Committee on Interior and Insular Affairs; Milton J. Socolar, Special Assistant to the Comptroller General, U.S. General Accounting Office; Joseph R. Wright, Jr., Deputy Director, Office of Management and Budget; June Gibbs Brown, Inspector General, Department of Defense; Sherman M. Funk, Inspector General, Department of State; and Richard P. Kusserow, Inspector General, Department of Health and Human Services.

DISCUSSION

A. BACKGROUND

(1) Longstanding Audit Requirements

The Accounting and Auditing Act of 1950,⁷ as codified, and numerous administrative directives have been designed to require strong internal audit in Federal agencies. The 1950 act directs the heads of Federal agencies to "establish and maintain systems of accounting and internal control that provide . . . effective control over, and accountability for, assets for which the agency is responsible, including internal audit,"⁸ and further requires compliance with audit standards prescribed by the Comptroller General.⁹

The "Standards for Audit of Governmental Organizations, Programs Activities, and Functions," promulgated by the Comptroller General of the United States, specify that:

In all matters relating to the audit work, the audit organization and the individual auditors . . . must be free from personal and external impairments to independence, must be organizationally independent, and shall maintain an independent attitude and appearance.¹⁰

A "Statement of Principles and Concepts of Internal Auditing for Federal Agencies" issued by the General Accounting Office (GAO) in 1957 and revised in 1968, states that each department or agency should have a single centralized internal audit organization reporting to the agency head or to a principal executive next in line. The stated purpose of the guidelines is to enhance audit independence and freedom, concentrate efforts, and gain top-level attention to audit findings.¹¹

An Office of Management and Budget (OMB) circular, as revised on June 10, 1983, sets forth requirements for audit of Federal operations and programs and reiterates the policy that "Agencies are responsible for providing adequate audit coverage of their programs. . . ." The circular states that the audit organization should report to the head or deputy head of the agency.¹²

⁷ Public Law 81-784, sec. 113(a), 64 Stat. 834, codified at 31 U.S.C. 3512(a) (hereinafter referred to as "1950 act").

⁸ *Ibid.*, (a)(3).

⁹ *Ibid.*, (b)(1).

¹⁰ "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions", Comptroller General of the United States, 1981 Revision, p. 17 (hereinafter referred to as "GAO Audit Standards"). In other documents, these standards are referred to as "Yellow Book Standards", or as Generally Accepted Government audit Standards (GAGAS).

¹¹ Sperry, Roger L., *et al.*, *GAO 1966-1981 An Administrative History*, U.S. General Accounting Office, 1981.

¹² OMB Circular No. A-73, *Audit of Federal Operation and Programs*, Revised, June 20, 1983 (hereinafter referred to as OMB Circular A-73), section 5 and 8(a).

(2) Historical Background

During the 1960's and 1970's, the Committee on Government Operations conducted a number of investigations which revealed that auditors and investigators throughout the Federal Government were being severely handicapped by lack of access to high level agency officials, lack of coordination, inadequate resources, and a lack of independence. For example, in the early 1960's the committee found that audit and investigative activities in the Department of Agriculture were being conducted by a number of separate and uncoordinated units, which in many cases were subordinate to the officials responsible for the activities being audited or investigated.¹³ An investigation in 1974 revealed that investigative activities in the Department of Health, Education, and Welfare (HEW) lacked central leadership and that HEW's central investigative unit had only 10 investigators with a 10-year backlog of uninvestigated cases.¹⁴

Administrative offices of inspector general were established to address the problems of access to high level officials, coordination, resources, and independence. For example, in response to the early 1960's findings by this committee, the Department of Agriculture administratively established an office of inspector general which brought together the Department's auditing and investigative resources.¹⁵ The Department of Housing and Urban Development (HUD) also established an administrative office of inspector general following scandals in the late 1960's and early 1970's involving collusion of construction firms and builders in urban housing projects.¹⁶

While these organizations addressed many of the committee's concerns, such offices existed at the sufferance of the head of the department or agency. This became obvious when, in 1973, Earl Butz, then the Secretary of Agriculture, summarily abolished the Department's office of inspector general and split the audit and investigative responsibilities. Even though the Department of Agriculture's Office of Inspector General was reestablished in 1977,¹⁷

¹³ Fountain, Honorable L. H. "What Congress Expects from the New Inspectors General," *Government Accountants Journal*, Spring 1979, v28, p8. This article contains the remarks of Representative Fountain to the new inspectors general during the course of their orientation briefings in 1979. In these remarks, Representative Fountain elaborated on the case which led to the nonstatutory inspector general in the Department of Agriculture as follows: "A comprehensive subcommittee investigation of the operation of Billie Sol Estes disclosed that several different audit or investigative units of the Department of Agriculture had looked into various phases of Mr. Estes' questionable activities over a period of nearly ten years: however, because of an almost total lack of coordination or communication among these units, no effective remedial action was initiated until after a newspaper story revealed the extent of Estes' illegal operations."

¹⁴ Fountain at page 9. Also, Doherty, Robert P., "Shaping the Inspector General Law", *Government Accountants Journal*, Spring 1979, V28, p2. Doherty reports on even earlier situations at HEW that further illustrate the problems there. He states that in the early 1960's an investigator on loan to HEW from NASA reported: "They [HEW] had no investigators at all. Management resisted investigators. They also resisted my recommendation [to create their own investigative capability]. Reluctantly, they hired one investigator. This was for a department of 80,000 people at the time."

¹⁵ Fountain at page 8. He also concluded that "By and large, the nonstatutory Office of Inspector General at the Department of Agriculture worked well: certainly it was a vast improvement over the disorganized arrangements previously in effect."

¹⁶ Staff interview with Charles L. Dempsey, former inspector general at the Department of Housing and Urban Development.

¹⁷ Staff interview with Robert W. Beuley, inspector general, Department of Agriculture.

the fatal flaw in administrative offices of inspector general—their lack of statutory underpinnings—had been clearly demonstrated.¹⁸

The committee's studies, together with the abolition of the non-statutory office of inspector general at Agriculture, resulted in the creation of the first statutorily established inspector general in HEW in 1976.¹⁹ In 1977, the committee reported and the Congress adopted, legislation creating the Department of Energy.²⁰ This legislation included a provision establishing an inspector general in that Department. The following year, this committee reported the Inspector General Act of 1978 (the 1978 act), which established Offices of Inspector General in 12 additional departments and agencies.²¹ Subsequent legislation has brought the total number of statutorily established offices of inspectors general to 21,²² of which 20 are currently in existence.²³

The general purpose of these statutes is to provide for more independence for audit and investigative operations and to achieve more efficient and effective operations. This purpose is to be achieved by, among other things, consolidating the various audit and investigative offices under central leadership within each department or agency and requiring that the inspectors general report to, and be under the general supervision of, the head of such department or agency. Since the passage of these statutes, the Committee on Government Operations has continually exercised its oversight responsibilities over the Offices of Inspector General.²⁴

¹⁸ A more recent example of this fatal flaw in administratively-established Offices of Inspector General is reported in a June 1986 GAO report "Internal Audit: Nonstatutory Audit and Investigative Groups Need To Be Strengthened", (GAO/AFMD-86-11) p. 17. In this report, GAO states that "At NSF, we found that the audit function was downgraded in January 1985 when it was transferred from reporting to the head of the agency to the Office of the Comptroller. The audit unit head told us that he was concerned that the audit staff's independence was not guaranteed by this organizational placement, even though the current controller was very supportive of its efforts."

¹⁹ Public Law 94-505, 90 Stat. 2429, 42 U.S.C. 3521 (1976) Title II—Office of Inspector General [Department of Health, Education and Welfare (now Department of Health and Human Services)], October 5, 1976. See also, Kopff, Judy G., "The Inspectors General, On-The-Spot Watchdogs", *The GAO Review*, Spring 1980, p. 51. While conventional wisdom has it that HEW was the first statutory Inspector General, Thomas W. Novotny, in his "The IGs—A Random Walk" published in *The Bureaucrat* points out that the Inspector General of Foreign Assistance (IGA) at the Department of State was established by the Foreign Assistance Act of 1961. It is interesting to note that the IGA at State was created because its predecessor had reported to the comptroller of the Mutual Security Agency, and the congress believed that the IG should report to the Secretary of State "to provide a means by which information about deficiencies in the operation of [foreign assistance programs] can be transmitted from the operating level in the field where they become apparent to the top echelon of the organization where remedial action can be taken."

²⁰ Public Law 95-91, 91 Stat. 565, 42 U.S.C. 7138 (1977), The Department of Energy Act (August 4, 1977).

²¹ Public Law 95-452, 92 Stat. 1101, 5 U.S.C. App. sec 208, The Inspector General Act of 1978, October 12, 1978. This act created Offices of Inspector General in 12 departments and agencies. These were the Departments of Agriculture, Commerce, Housing and Urban Development (HUD), Interior, Labor, and Transportation; and in the Community Services Administration (CSA), Environmental Protection Agency (EPA), General Services Administration (GSA), National Aeronautics and Space Administration (NASA), Small Business Administration (SBA), and the Veterans' Administration (VA).

²² Inspectors general created since passage of the 1978 act include: Department of Education (Public Law 96-88, October 12, 1978); Department of State Public Law 96-465, October 17, 1980); Agency for International Development (Public Law 97-113, December 29, 1981); Department of Defense (Public Law 97-252, September 8, 1982); Railroad Retirement Board (Public Law 98-76, August 12, 1983); the U.S. Information Agency (Public Law 99-399, August 27, 1986); and the Arms Control and Disarmament Agency, (Public Law 100-213, December 24, 1987).

²³ The 1978 act established an inspector general for the Community Services Administration. That agency has since been abolished but the position of inspector general is still authorized. H.R. 4054 deletes the authorization for this office.

²⁴ See Appendix I for a listing of legislative and oversight hearings, reports, and a study concerning offices of inspector general.

B. NEED FOR PRESIDENTIALLY-APPOINTED INSPECTORS GENERAL AT THE DEPARTMENTS OF JUSTICE AND TREASURY

(1) *Background*

The Departments of Justice and Treasury are the only two Cabinet departments without Presidentially appointed inspectors general. They were not included in the 1978 act so that their need for statutorily established Offices of Inspector General could be thoroughly reviewed. After further studies and hearings, as well as continuing opportunities to observe the effectiveness of statutorily established inspectors general in other departments and agencies, the Committee on Government Operations and the House of Representatives, on four occasions, have acted to extend the inspector general concept to these departments.²⁵ In all four instances, the Senate has failed to act.

Although the administration asserts that it "has long been a strong advocate of Inspectors General * * *" ²⁶ it contends that "[e]stablishing a statutory Inspector General at the Justice Department would seriously undermine the Department's authority and powers as the Nation's chief law enforcement agency. * * *" ²⁷

The administration has not objected to the establishment of an inspector general-type function at the Department of Treasury, provided the unique missions carried out by Treasury are adequately protected against unauthorized disclosure or compromise.²⁸ A study of the need for a presidentially-appointed inspector general in the Department of Justice was recently completed for the Legislation and National Security Subcommittee.²⁹ Additionally, in 1986 the General Accounting Office issued reports concluding that the Departments of Treasury³⁰ and Justice³¹ both need presidentially-appointed inspectors general. These studies do not support the administration's objections to an inspector general at the Department of Justice, nor do they support the claimed need for the restrictions suggested by the administration on an inspector general for the Department of Treasury.

(2) *Department of Justice*

Officials of the Justice Department played a supportive role in the enactment of the 1978 act.³² Even so, the Department, in a

²⁵ In the 96th Congress, H.R. 7893 was approved by this committee and by the House of Representatives to create an Office of Inspector General in the Departments of Justice and Treasury. During the 97th Congress, the committee again passed a bill—H.R. 2098—by unanimous vote to create these two offices. The House approved the measure by a recorded vote of 334 to 65; however, the Senate again failed to act. In the 98th Congress, the House passed H.R. 3625 and in the 99th Congress the House passed H.R. 3077. The Senate failed to act on either bill.

²⁶ 1988 hearing.

²⁷ *Ibid.*, p. 6.

²⁸ *Ibid.*, p. 3.

²⁹ "The Need For A Statutory Inspector General in the Department of Justice", A Study Prepared for the Legislation and National Security Subcommittee, Committee on Government Operations, Committee Print, June 1988 (hereinafter referred to as "subcommittee study").

³⁰ "Treasury Department: An Assessment of the Need for a Statutory Inspector General", (GAO/AFMD-86-3), August 1986.

³¹ "Justice Department: An Assessment of the Need for a Statutory Inspector General", (GAO/AFMD-86-8), February 1986.

³² "Statutory Offices of Inspector General (Leadership and Resources)," Committee on Government Operations, House Report 97-211, 87th Congress, 1st Session, July 30, 1981 (hereinafter cited as "1981 committee report").

June 8, 1988, letter to Committee Chairman Jack Brooks renewed its longstanding objection to an inspector general at the Department of Justice.³³ The Department advances constitutional and policy issues as grounds for its position. In addition, it asserts that it has established a comprehensive inspector general-type audit and internal investigation capability in the Department, thus negating the need for a Presidentially appointed inspector general.

The constitutional issues raised by the Justice Department are aimed at provisions contained in the 1978 act and in the acts which established inspectors general in the then-Department of Health, Education and Welfare and in the Department of Energy.³⁴ These arguments were presented to the Congress prior to passage of those laws, but were not accepted. Moreover, the President signed the laws containing the questioned provisions and the committee knows of no effort to overturn them in the courts.

Like the constitutional issues, the policy issues raised by the Justice Department are not new and each has been considered by this committee in its earlier attempts to extend the inspector general concept to the Department.³⁵

The Department of Justice was not included in the 1978 act so that its need for a statutorily established inspector general could be given additional consideration. In fact, further studies and hearings were conducted and the committee has had an opportunity to observe the effectiveness of the other Offices of Inspector General. As a result of such further consideration, the Committee on Government Operations and the House of Representatives have acted on four previous occasions to extend inspector general coverage to the Department of Justice.³⁶ The Justice Department, however, strongly agrees with the statement that it would be "undesirable to superimpose an Inspector General, who is basically a law enforcement official, on law enforcement agencies."³⁷

The incongruity of the Justice position should be noted. In resisting the establishment of an Office of Inspector General in the Department of Justice, the Department asserts that inspectors general are "basically . . . law enforcement official[s]." However, in response to the inspectors general's attempt to gain certain law enforcement power for their investigators,³⁸ a position proposed by Justice personnel would draw a distinction between the inspectors general and "traditional law enforcement"³⁹ as a basis for objecting to these efforts.

³³ Letter to the Honorable Jack Brooks, Chairman, Committee on Government Operations, from the Acting Assistant Attorney General, Office of Legislative Affairs, U.S. Department of Justice, dated June 8, 1988 (hereinafter referred to as "Justice Department letter").

³⁴ *Ibid.* In its letter the Justice Department acknowledges that ". . . [w]hile the substance of these [constitutional] objections [relating to separation of powers] applies as well to existing law, we have made such objections in the past [see 1 Op. Off. Legal Counsel 16 (1977)]. . . ."

³⁵ *Supra.*

³⁶ *Supra.*

³⁷ Justice Department letter, p.4.

³⁸ The Legislation and National Security Subcommittee is conducting a review of law enforcement powers in all Federal departments and agencies, as well as the need for these additional powers in the Office of Inspector General.

³⁹ This is contained in an undated draft letter to Honorable James C. Miller, Director, OMB, from Acting Assistant Attorney General, Office of Legislative and Intergovernmental Affairs, U.S. Department of Justice, which is being circulated in the inspector general community.

Justice's claims that it has established effective mechanisms within the Department to investigate allegations of impropriety and to carry out audits⁴⁰ were refuted by the study conducted for the Legislation and National Security Subcommittee. That study found serious deficiencies in Justice's internal audit and investigative functions and disclosed that Justice has failed to comply with the Comptroller General's Standards and OMB circulars.⁴¹ Specifically, the study found 14 separate internal audit and investigative units in Justice. The study concludes that: (1) audit and internal investigation units are not independent and the efforts of the audit units are not coordinated; (2) audit coverage of agency programs is insufficient; (3) audit and investigative results are not formally reported to the Attorney General; (4) audit followup does not meet OMB requirements; and (5) audit and investigations oversight is not adequate. Disclosures of such conditions in other departments and agencies led to passage of the 1978 Act.

A 1986 GAO report also concluded that a statutory inspector general was needed for the Department of Justice.⁴²

In addition to opposing establishment of a statutory inspector general, the Justice Department has virtually ignored a Presidential memorandum instructing departments and agencies to adopt significant features of the 1978 act.⁴³ After taking no action on the memorandum for a year and a half, Justice finally assigned responsibility for leading the fight against waste, fraud and abuse in the Department's programs to its Office of Professional Responsibility (OPR). However, Justice did not provide OPR with adequate resources to carry out its added responsibilities. OPR has a professional staff of less than 10 persons⁴⁴ to carry out both its primary responsibility for matters dealing with integrity and professionalism of personnel and its secondary responsibility for combating waste, fraud, and abuse.⁴⁵

Further, the subcommittee study disclosed that Justice's internal audit and investigative units are generally located in the bureaus they are required to review and that the audit units have no strong central leadership. Moreover, independence of noncriminal investigations is impaired because noncriminal allegations are normally referred to the office, division, bureau, or board for whom the accused employee works and personnel from other units are often detailed to OPR on a temporary full-time basis. While at OPR the detailees are expected to perform sensitive investigations that could relate to their former and potential future coworkers.⁴⁶ The reports of the audit and investigative units are reviewed by the officials responsible for the functions subject to audit, passing through

⁴⁰ Justice Department letter, p. 7.

⁴¹ Subcommittee study.

⁴² *Supra*.

⁴³ "Public Papers of the Presidents of the United States, Jimmy Carter, 1978, Book II," December 13, 1978, p. 2233. After enactment of the 1978 Inspector General Act, President Carter issued a directive to the heads of all Federal agencies asking those without inspectors general to designate a single official to oversee efforts to eliminate waste, fraud and error. This responsibility was eventually assigned by the Department of Justice to its Office of Professional Responsibility via Department of Justice Order DOJ 2900.5, on May 30, 1980.

⁴⁴ Subcommittee study, p. 13.

⁴⁵ *Ibid.* The subcommittee study in general.

⁴⁶ *Ibid.*

anywhere from three to six officials before reaching the Attorney General.⁴⁷

A simple extension of the 1978 act to include the Department of Justice would not result in a direct and significant distortion and diffusion of the Attorney General's responsibilities to investigate, prosecute, or to institute suit when necessary to uphold Federal law. The investigation and prosecution of suspected violations of Federal law and the conduct of litigation are parts of the basic mission or program functions of the Department of Justice. The 1978 act does not authorize inspectors general to engage in program functions and, in fact specifically prohibits the assignment of such responsibilities to an inspector general.⁴⁸

H.R. 4054 would not change current administrative procedures. Where law enforcement agencies, such as the Federal Bureau of Investigation (FBI), already exist, the Congress does not intend that such agencies refer cases to the inspector general for referral to the Attorney General. Unless altered by the Department administratively, the current scheme for reporting violations of Federal criminal law would remain in effect after the establishment of a statutory Office of Inspector General. Additionally, H.R. 4054 does not transfer the FBI's or the Drug Enforcement Agency's (DEA) audit and internal investigative functions to the Office of Inspector General. While the Committee believes that the optimal situation is the consolidation of all internal audit and investigative units within the offices of inspector general, these functions could also be performed by FBI and DEA units reporting directly to the head of those components. In any event, the inspector general would have full authority to conduct reviews and oversight of all the Department's programs and operations. H.R. 4054 would not prohibit the Attorney General from transferring those internal units to the Office of Inspector General if he or she found it appropriate to do so as authorized by the 1978 act (sec. 9(a)(2)).

In its attempt to prevent the establishment of a statutory Office of Inspector General, the Justice Department has also asserted that an inspector general would be able to review the exercise of prosecutorial discretion by U.S. Attorneys. The Department argues that this would not only supplant the authority of the Attorney General, but it would also "significantly alter the independent and discretionary decisionmaking of the United States Attorneys." In order to dispel the concerns raised by the Justice Department, H.R. 4054 would not transfer the Office of Professional Responsibility to the Office of Inspector General. The continued existence of OPR, however, would in no way decrease the duties or authority of the inspector general.

The committee's position, noted in its report, remains unchanged. The committee believes that the continued existence of OPR as a separate unit should enable the inspector general to give more concentrated attention to obtaining improved management and more effective use of law enforcement resources without being distracted by OPR's primary responsibility for looking into ques-

⁴⁷ Ibid., p. 18.

⁴⁸ 1978 act, sec. 9(a)(2).

tions of the integrity and professionalism of Justice Department personnel.

This decision should also help alleviate another concern expressed by the Department of Justice—that the inspector general will become heavily involved in reviewing and criticizing the legal merits of discretionary decisions made by Justice Department attorneys in the handling of individual cases. The Office of Professional Responsibility has primary responsibility for annually reviewing hundreds of allegations of abuse of prosecutorial discretion, grand jury procedure, and legal conflicts of interest.

With the continued existence of OPR, the inspector general should very seldom find it necessary or desirable to look into the wisdom of decisions relating to individual cases. Any effort by the inspector general to routinely review the exercise of legal judgment in individual cases would divert resources which should be used to promote more effective management, and the Committee does not intend or expect this to happen.

It should be noted that OPR operates under procedures established at the discretion of the Attorney General—procedures that can be changed whenever an Attorney General might decide to do so. Under H.R. 4054, a Justice Department inspector general would not be subject to such administrative vagaries.

There are, no doubt, many dedicated and capable investigators and attorneys in the Department of Justice. In spite of their efforts, however, it is obvious that the overall effectiveness of Federal law enforcement activities is simply not adequate. It can and must be improved and a statutory inspector general is urgently needed to help get the job done.⁴⁹

(3) Department of the Treasury

H.R. 4054 would establish a Presidentially appointed inspector general in the Department of the Treasury. Treasury is the third largest executive branch department. In fiscal year 1987 its budget authority was in excess of \$6 billion and it had more than 138,000 employees.⁵⁰ In 1981, the President publicly supported the creation of an inspector general who would “. . . have powers tailored to the specific needs of the Treasury Department.”⁵¹ In the past, the Treasury Department has supported establishment of a statutory Office of Inspector General,⁵² while at other times it has stated that such an office “would be counterproductive and ultimately would diminish” the Department’s ability to carry out its mission.⁵³

Like Justice, Treasury asserts that its current administratively established office of inspector general is as good as a statutorily established Office of Inspector General.⁵⁴ This administratively es-

⁴⁹ 1986 committee report, p. 9.

⁵⁰ “Budget of the United States Government,” Fiscal year 1989, 100th Congress, 2nd Session, House Document No. 152, pp. 6g-14, 6g-17.

⁵¹ Statement on Actions Taken Against Waste, Fraud, and Abuse in the Federal Government, Memorandum from the President, April 16, 1981.

⁵² House Report No. 96-1414, p. 11.

⁵³ Department of Treasury, Letter to Chairman Brooks, August 4, 1986 (hereinafter referred to as “Treasury Letter”), p. 2.

⁵⁴ Treasury Letter, p. 2.

established office of inspector general under Treasury's present organizational structure, however, has audit and investigative responsibilities over only about 10 to 11 percent of the Department's operating budget.⁵⁵ Although that office undoubtedly serves a useful purpose, a broader scope, greater independence, and permanence are essential to the long-term effectiveness of Offices of Inspector General, and an administratively established office guarantees none of these. Further, there is no requirement for significant problems discovered by an administratively established office of inspector general to be reported to the Congress. While a nonstatutory office of inspector general may work reasonably well on a temporary basis, its effectiveness can be destroyed overnight by a change of management or even a change of mind.⁵⁶

Although both Justice and Treasury have voiced concern about the potential for disclosure of sensitive information, neither the 1978 act nor any other law establishing statutory Offices of Inspector General require that sensitive information be included in public reports of the inspectors general. In fact, the 1978 act specifically prohibits an inspector general from disclosing to the public any information which is specifically prohibited from disclosure by any other provision of law; by Executive order in the interest of national defense, national security, or in the conduct of foreign affairs; or a part of an ongoing criminal investigation, unless, with respect to a part of an ongoing criminal investigation, such information has been included in a public record.⁵⁷

To assure that there can be no misunderstanding, H.R. 4054 amends the 1978 act to clearly prohibit the disclosure of tax information except to the extent provided in the Internal Revenue Code.⁵⁸ These provisions should dispel any legitimate and realistic concerns of Justice and Treasury about improper disclosure of sensitive information.

Further, since statutory inspectors general are specifically required to be selected on the basis of their integrity, as well as other specified qualifications,⁵⁹ there is no reason to believe that an inspector general would be less trustworthy than other department officials in handling sensitive information. The inspector general would undergo the same background checks as are required for the Attorney General and the Secretary of the Treasury. Staff with access to sensitive information would also be subject to strenuous background checks.

The committee also notes that, to its knowledge, no problems have arisen with respect to the handling of classified or sensitive data by the existing statutory Offices of Inspector General. Both the inspector general of the Department of Defense and the inspector general of the Department of State commented on these matters during the May hearing. Both of these agencies manage programs that are equally as sensitive to the national security as are programs managed by the Department of the Treasury. The DOD

⁵⁵ Senate Report 100-150, p. 7.

⁵⁶ See earlier discussion regarding the demise of the nonstatutory inspector general at the Department of Agriculture.

⁵⁷ The 1978 act, sec. 5(e)(1) and (2).

⁵⁸ H.R. 4054, section 110.

⁵⁹ The 1978 act, sec. 3(a).

inspector general stated that there had been no occasion for the Secretary of Defense to exercise ". . . authority, direction and control . . ." over the inspector general.⁶⁰ The inspector general at State said he has never encountered any of the problems postulated by the Department of Treasury.⁶¹

This bill would establish a statutory Office of Inspector General at Treasury. Some have suggested that perhaps a better arrangement might be to establish two statutory Offices of Inspectors General at Treasury—one for the Internal Revenue Service (IRS) and one for the remainder of Treasury.⁶² Mr. Socolar, Special Assistant to the Comptroller General of the United States, in his testimony before the subcommittee in May 1988 stated:

It's our view that one of the strengths of the Inspector General Act is that within each department or agency, there is a centralized function for dealing with auditing of operations within that department. And so I would say that it is essential that that kind of central authority not be fragmented within the departments or agencies.

C. ESTABLISHING AN OFFICE OF INSPECTOR GENERAL IN FEMA

H.R. 4054 also would establish a statutory Office of Inspector General in the Federal Emergency Management Agency (FEMA). Both GAO and OMB testified in support of this initiative,⁶³ and FEMA has informally indicated its support as well.

In fiscal year 1987, FEMA had estimated budget authority of about \$644 million⁶⁴ and an estimated staff size of about 2,465 persons.⁶⁵ These extensive resources are employed to manage the President's Disaster Relief Fund, the National Flood Insurance Fund, the Emergency Food and Shelter Funds, and similar programs. Because disaster assistance funds are often disbursed when the critical need to get funds to recipients may override careful adherence to established internal controls, the funds are extremely vulnerable to fraud and abuse.

A nonstatutory office of inspector general in FEMA was established in 1979 when the Agency began operations. In a study conducted for the committee in 1986, GAO found that this office did not comply with existing audit standards and that it had received little support from agency management. In fact, GAO reported that a former director had requested a former administratively-appointed inspector general to transfer to another position within FEMA, allegedly in retribution for certain reviews being conducted by the Inspector General's office.⁶⁶

In addition, the existing nonstatutory office does not enjoy the full support of agency management. As a result, little or no inter-

⁶⁰ 1988 Hearing.

⁶¹ 1988 Hearing.

⁶² See S. 908 as passed by the Senate. Note: S. 908 as reported from the Committee on Governmental Affairs (Senate Report 100-150, p. 10) did not include a separate inspector general for IRS.

⁶³ 1988 Hearing.

⁶⁴ "Budget of the United States Government," Fiscal Year 1989, 100th Congress, 2d Session, House Document No. 152, p. 6f-156.

⁶⁵ Budget Appendix, Fiscal Year 1989, p. 1-Z24.

⁶⁶ "Internal Audit: Nonstatutory Audit and Investigative Groups Need to be Strengthened", (GAO/AFMD-86-11), June 1986, pp. 16, 17.

nal audit coverage has been accorded many FEMA activities. In 1986, GAO reported that some of FEMA's procurement activities had not been audited since at least 1982. Moreover, in early fiscal year 1985, the "investigative staff was devoting about 90 percent of its time to investigating" cases in just one of the Agency's programs.⁶⁷ A fiscal year 1985 request to increase the staff to 60 persons was denied by Agency officials despite there being at that time (1) a backlog of 273 investigative cases that resulted in the assignment of as many as 60 cases to each senior investigator and (2) a "significant number of cases with no investigative actions for 1 to 2 years."

**D. EXTENSION OF INSPECTOR GENERAL ACT PROVISIONS TO CERTAIN
AUDIT AND INVESTIGATIVE UNITS**

H.R. 4054 extends specific provisions of the Inspector General Act of 1978 to other designated Federal entities. Most of these entities have existing audit units and some also have investigative units. Even so, the extension of the 1978 act is necessary, because many of these entities have failed to comply with longstanding requirements regarding independence of audit and investigative units and follow up on recommendations.

(1) Noncompliance With Longstanding Audit Requirements

Although internal audit has been required both by statute and by administrative directives at all Federal agencies, including those without Presidentially appointed inspectors general,⁶⁸ there was insufficient information available about the extent and effectiveness of internal audit activities at agencies without Presidentially appointed inspectors general. In August 1983, therefore, Chairman Brooks asked the GAO to determine the extent to which such agencies were in compliance with applicable statutes and administrative directives. In response to the chairman's request, GAO conducted two reviews.

The first review, completed in 1984, consisted of an analysis of responses to a questionnaire sent to 99 agencies without Presidentially appointed inspectors general. GAO found that:

. . . some agencies are not complying with OMB Circulars A-50 and A-73, which address audits of federal operations and programs and audit followup; and with GAO's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." Some agencies have no audit coverage; at others the internal auditor does not report to the head or deputy head of the agency; and at several agencies that have more than one audit or investigative unit, there are no procedures for coordination.⁶⁹

The second review, completed in 1986, was a followup study of 41 of the larger agencies without Presidentially appointed inspectors general. In fiscal year 1985 these agencies had combined total

⁶⁷ Ibid.

⁶⁸ See Background.

⁶⁹ "Status of Internal Audit Capabilities of Federal Agencies Without Statutory Inspectors General," GAO Report to the Chairman, Legislation and National Security Subcommittee of the House Committee on Government Operations, (GAO/AFMD-84-45), May 4, 1984.

budget authority of over \$100 billion and employed more than a quarter million people. The study disclosed that problems similar to those disclosed by GAO's previous report continued to exist. In addition, a detailed review at four agencies showed that:

Important agency functions received little or no audit coverage,

Audit and investigative staffs did not evaluate most of the investigations of alleged fraud and abuse and did not track their disposition or ascertain underlying causes of the illegal activities, and

Audit resolution and follow-up systems did not meet governmental requirements.⁷⁰

Based on these studies, the committee concluded in its 1986 report, that,

Many of these Federal agencies have demonstrated their inability or unwillingness to establish effective internal audit during the 36 years since the enactment of the Accounting and Auditing Act of 1950. Improvements are long overdue, and it is obvious that the needed improvements will not occur without new legislation.⁷¹

The GAO findings were confirmed during 1987, when several Presidentially appointed inspectors general, acting under the auspices of the President's Council on Integrity and Efficiency (PCIE), conducted analyses of audit and investigative coverage at smaller agencies.⁷² According to the inspector general of the Department of State, who directed the analyses for PCIE, the analyses found

... that very few of the smaller agencies had effective audit services. Most lacked any in-house audit units: when these did exist, the bulk of them were not organizationally independent. Perhaps worse, their long term status was not assured through legislation.⁷³

Even though the administration asserts that all agencies not in compliance will have taken corrective action during 1988, the administration supports provisions of H.R. 4054 dealing with these smaller agencies.⁷⁴

(2) Consolidated Audit and Investigative Functions

Specifically, H.R. 4054 would require that multiple audit and investigative units in an agency (except for units carrying out audits or investigations as an integral part of the program of the agency) be consolidated into a single Office of Inspector General headed by an administratively appointed inspector general who would report directly to the agency head and to the Congress. If an inspector general were removed from office, the agency head would be re-

⁷⁰ *Supra.*

⁷¹ 1986 Committee Report, p. 13.

⁷² "Review of Small Agency Audit and Investigative Capabilities," Report to the Chairman, President's Council on Integrity and Efficiency, May 1987. Additionally, a July 24, 1987, memorandum to the Chairman, President's Council on Integrity and Efficiency discusses a follow-up analysis of certain of these agencies.

⁷³ 1988 Hearing.

⁷⁴ 1988 Hearing.

quired to report that change to the Congress. The administratively appointed inspectors general would have the same authorities and responsibilities as those provided in the 1978 act for the Presidentially appointed inspectors general and they would serve under the general supervision of the heads of their respective agencies. This concept has worked very well in the past. While an inspector general would be solely responsible for establishing priorities for the work of his or her office, it is expected that each inspector general will give careful consideration to management concerns about agency operations in setting those priorities.

By requiring administratively appointed inspectors general to provide periodic reports to agency heads and the Congress concerning significant problems and deficiencies in agency operations and by requiring agency heads to report to Congress on agency actions relating to audit recommendations, H.R. 4054 would provide greater incentive for corrective actions.

In supporting H.R. 4054, GAO stated that it would go a long way toward correcting existing problems involving independence, audit coverage, evaluation of fraud causes, and audit resolution and followup in agencies without Presidentially appointed inspectors general.⁷⁵

By requiring the consolidation of audit and investigative units, the committee intends to reach any unit performing internal audit or investigative functions, not merely those with the word "audit" or the word "investigative" as part of a unit's title. In addition, contract audit functions such as those at the Office of Personnel Management would become part of the Office of Inspector General. By the same token, the committee does not intend to preclude managers from evaluating or analyzing their programs.

The committee recognizes that the initial size of Offices of Inspector General will vary according to the size of an agency's existing audit and investigative units. While all of the authorities, duties, and responsibilities of the 1978 act will apply to the consolidated offices, the manner in which the responsibilities are carried out will obviously depend to a considerable extent on the size and resources of the office. For example, existing internal investigative capabilities would be transferred to the Office of Inspector General.⁷⁶ If no internal investigative unit exists, however, the committee is not necessarily suggesting that auditors should conduct investigations or that an investigative capability must be developed; rather, the inspector general may make arrangements with other authorities to have allegations investigated. In this case, an appropriate authority could well be an agency of the Department of Justice, the Merit Systems Protection Board, the Office of Government Ethics, the General Accounting Office, or another inspector general with the required capability. When an outside authority is selected,

⁷⁵ 1988 Hearing. The witness said:

... the general concept of extending the protections and requirements enjoyed by the inspectors general to the audit and investigative units covered by H.R. 4054 is a good one, and one which we strongly support.

⁷⁶ Those investigative units whose mission is to conduct investigations as part of an agency's operational or regulatory mission would not be transferred to the Office of Inspector General e.g. certain investigative groups in the banking regulatory agencies.

it would be the responsibility of the requesting inspector general to track the investigation to its conclusion.

(3) Subpoena Power

H.R. 4054 would extend to administratively appointed inspectors general authority to require documents and information by subpoena. (This authority does not include the power to subpoena testimony.) When necessary, use of subpoena authority will make it possible for the inspectors general to obtain essential information which might not otherwise be available. Moreover, the existence of subpoena power will increase the likelihood of voluntary compliance with appropriate requests for information. As in the case of investigative capability, the committee expects that inspectors general without previous experience in exercising this authority will seek the advice and assistance of appropriate authorities such as the Presidentially appointed inspectors general. The courts would provide review when called upon to enforce a subpoena.

(4) Personnel Authority

While the Presidentially appointed inspectors general have full authority to select employees in accordance with appropriate civil service procedures, the committee recognizes that not all Federal entities operate under the Civil Service personnel system. For this reason, authorities in the 1978 act under section 6(a)(7) and (a)(8), providing for the selection and hiring of employees and consultants under that system, were not extended to the designated Federal entities. Instead, a separate provision is included in H.R. 4054 to provide authority for the inspectors general in designated Federal entities to select and employ such officers and employees as may be necessary, and to obtain services of experts or consultants, under the laws and regulations that govern the entity.

(5) Designated Federal Entity Defined

The committee intends that any entity to which federal appropriations are made maintain adequate control over the use of Federal resources. To help assure that adequate controls are in place and to help eliminate fraudulent and wasteful use of these resources and their mismanagement, the committee intends that each designated entity have an inspector general. The committee wishes to make clear, however, that an entity's status as a "designated Federal entity" in this act is solely for purposes of the Inspector General Act of 1978 and is not intended to change the entity's status under any other law. For example, the committee recognizes that it has taken many years of litigation for the National Railroad Passenger Corporation (i.e. AMTRAK) to establish that it should not be considered an agency of the United States. Including AMTRAK as a "designated Federal entity" is not intended to overturn this result.

E. OTHER AMENDMENTS

(1) Three Existing Statutory Offices of Inspector General Conformed to 1978 Act

At present, 16 of the 19 existing statutorily established Offices of Inspector General are under the 1978 act. However, the Offices of Inspector General in the Departments of Energy, Health and Human Services, and the Railroad Retirement Board were authorized by separate legislation. In the interest of uniformity and clarity, H.R. 4054 brings these three offices under the 1978 act. This amendment will not change the fundamental powers and duties of these offices. Additionally, H.R. 4054 explicitly provides that the continued service of persons currently occupying the respective positions of inspector general in these establishments shall not be affected.

(2) Requirements for Other Federal Entities

The term "Federal entity" is intended to encompass all entities in the executive branch other than those already covered, including any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government or any independent agency. This is the same definition used for the term "Federal entity" in the Freedom of Information Act (FOIA).⁷⁷ The bill would, therefore, cover any agency now covered by FOIA.

The Committee expects, also, that any Federal entity created in the future would automatically be included in the definition of "Federal entity" unless specifically excluded by law or by reason of establishment of a statutory Office of Inspector General headed by either a Presidentially appointed or administratively appointed inspector general.

H.R. 4054 will require each Federal entity, other than designated Federal entities and entities with presidentially-appointed inspectors general, to file annual reports⁷⁸ with OMB and the Congress stating, among other matters, whether, and how, appropriate internal audit services have been obtained. Establishing an internal audit office is not the only means of ensuring compliance with the basic requirement for appropriate internal audit.⁷⁹ Rather, the heads of Federal entities may obtain the needed level of internal audit from an appropriate authority such as an existing office of inspector general. Merely the possibility of audit by the General Accounting Office does not meet the test of appropriate internal audit. When GAO actually performs an audit of a Federal entity, the scope of that audit must be evaluated to determine compliance with the 1950 act.

⁷⁷ Public Law 89-554, 80 Stat. 383, 5 U.S.C. 552(e).

⁷⁸ H.R. 4054 states that this report is due "[w]ithin one year after enactment . . . and on October 31 of each succeeding calendar year. . . ." The committee expects a reasonable interpretation of this requirement. For example, should the first anniversary of enactment fall on August 31, 1989, a second report would not be expected until October 31, 1990.

⁷⁹ 1950 act.

(3) Head of Entity

The terms "head of the designated Federal entity" and "head of the Federal entity" are defined in section 103 of the H.R. 4054. Generally, the head of an entity will be the person or persons designated by law. However, for those entities that are headed by commissions or boards, the committee intends that the "head of the designated Federal entity" or "head of the Federal entity" be the highest ranking official or officials at the policymaking level in the entity rather than the chief executive officer. For example, the "head of the designated Federal entity" for the Panama Canal Commission would be the members of the Commission rather than the Administrator of the Panama Canal Commission.

(4) Reporting Requirements

H.R. 4054 amends section 5 of the Inspector General Act of 1978 by requiring more complete and standardized information in the semiannual reports, requiring a report from management on final actions, and by providing necessary definitions. Currently, semiannual reports lack consistency both in format and in the definitions used for necessary terms. Further, they provide little information on final actions taken by management as a result of audit recommendations.

(a) Definitions of Reporting Terms

Uniform definitions for terms used in semiannual reports are included in the bill to permit the information provided by the various inspectors general to be analyzed and aggregated more meaningfully. The GAO, in supporting this provision, indicated that uniform definitions will also assist the Congress in measuring agency progress on achieving final action and in other oversight activities.

Definitions are included for the terms "ineligible cost" and "unsupported cost" so that such costs will be reported separately. While the committee recognizes that some inspectors general include as questioned costs only those "unsupported costs" which in all likelihood will never be supported, others have reported unsupported costs without assuring themselves that the costs could never be supported. The result has been confusion as to the nature and significance of the aggregated figures. Further, the committee recognizes the probability that inspectors general will be questioned about their practice of reporting "unsupported costs" that are in fact usually found to have adequate support at a later date. This should encourage the inspectors general to pursue audits until supporting documentation is either produced or found to be nonexistent.

For the most part, the committee found that there were no uniform terms for the two basic milestones for audit followup which are (1) a decision on what actions will be taken in response to an audit report and (2) the completion of the decided-upon actions. According to Inspector General Brown, ". . . [f]or six years there has been an esoteric argument over what to call [these] two milestones."⁸⁰ To assure future uniformity, H.R. 4054 uses the terms

⁸⁰ 1988 Hearing.

"management decision" and "final action" for these milestones. These generic terms should help achieve the goal of uniformity without adversely affecting existing agency followup systems.

Additionally, the committee found no uniform format for reporting results of audits and investigations. For this reason, the committee has provided a proposed format, set out in the appendices. This format provides for a full accounting of the number of audit reports and the dollar value of the audit results. The committee believes that adherence to this format will facilitate meaningful analysis and aggregation of data from the various Offices of Inspector General.

The format speaks of "funds recommended to be put to better use". The committee intends that inspectors general report the amounts of funds or resources that will be used more efficiently as a result of actions taken by management or Congress if the inspector general's recommendation is implemented. This includes (1) reduction in unnecessary budgetary outlays, (2) deobligations of funds from agency programs or operations, (3) avoidance of unnecessary expenditures noted in preaward reviews of contract or grant agreements, (4) costs not incurred by implementing recommended improvements related to agency, contractor or grantee operations, and (5) reduction and/or withdrawal of interest subsidy costs on loans or loan guarantees, insurance or bonds.

(b) Required Reports by the Heads of Agencies

The committee amended the reporting provision to require that the inspectors general report on the disposition of audit recommendations only through the "management decision" process and that the agency heads report on the process through "final action". Currently, inspector general reports include no information on the action taken as a result of audit findings and agency heads are not now required to furnish such reports. The committee is concerned that the lack of reporting requirements on "final action" may provide an incentive for some managers to overlook these agreements and neglect to take the actions planned. As reported by the GAO:

The difference between management commitments and recoveries during a reporting period can be significant. For example, during a recent reporting period, USDA and [the Department of] Education listed management commitments of almost \$45 million but recovered \$8 million, or less than 18 percent of the reported commitments.⁸¹

There is now no requirement that agency management report to anyone what corrective action was actually taken and whether that action was successful in eliminating the deficiencies found by auditors. Under H.R. 4054, management officials who are responsible for making the corrections will have the responsibility to report on whether the corrections have been made and how effective the efforts were. They will also be required to report on why actual accomplishments vary from those expected at the time of the "management decision."

⁸¹ "The Audit of Federal Programs: Reasons for Disparity Between Costs Questioned by Auditors and Amounts Agencies Disallow," (GAO/AFMD-84-45), August 1984, p. 28.

The committee believes that better definitions and reports by both the inspectors general and agency management will improve practices of both managers and inspectors general. On the one hand, inspectors general will be likely to report more realistic dollar values from their work, and managers will now be required to explain why "management decisions" did not result in the dollar values claimed by the inspector general. On the other hand, these reporting requirements will give managers an incentive to follow through on their commitments.

(5) Administration of Oaths

The Inspector General Act of 1978 would be further amended by providing to all inspectors general under that act the authority to administer oaths to persons voluntarily supplying sworn statements. Some of the inspectors general currently have this authority. By providing statutory oath-administering authority for all Offices of Inspector General covered by the 1978 act, this amendment assures uniformity among the various offices and helps to further the ability of the inspectors general to more vigorously pursue fraud, waste, and abuse in agency programs and operations. It would also eliminate the unnecessary waste of time and money which occurs when inspector general personnel without oath-administering authority must call on someone else to administer oaths. Authority to administer oaths would not carry with it any authority to compel testimony.

(6) Executive Schedule Amended

When the 1978 act was originally passed, some Presidentially appointed inspectors general were placed at Level V and others were placed at Level IV of the Executive Schedule. The committee now believes that all Presidentially appointed inspectors general should be at the same level. H.R. 4054, therefore, places all Presidentially appointed inspectors general at Level IV of the Executive Schedule.

F. GOVERNMENT PRINTING OFFICE INSPECTOR GENERAL

In a letter to Chairman Brooks, the chairman of the Joint Committee on Printing, Congressman Frank Annunzio, ask that this committee consider establishing a statutory Office of Inspector General in the Government Printing Office (GPO).⁸² GPO has a nonstatutory inspector general that lacks all the authorities, duties, and responsibilities of the statutory inspectors general established under the 1978 act.

Accordingly, the committee included in H.R. 4054 a provision to establish a statutory Office of Inspector General in GPO with authorities, duties, and responsibilities similar to those in the 1978 act. The inspector general would be appointed by the Public Printer, who would be required to report to both Houses of Congress should the inspector general be removed from office.

⁸² Letter to Chairman, Committee on Government Operations, from Chairman, Joint Committee on Printing, May 11, 1988.

SECTION-BY-SECTION ANALYSIS

A. TITLE I—INSPECTOR GENERAL ACT AMENDMENTS

Section 101 cites the short title of the bill.

Section 102(a)(1) is a technical amendment.

Sections 102(b)(1) and (2) amend section 11(1) and (2) of the Inspector General Act of 1978. These sections list (1) the titles of the officials who are the heads of the establishments that have Presidentially appointed inspectors general, and (2) the names of the establishments where there are Offices of Inspector General headed by Presidentially appointed inspectors general. The effect of these amendments is to establish statutory Offices of Inspector General, headed by Presidentially appointed inspectors general, in the Departments of Justice and Treasury and the Federal Emergency Management Agency and to conform the existing statutorily established Offices of Inspector General in the Departments of Energy and Health and Human Services and in the Railroad Retirement Board under the Inspector General Act of 1978. Further, reference to the Community Services Administration is deleted from these sections since that agency no longer exists.

Section 102(c) amends section 9(a)(1) of the Inspector General Act of 1978 by adding provisions which mandate the transfer of certain existing audit and investigative units in the Departments of Justice and Treasury and the Federal Emergency Management Agency to the newly established Offices of Inspector General. Technical amendments are also included here to transfer existing statutorily established Offices of Inspector General in the Departments of Energy and Health and Human Services and in the Railroad Retirement Board to the Offices of Inspectors General that are newly placed under the Inspector General Act of 1978, in those agencies. These amendments do not create new authority for the head of the agency with respect to these offices.

Sections 102(d)(1) and (2) amend sections 5315 and 5316 of title 5 to provide uniform rates of pay at Executive Level IV for all Presidentially appointed inspectors general created under the Inspector General Act of 1978.

Section 102(d)(3) repeals existing laws establishing Offices of Inspector General in the Departments of Energy and Health and Human Services and the Railroad Retirement Board. This is a conforming amendment made necessary by placing the existing Office of Inspector General in these three establishments under the Inspector General in these three establishments under the Inspector General Act of 1978.

Section 102(d)(4) is a savings clause so that the continued service of existing Presidentially appointed inspectors general in the Departments of Health and Human Services and Energy and the Federal Emergency Management Agency will not be interrupted by the provision of this act placing their respective Offices under the Inspector General Act of 1978.

Section 103 provides for the consolidation of audit and investigative units into Offices of Inspector General in specifically designated agencies and extends to such units protections and requirements of the Inspector General Act of 1978. It also provides for the ap-

pointment of the inspector general; requires that the inspector general report to and be under the supervision of the head of the designated entity and to no other officer; prohibits the head of an entity from taking any action to prevent or prohibit the inspector general from initiating, carrying out, or completing an audit or investigation, or from issuing a subpoena during the course thereof; requires the head of the entity to provide congressional notification upon the removal or transfer of the inspector general; extends to the Offices of Inspector General the provisions of sections 4, 5, 6 (other than (a)(7) and (a)(8) thereof), and 7 of the Inspector General Act of 1978; authorizes the inspectors general to select, appoint, and employ staff and to obtain experts or consultants; requires annual reports from the heads of each Federal entity which is not a designated Federal entity that (1) detail progress toward establishing an internal audit office that meets the requirements of this section, (2) lists actions taken to ensure that the Federal entity's audits meet GAO standards, and (3) provides summary and statistical data on audits and matters referred to prosecutive authorities; directs that the Chief Postal Inspector of the U.S. Postal Service will also hold the position of inspector general of the U.S. Postal Service and provides for the appointment, removal, and supervision of the inspector general for the U.S. Postal Service; and, provides definitions for (1) "Federal entity," (2) "designated Federal entity," (3) "head of the Federal entity," (4) "head of the designated Federal entity," (5) "Office of Inspector General," and, (6) "Inspector General."

Section 104 amends section 5(a) of the Inspector General Act of 1978 to provide for more uniform, meaningful, and statistically reliable reports from inspectors general and from establishment and designated Federal agency managers.

Section 104(a) sets forth the information to be provided in reports issued by inspectors general on their audit findings.

Section 104(b) sets forth the information to be provided in reports on final action to be issued by the heads of establishments and designated Federal entities.

Section 104(c) defines: (1) "ineligible cost," (2) "unsupported cost," (3) "management decision," and, (4) "final action."

Section 105 authorizes inspectors general to administer oaths, affirmations, and affidavits in the performance of their assigned functions.

Section 106 requires that reviews of Offices of Inspector General performed to determine whether internal controls are in place and whether audit standards, policies and procedures are being followed will be performed by an audit entity of the Federal Government such as the General Accounting Office or another Office of Inspector General.

Section 107 amends section 8(e) of the Inspector General Act of 1978 to assure that members of the Coast Guard are not treated as employees of the Department of Defense when the Coast Guard is operating as a service of another department, such as the Department of Transportation in which it is now located.

Section 108 requires a one-time report by the head of each designated Federal entity to the Director, Office of Management and Budget, and to the Congress, on that entity's progress in establish-

ing an Office of Inspector General. The report is to identify areas where implementation is not complete and describe the reasons why.

Section 109 is a technical amendment limiting payment authority under this act to amounts provided in appropriations acts.

Section 110 establishes separate appropriations accounts for each of the Offices of Inspector General headed by a Presidentially appointed inspector general.

Section 111 makes clear that the act does not anticipate that inspectors general will provide tax information to the Congress except as authorized by the Internal Revenue Code.

Section 112 provides the effective date.

B. TITLE II—GOVERNMENT PRINTING OFFICE INSPECTOR GENERAL

Section 201 cites the short title.

Section 202 amends Title 44 of the United States Code by adding a new chapter which (1) establishes and sets out the purpose for an Office of Inspector General in the Government Printing Office; (2) provides for the appointment of the inspector general by the Public Printer on the basis of integrity and ability in specified fields of endeavor; prohibits the Public Printer from preventing the inspector general from initiating, carrying out, or completing an audit or investigation or from issuing any subpoena, and provides for the removal of the inspector general by the Public Printer and for notice to each House of the Congress in the event of such removal; (3) extends to the inspector general the duties, responsibilities, authority and reporting requirements of sections 4, 5, 6 (other than subsection (a)(7) thereof), and 7 of the Inspector General Act of 1978, and authorizes the inspector general of the Government Printing Office to select, appoint and employ staff in accordance with the provisions governing appointments and employment in the Government Printing Office.

Section 203 amends the table of chapters for title 44, United States Code.

Section 204 provides the effective date for this title.

ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

The following estimate prepared by the Congressional Budget Office is submitted as required by clause (2)(1)(3)(C) of House Rule XI.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 8, 1988.

Hon. JACK BROOKS,
*Chairman, Committee on Government Operations,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared a revised cost estimate for H.R. 4054, the Inspector General Act Amendments of 1988, as ordered reported by the House Committee on Government Operations, June 9, 1988. This estimate supersedes the previous one dated June 23, 1988, and reflects corrected information about the number of Inspectors General required

under current law. This change does not affect our estimate of the budget impact of H.R. 4054.

The bill would establish an office of Inspector General in three agencies that do not already have an Inspector General, and would set a uniform salary level for all Inspectors General. The bill also would create an audit unit at five agencies where audit functions do not currently exist and would consolidate existing auditing functions at other federal agencies. These changes would result in increased costs of less than \$1 million per year, largely for the creation of the five new audit units and for increasing the salaries of certain Inspectors General. Other provisions of H.R. 4054, designed to improve the effectiveness of audit units in federal agencies, are estimated to have no significant cost.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

COMMITTEE ESTIMATE OF COST

The Committee is in substantial agreement with the estimate provided by the Congressional Budget Office. The Committee would point out, however, that uniform salary levels are established only for those inspectors general who are presidentially-appointed, not for all inspectors general as the letter states.

INFLATIONARY IMPACT

In compliance with Clause (2)(1)(4) of House Rule XI, it is the opinion of the committee that the provisions of this bill will have no inflationary impact on prices and costs in the operation of the national economy.

OVERSIGHT FINDINGS

This report constitutes the committee's findings and recommendations regarding oversight of the Inspector General Act of 1978. See Appendix I for a comprehensive list of the committee's oversight activities regarding the Offices of Inspector General.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INSPECTOR GENERAL ACT OF 1978

* * * * *

PURPOSE; ESTABLISHMENT

SEC. 2. In order to create independent and objective units—

[(1) 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;]

(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2);

* * * * *

DUTIES AND RESPONSIBILITIES

SEC. 4. (a) * * *

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

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

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

[(3)](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 and internal audit offices described in section 8B(f)(1), reviews shall be performed exclusively by an audit entity in the Federal Government, including the General Accounting Office or another Office of Inspector General.

* * * * *

REPORTS

SEC. 5. (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) * * *

* * * * *

(5) a summary of each report made to the head of the establishment under section 6(b)(2) during the reporting period; **[and]**

[(6) a listing of each audit report completed by the Office during the reporting period.]

(6) a listing, subdivided according to subject matter, of each audit report issued by the Office during the reporting period, and, where applicable, the amounts of costs reported as ineligible costs and the amounts of costs reported as unsupported costs, in each such report;

(7) a summary of each particularly significant report; and

(8) statistical tables showing the total number of audit reports and, where applicable, the total dollar amounts of costs reported as ineligible costs and costs reported as unsupported costs, such amounts which management, in a management decision, has agreed to recover, amounts of funds recommended to be put to better use and the amounts of such funds which management has agreed should be put to better use, for audit reports—

(A) for which no management decision had been made by the beginning of the period,

(B) which were issued during the period,

(C) for which a management decision was made during the period,

(D) for which no management decision has been made by the end of the period, and

(E) which were over six months old with no management decision at the end of the period;

(9) a summary of each particularly significant audit report issued before the commencement of the reporting period for which a management decision was not made within 6 months after the date of issuance of such report, an explanation of the reason such management decision was not made, and a statement as to the current status of each such report;

(10) a description of, and explanation of the reasons for, any significant revised management decision made during the reporting period;

(11) information concerning any significant management decision with which the Inspector General is in disagreement; and

(12) separate sections that include, with respect to each audit and investigative office of the establishment outside the Office of Inspector General (other than audit or investigative offices that conduct audits or investigations as an integral part of a program of the establishment), the matters required to be included under paragraphs (1) through (5) and (7) through (11) of this subsection.

(b)(1) 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 as 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 any comments such head deems appropriate.]** *containing—*

(A) any comments such head deems appropriate;

(B) a list of audit reports issued by the establishment's Office of Inspector General on which final action had not been taken within one year after the date on which a management decision was made in response to such report and an explanation of the reason final action had not been taken, except that such list may exclude audit reports under formal administrative or judicial appeal but shall identify the number of reports so excluded; and

(C) statistical tables showing the total number of audit reports and, where applicable, the total dollar amounts of ineligible and unsupported costs agreed upon; such amounts actually returned to or offset by the Federal Government; the amounts of funds which management agreed to put to better use; and the amounts of funds put to better use as a result of final action on a management decision; for audit reports for which a management decision had been made by the end of the period but on which final action—

(i) had not been taken by the beginning of the period,

(ii) was taken during the period,

(iii) was pending at the end of the period, and

(iv) has not been taken within one year of the date of the management decision.

(2) 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.

* * * * *

(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) **[Nothing]** Except to the extent provided in section 6103(f) of the Internal Revenue Code of 1986, 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 "ineligible cost" means a cost that is questioned by the Office because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

(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 was not supported by adequate documentation;

(3) 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 written final decision by management concerning its response, including actions concluded to be necessary, to such findings and recommendations.

(4) the term "final action" means 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, in the event that agency management concludes no corrective action is necessary, final action occurs when a management decision has been reached.

AUTHORITY; ADMINISTRATION PROVISIONS

SEC. 6. (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) * * *

* * * * *

(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;

[(5)](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;

[(6)](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, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

[(7)](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

[(8)](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.

* * * * *

ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF
THE DEPARTMENT OF DEFENSE

SEC. 8. (a) * * *

* * * * *

(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.*

* * * * *

PROTECTIONS AND REQUIREMENTS FOR CERTAIN DESIGNATED FEDERAL
ENTITIES

SEC. 8B. (a) Not later than 180 days after the date of enactment of this section, there shall be established 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.

(b) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity involved, but shall not report to, or be subject to supervision by, any other officer 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.

(c) Except as provided in subsection (g), 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) If the Inspector General is removed from office or is transferred to another position or location, the head of the designated Federal entity shall promptly communicate the reasons for any such removal or transfer to each House of the Congress.

(e)(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 or the designated Federal entity (as such terms are defined in subsection (h)) by substituting—

*(A) "designated Federal entity" for "establishment"; and
"head of the establishment".*

(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.

(f) Within one year after the date of enactment of this section, and on October 31 of each succeeding calendar year, the head of each Federal entity which is not a designated Federal entity shall prepare and transmit to the Director of the Office of Management and Budget and to each House of the Congress a report which—

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

(2) 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

(3) 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.

(g) 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 Chief Postal Inspector shall be appointed by the Governors of the United States Postal Service and may be removed from office or transferred to another position or location within the United States Postal Service by the Governors. If the Chief Postal Inspector is removed or transferred in accordance with this subsection, the Governors shall promptly notify each House of the Congress of the reasons for such removal or transfer.

(h) Notwithstanding section 11 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 branches of the Government, or any independent regulatory agency, but does not include—

(A) an establishment (as defined in section 11(2) of this Act) or part of an establishment;

(B) the Executive Office of the President;

(C) the Central Intelligence Agency;

(D) the General Accounting Office; or

(E) 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 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 Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce 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 Nuclear Regulatory Commission, the Office of Personnel Management, 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 the director, administrator, president, or chief policy-making officer or board of a Federal entity, or any other person or persons designated by statute as the head of a Federal entity;

(4) the term "head of the designated Federal entity" means the director, administrator, president, or chief policy-making officer or board of a designated Federal entity, or any other person or persons designated by statute as the head of a designated Federal entity;

(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.

TRANSFER OF FUNCTIONS

SEC. 9. (a) There shall be transferred—

(1) to the Office of Inspector General—

(A) * * *

* * * * *

[(I) of the Community Service Administration, the offices of that agency referred to as the "Inspections Division", the "External Audit Division", and the "Internal Audit Division";]

[(J)] (I) of the Environmental Protection Agency, the offices of that agency referred to as the "Office of Audit" and the "Security and Inspection Division";

[(K)](J) of the General Services Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations";

[(L)](K) 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";

[(M)](L) of the Small Business Administration, the office of that agency referred to as the "Office of Audits and Investigations"; [and]

[(N)](M) of the Veterans' Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations"; [and]

(N) 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 Inspection, 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, the "Office of Professional Responsibility", and that portion of the "Office of Planning and Evaluation" which is engaged in program review activities;

(O) of the Department of the Treasury, the offices 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, Customs Service", and the "Office of Inspections, Secret Service", which is engaged in internal audit activities;

(P) of the Federal Emergency Management Agency, the office of that agency referred to as the "Office of Inspector General";

(Q) of the Department of Energy, the Office of Inspector General (as established by section 208 of the Department of Energy Organization Act);

(R) of the Department of Health and Human Services, the Office of Inspector General (as established by title II of Public Law 94-505); and

(S) of the Railroad Retirement Board, the Office of Inspector General (as established by section 23 of the Railroad Retirement Act of 1974);

* * * * *

DEFINITIONS

SEC. 11. As used in this Act—

[(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;]

(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 Emergency Management Agency or the United States Information Agency; or the Chairman of 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 Railroad Retirement Board, the Small Business Administration, the United States Information Agency, or the Veterans' Administration; as the case may be;

* * * * *

CHAPTER 53 OF TITLE 5, UNITED STATES CODE

CHAPTER 53—PAY RATES AND SYSTEMS

* * * * *

Subchapter II—Executive Schedule Pay Rates

* * * * *

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate de-

terminated with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

* * * * *

Inspector General, Department of Justice.

Inspector General, Department of the Treasury.

Inspector General, Agency for International Development.

Inspector General, Department of Commerce.

Inspector General, Department of the Interior.

Inspector General, Environmental Protection Agency.

Inspector General, Federal Emergency Management Agency.

Inspector General, General Services Administration.

Inspector General, National Aeronautics and Space Administration.

Inspector General, Small Business Administration.

Inspector General, Railroad Retirement Board.

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Administrator, Agricultural Marketing Service, Department of Agriculture.

* * * * *

[Inspector General, Agency for International Development.]

Vice President, Overseas Private Investment Corporation (3).

Deputy Administrator, Urban Mass Transportation Administration, Department of Transportation.

General Counsel of the Equal Employment Opportunity Commission.

Director, National Cemetery System, Veterans' Administration.

Executive Director, Advisory Council on Historic Preservation.

Deputy Inspector General, Department of Energy.

Additional Officers, Department of Energy (14).

General Counsel, Commodity Futures Trading Commission.

Administrator, Animal and Plant Health Inspection Service, Department of Agriculture.

Administrator, Federal Grain Inspection Service, Department of Agriculture.

Additional officers, Nuclear Regulatory Commission (5).

Executive Director, Commodity Futures Trading Commission.

Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

Associate Administrator, Office of Juvenile Justice and Delinquency Prevention of the Law Enforcement Assistance Administration.

Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

Assistant Administrators (3), National Oceanic and Atmospheric Administration.

General Counsel, National Oceanic and Atmospheric Administration.

Deputy Inspector General, Department of Health and Human Services.

[Inspector General, Department of Commerce.]

Members, Federal Labor Relations Authority (2) and its General Counsel.

[Inspector General, Department of the Interior.]

Director of the Office of Government Ethics.

[Inspector General, Community Services Administration.]

[Inspector General, Environmental Protection Agency.]

[Inspector General, General Services Administration.]

[Inspector General, National Aeronautics and Space Administration.]

[Inspector General, Small Business Administration.] Additional officers, Institute for Scientific and Technological Cooperation (2).

Additional officers, Office of Management and Budget (6).

Associate Deputy Secretary, Department of Transportation.

Chief Scientist, National Oceanic and Atmospheric Administration.

* * * * *

DEPARTMENT OF ENERGY ORGANIZATION ACT

* * * * *

TABLE OF CONTENTS

Sec. 2. Definitions.

TITLE I—DECLARATION OF FINDINGS AND PURPOSES

Sec. 101. Findings.

Sec. 102. Purposes.

Sec. 103. Relationship with States.

TITLE II—ESTABLISHMENTS OF THE DEPARTMENT

Sec. 201. Establishment.

Sec. 202. Principal officers.

Sec. 203. Assistant Secretaries.

Sec. 204. Federal Energy Regulatory Commission.

Sec. 205. Energy Information Administration.

Sec. 206. Economic Regulatory Administration.

Sec. 207. Comptroller General functions.

[Sec. 208. Office of Inspector General.]

Sec. 209. Office of Energy Research.

Sec. 210. Leasing Liaison Committee.

* * * * *

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

* * * * *

[OFFICE OF INSPECTOR GENERAL

[SEC. 208. (a)(1) There shall be within the Department an Office of Inspector General to be headed by an Inspector General, who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to, and be under the general supervision of, the Secretary or, to the extent such authority is delegated, the Deputy Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

[(2) There shall also be in the Office a Deputy Inspector General who shall be appointed by the President, by and with the advise and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that Office, act as Inspector General.

[(3) The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

[(4) The Inspector General shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Audits and an Assistant Inspector General for Investigations.

[(5) The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and the Deputy Inspector General shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

[(b) It shall be the duty and responsibility of the Inspector General—

[(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to the promotion of economy and efficiency in the administration of, or the prevention or detection of fraud or abuse in, programs and operations of the Department;

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

[(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department 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 Department, and (B) the identification and prosecution of participants in such fraud or abuse;

[(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports required by subsec-

tion (c) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the Department, to recommended corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action; and

[(5) to seek to coordinate his actions with the actions of the Comptroller General of the United States with a view of avoiding duplication.

[(c)(1) The Inspector General shall, not later than May 31 and November 30 of each year, submit to the Secretary and the Congress 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—

[(A) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities during the reporting period;

[(B) 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 subparagraph (A);

[(C) an identification of each significant recommendation described in previous reports under this subsection on which corrective action has not been completed;

[(D) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted; and

[(E) information concerning the numbers and types of audit reports completed by the Office during the reported period.

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

[(d) The Inspector General shall report immediately to the Secretary, to the Federal Energy Regulatory Commission as appropriate, and, within seven days thereafter, to the appropriate committees or subcommittees of the Congress whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

[(e) The Inspector General (1) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (2) shall provide such additional information or documents as may be requested by either House of Congress or, with respect to matters within the jurisdiction, by any committee or subcommittee thereof.

[(f) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary, to the Federal Energy Regulatory

Commission, if applicable, and to the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall insofar as feasible, provide copies of the reports required under subsection (c) to the Secretary and the Commission, if applicable, sufficiently in advance of the due date for the submission to Congress to provide a reasonable opportunity for comments of the Secretary and the Commission to be appended to the reports when submitted to Congress.

[(g) In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

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

[(2) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this section, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court; and

[(3) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions under this section.

[(h) In carrying out the responsibilities specified in subsection (b)(1), the Inspector General shall—

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

[(2) establish guidelines for determining the appropriate use of non-Federal auditors; and

[(3) 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).

[(i) In carrying out his duties and responsibilities under this section, the Inspector General shall give particular regard to the activities of the Comptroller General with a view toward avoiding duplication and insuring effective coordination and cooperation.

[(j) In carrying out his duties and responsibilities under this section, the 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.]

* * * * *

ACT OF OCTOBER 15, 1976

AN ACT To authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation

* * * * *

[TITLE II—OFFICE OF INSPECTOR GENERAL

[SEC. 201. In order to create an independent and objective unit—

[(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Health and Human Services;

[(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy and efficiency 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 Secretary 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 hereby established in the Department of Health and Human Services an Office of Inspector General.

[OFFICERS

[SEC. 202. (a) There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the Under Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

[(b) There shall also be in the Office a Deputy Inspector General appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that office, act as Inspector General.

[(c) The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

[(d) The Inspector General and the Deputy shall each be subject to the provisions of subchapter III of chapter 73, title 5, United States Code, notwithstanding any exemption from such provisions which might otherwise apply.

[(e) 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 perform-

ance of the functions, powers, and duties transferred by section 206(a)(1), and

[(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of the functions, powers, and duties transferred by section 206(a)(2).

[DUTIES AND RESPONSIBILITIES

[SEC. 203. (a) It shall be the duty and responsibility of the Inspector General—

[(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to programs and operations of the Department;

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

[(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department 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 Department, or (B) the identification and prosecution of participants in such fraud or abuse; and

[(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports required by section 4 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the Department, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

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

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

[(2) establish guidelines for determining the appropriate use of non-Federal auditors;

[(3) 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); and

[(4) 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.

[(c) In carrying out the duties and responsibilities provided by this Act, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a

view to avoiding duplication and insuring effective coordination and cooperation.

[(d) The Inspector General shall establish within his office an appropriate and adequate staff with specific responsibility for devoting their full time and attention to antifraud and antiabuse activities relating to the medicaid, medicare, renal disease, and maternal and child health programs. Such staff shall report to the Deputy.

【REPORTS

【SEC. 204. (a) The Inspector General shall, not later than May 31 and November 30 of each year, submit to the Secretary and the Congress 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 the Department 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 reports under this section 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 Secretary under section 205(b)(2) during the reporting period; and

【(6) information concerning the numbers and types of audit reports completed by the Office during the reporting period.

【(b) Within sixty days of the transmission of each semiannual report to the Congress, the Secretary shall make copies of such report available to the public upon request and at a reasonable cost.

【(c) The Inspector General shall report immediately to the Secretary, and within seven calendar days thereafter to the appropriate committees or subcommittees of the Congress, whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

【(d) The Inspector General (A) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (B) shall provide such additional information or documents as may be requested by either House of Congress or, with respect to matters within their jurisdiction, by any committee or subcommittee thereof.

[(e) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasible, provide copies of the reports required under subsections (a) and (b) to the Secretary sufficiently in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

[AUTHORITY; ADMINISTRATION PROVISIONS

[SEC. 205. (a) In addition to the authority otherwise provided by this Act, the 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 Department which relate to programs and operations with respect to which the Inspector General has responsibilities under this Act;

[(2) 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;

[(3) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data 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;

[(4) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

[(5) in the event that a budget request for the Office of Inspector General is reduced, before submission to Congress, to an extent which the Inspector General deems seriously detrimental to the adequate performance of the functions mandated by this Act, the Inspector General shall so inform the Congress without delay;

[(6) 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, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

[(7) 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;

[(8) 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 the Inspector General for information or assistance under subsection (a)(2), 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, furnish to the Inspector General, or to an authorized designee, such information or assistance.

[(2) Whenever information or assistance requested under subsection (a)(1) or (a)(2) is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Secretary and to the appropriate committees or subcommittees of the Congress without delay.

[(3) In the event any record or other information requested by the Inspector General under subsection (a)(1) or (a)(2) is not considered to be available under the provisions of section 552a(b) (1), (3), or (7) of title 5, United States Code, such record or information shall be available to the Inspector General in the same manner and to the same extent it would be available to the Comptroller General.

[(c) The Secretary shall provide the Inspector General and his staff with appropriate and adequate office space at central and field office locations of the Department, 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) The Inspector General shall receive compensation at the rate provided for level IV of the Executive Schedule by section 5315 of title 5, United States Code.

[(2) The Deputy shall receive compensation at the rate provided for level V of the Executive Schedule by section 5316 of title 5, United States Code.

[TRANSFER OF FUNCTIONS

[SEC. 206. (a) There are hereby transferred to the Office of Inspector General the functions, powers, and duties of—

[(1) the agency of the Department referred to as the "HEW Audit Agency";

[(2) the office of the Department referred to as the "Office of Investigations"; and

[(3) such other offices or agencies, or functions, powers, or duties thereof, as the Secretary may, with the consent of the Inspector General, 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 the Inspector General under clause (3) program operating responsibilities

[(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, 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 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, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in the Office 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.

DEFINITIONS

[SEC. 207. As used in this Act—

[(1) the term "Secretary" means the Secretary of Health and Human Services;

[(2) the term "Department" means the Department of Health and Human Services;

[(3) the term "Inspector General" means the Inspector General of the Department;

[(4) the term "Deputy" means the Deputy Inspector General of the Department; and

[(5) the term "Federal agency" means an agency as defined in section 552(e) of title 5, United States Code, but shall not be construed to include the General Accounting Office.]

SECTION 23 OF THE RAILROAD RETIREMENT ACT OF 1974

[INSPECTOR GENERAL

[SEC. 23. For the purposes of the Inspector General Act of 1978 (5 U.S.C. App.) the Railroad Retirement Board is an "establishment" and the Chairman of the Railroad Retirement Board is the "head of the establishment" with respect to such Board. For the purpose of section 2 of such Act, the Railroad Retirement Board is one of "such establishments".]

SECTION 1105 OF TITLE 31, UNITED STATES CODE

§ 1105. Budget contents and submission to Congress

(a) On or before the first Monday after January 3 of each year (or on or before February 5 in 1986); the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following:

(1) * * *

[(25) a separate statement, for each agency having an Office of Inspector General, of the amount of the appropriation requested for the Office.]

(25) a separate appropriation account for appropriations for each Office of Inspector General established by section 2 of the Inspector General Act of 1978.

TITLE 44, UNITED STATES CODE

Chapter	Sec.
1. Joint Committee on Printing	101
3. Government Printing Office	301
5. Production and Procurement of Printing and Binding	501
7. Congressional Printing and Binding	701
9. Congressional Record	901
11. Executive and Judiciary Printing and Binding.....	1101
13. Particular Reports and Documents	1301
15. Federal Register and Code of Federal Regulations	1501
17. Distribution and Sale of Public Documents	1701
19. Depository Library Program	1901
21. Archival Administration.....	2101
22. Presidential Records	2201
23. National Archives Trust Fund Board	2301
25. National Historical Publications and Records Commission.....	2501
29. Records Management by Administrator of General Services.....	2901
31. Records Management by Federal Agencies.....	3101
33. Disposal of Records	3301
35. Coordination of Federal Information Policy	3501
37. Advertisements by Government Agencies.....	3701
39. <i>Government Printing Office: Office of Inspector General.....</i>	<i>3901</i>

CHAPTER 39—GOVERNMENT PRINTING OFFICE: OFFICE OF INSPECTOR GENERAL

Sec.

3901. Purpose and establishment and Office of Inspector General.

3902. Appointment of Inspector General; supervision; removal.

3903. Duties, responsibilities, authority, and reports of the Inspector General.

§ 3901. Purpose and establishment and Office of Inspector General

In order to create an independent and objective office—

(1) to conduct and supervise audits and investigations relating to the Government Printing Office;

(2) to provide leadership and coordination and recommend policies to promote economy, efficiency, and effectiveness; and

(3) to provide a means of keeping the Public Printer and the Congress fully and currently informed about problems and deficiencies relating to the administration and operations of the Government Printing Office;

there is hereby established an Office of Inspector General in the Government Printing Office.

§ 3902. Appointment of Inspector General; supervision; removal

(a) **APPOINTMENT OF INSPECTOR GENERAL.**—There shall be at the head of the Office of Inspector General, an Inspector General who shall be appointed by the Public Printer 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. The Inspector General shall report to, and be under the general supervision of, the Public Printer. The Public Printer shall have no authority to 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) **REMOVAL.**—The Inspector General may be removed from office by the Public Printer. The Public Printer shall, promptly after such removal, communicate in writing the reasons for any such removal to each House of the Congress.

§ 3903. Duties, responsibilities, authority, and reports of the Inspector General

(a) Sections 4, 5, 6 (other than subsection (a)(7) thereof), and 7 of the Inspector General Act of 1978 (5 U.S.C. App.) shall apply to the Inspector General of the Government Printing Office and the Office of such Inspector General and shall be applied to the Government Printing Office and the Public Printer by substituting—

- (1) "Government Printing Office" for "establishment"; and
- (2) "Public Printer" and "head of the establishment".

(b) The Inspector General, in carrying out the provisions of this chapter, 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 subject to the provisions of this title governing appointments and employment in the Government Printing Office.

[Appendix 1]

COMMITTEE ON GOVERNMENT OPERATIONS OVERSIGHT HEARINGS, REPORTS AND STUDY CONCERNING THE ESTABLISHMENT OF OFFICES OF INSPECTOR GENERAL

"The Need for a Statutory Inspector General in the Department of Justice," A Study Prepared for the Legislation and National Security Subcommittee of the House Committee on Government Operations, June 1988.

"Inspector General Act Amendments of 1988," Hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, May 17, 1988.

"Inspector General Act Amendments of 1986," Committee on Government Operations, House Report 99-828, 99th Congress, 2d Session, September 16, 1986.

"Inspector General Act Amendments of 1985," Hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, June 26, 1986.

"The Impact of the Budget Process on Offices of Inspector General," Committee on Government Operations, House Report 99-46, 99th Congress, 1st Session, April 17, 1985.

"The Budget Process: Potential Impairment of the Independence of Inspectors General," Hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, September 26, 1984.

"Inspector General Act Amendments of 1983," Committee on Government Operations, House Report 98-586, 98th Congress, 1st Session, December 7, 1983.

"Inspector General Act Amendments of 1983," Hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, October 26, 1983.

"Statutory Offices of Inspector General (Leadership and Resources)," Committee on Government Operations, House Report 97-211, 97th Congress, 1st Session, July 30, 1981.

"Oversight of Offices of Inspector General," Hearings before the Intergovernmental Relations and Human Resources Subcommittee of the House Committee on Government Operations, April 1 and June 10, 1981.

"Department of Defense Authorization Act, 1982," Committee on Government Operations, House Report 97-71, Part 3, 97th Congress, 1st Session, June 12, 1981.

"Department of Defense Authorization Act of 1982," Hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, June 3, 1981.

"Inspector General Act Amendments of 1981," Committee on Government Operations, House Report 97-40, 97th Congress, 1st Session, May 14, 1981.

"The Inspector General Act of 1981," Hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, April 8, 1981.

"HUD Management's Responsiveness to Inspector General Reports," Hearings before the Manpower and Housing Subcommittee of the House Committee on Government Operations, March 11 and 12, 1981.

"Inspector General Act Amendments of 1980," Committee on Government Operations, House Report 96-1414, 96th Congress, 2d Session, September 26, 1980.

"The Inspector General Act Amendments of 1980," Hearings before the Legislation and National Security Subcommittee of the House Committee on Government Operations, August 27 and 28, 1980.

"Operations and Internal Evaluation Process of the State Department Inspector General, Foreign Service," Committee on Government Operations, House Report 96-806, 96th Congress 2d Session, March 6, 1980.

"Operation and Internal Evaluation Process of the State Department Inspector General for Foreign Service," Hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, September 24, 1979.

"Establishment of Offices of Inspector General in Certain Executive Departments and Agencies," Committee on Government Operations, House Report 95-584, 95th Congress, 1st Session, August 5, 1977.

"Establishment of Offices of Inspector General," Hearings before the Intergovernmental Relations and Human Resources Subcommittee of the House Committee on Government Operations, May 17 and 24, June 1, 7, 13, 21, and 29, July 25 and 27, 1977.

"Department of Energy Organization Act," Committee on Government Operations, House Report 95-346, Part 1, 95th Congress, 1st Session, May 16, 1977.

"Department of Energy Organization Act," Hearings before the Legislation and National Security Subcommittee of the House Committee on Government Operations, March 28 and 29, April 5, 6, 18, and 19, 1977.

"HEW Office of Inspector General," Committee on Government Operations, House Report 94-1573, 94th Congress, 2d Session, September 10, 1976.

"Establishment of an Office of Inspector General in the Department of Health, Education and Welfare," Hearings before the Intergovernmental Relations and Human Resources Subcommittee of the House Committee on Government Operations, May 25 and 26, 1976.

LEXSEE 133 CONG REC S 4562

Congressional Record — Senate

Friday, April 3, 1987;
(Legislative day of Monday, March 30, 1987)

100th Cong. 1st Sess.

*133 Cong Rec S 4562***REFERENCE:** Vol. 133 No. 55**TITLE:** STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS**SPEAKER:** Mr. GLENN; Mr. ROTH; Mr. SASSER**TEXT:** By Mr. GLENN (for himself, Mr. Roth, Mr. Chiles, Mr. Pryor, Mr. Sasser, Mr. Heinz, Mr. Levin, Mr. Rudman, Mr. Bingaman, Mr. Mitchell, Mr. Stevens, Mr. Nunn, Mr. Tribble, and Mr. Cohen):

S. 908. A bill to amend the Inspector General Act of 1978; to the Committee on Governmental Affairs.

INSPECTOR GENERAL ACT AMENDMENTS

Mr. GLENN. Mr. President, I rise to introduce a bill, the Inspector General Act Amendments of 1987, to improve the ability of the executive branch to fight waste, fraud and mismanagement and to aid Congress' oversight function. The bill will establish new statutory offices of inspector general in several Federal establishments with important missions and potentially vulnerable programs. These are the Department of the Treasury, the Federal Emergency Management Agency, the Office of Personnel Management, and the Nuclear Regulatory Commission.

In addition to creating these new statutory inspectors general, the bill will strengthen the internal audit capability in the numerous other Federal agencies that make up the executive branch.

I am pleased to report that every one of my distinguished colleagues on the Governmental Affairs Committee has joined me in sponsoring this legislation.

In 1978, the Committee on Governmental Affairs, which I now chair, secured the enactment of the Inspector General Act. This legislation established offices of inspector general in most of the Federal Cabinet-level departments and some of the larger agencies. The purpose of this act was to create a more independent atmosphere for audit and investigative activities and to achieve more efficient and effective management operations in key Federal establishments. The act required consolidation of the various audit and investigative units in affected agencies under the leadership of an inspector general. This person reports to the agency head and Congress concerning significant abuses or deficiencies and makes recommendations for corrective action. At the time the original law was enacted, we in Congress believed that the inspector general concept was sound, but we were not sure how well the program would work. Indeed, Congress passed the original legislation in the face of opposition from every department and agency affected.

Today, it is widely recognized that the statutory inspectors general — who now number 19 — have had outstanding success in improving the operations of their respective Federal establishments. According to a recent report from the council that coordinates IG activities, these offices have saved more than \$71 billion of the taxpayers' money over the past 5 years alone. During the same period, they have been responsible for obtaining over 16,000 successful prosecutions and 15,000 administrative actions. GAO recently reported that the inspectors general have been "a key factor in correcting deficiencies and strengthening Federal internal audit and investigative activities."

The success of these offices calls for continued bipartisan congressional support of the inspector general concept. To this end, one of the first hearings of the Governmental Affairs Committee in this Congress focused on the operations and needs of the inspectors general. The representatives of the IG community endorsed legislation which would standardize inspector general authorizing legislation and provide uniform protections and authorities for all the statutory inspectors general. The bill I am introducing includes such provisions.

Moreover, the bill incorporates GAO's recommendation for establishing new statutory offices of inspector general in the Treasury Department, FEMA, OPM, and the NRC. These are major Federal establishments, with important missions and programs that require strict controls against fraud and abuse. A statutory, independent inspector general is needed at all these agencies.

Specifically with regard to the NRC, the bill also provides certain statutory protections for the agency's existing Office of Investigations. This office is responsible for investigating potential wrongdoing by NRC licensees and applicants for licenses. In my view, this bill will enhance public trust in the regulation of commercial nuclear power. The committee has scheduled a hearing on April 9 to address the concerns raised about current NRC operations. In the near future, the committee will hold additional hearings on the operations of the Treasury Department, FEMA, and OPM, and on the status of the internal audit and investigative units now administratively established in the Justice Department.

The bill responds to the concerns raised by GAO and the current inspectors general about the need to improve internal audits and investigations in the numerous smaller agencies, regulatory boards and commissions, and Government corporations that make up the executive branch. Many of these entities have organized their audit units in a way that compromises their independence and restricts their authority to audit all of the agency's programs. The remaining agencies are completely without audit capability, in violation of the Accounting and Auditing Act of 1950 and OMB Circular A-73.

The bill addresses these problems by extending to these entities the consolidation, reporting and other requirements found in the 1978 act, without creating additional statutory IG positions. If those entities remain without audit capability, they must periodically inform GAO and OMB of their situation so that appropriate oversight and corrective action is possible.

The bill makes changes in the reporting requirements to ensure that Congress receives accurate and reliable information concerning the audit resolution process. The 1978 IG Act requires inspectors general to report on their audit results to their agency heads and Congress. It is clear that further steps must be taken to ensure that the inspectors general avoid overstating the actual savings that can be attributed to their work, a problem GAO has identified in the past. The bill requires more detailed statistical analysis from the inspectors general and requires periodic reporting to Congress by the agency heads on their implementation of recommended corrective action. This means savings will be realized and reported when such action is completed.

This bill represents another important step in improving management and reducing fraud and abuse in Federal programs and activities, and I encourage my colleagues to give it their support.

I would also like to take this opportunity to request that the administration act immediately on a related but important issue. It is obvious that the offices of inspector general will not remain "our first line of defense in attacking fraud, waste, and abuse" — in the words of President Reagan — if the offices remain vacant. In fact, one inspector general testified that the "thing that suffers during such extended vacancies, naturally, is leadership."

Let me give you an example. President Reagan gave his praise of inspectors general in 1983 on the swearing in of Mr. Joseph Sherick as inspector general of the Department of Defense. Mr. Sherick ably performed his job and then, 11 months ago, he announced that he would soon be quitting the post. In fact, he vacated that position in June 1986, but today, 9 months later, no person has been nominated to replace Mr. Sherick. Early this year the Secretary of Defense promised that a nomination would soon be forthcoming. His promise has not been fulfilled thus far. It is a disservice to the American public to leave such an important position vacant for so long.

I ask unanimous consent that the text of this bill and a section-by-section analysis be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 908

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That this Act may be cited as the "Inspector General Act Amendments of 1987".

CONFORMATION OF AUTHORITIES OF EXISTING OFFICES OF INSPECTORS GENERAL

Sec. 2. (a) Section 2(1) of the Inspector General Act of 1978 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) Section 9(a)(1) of such Act is amended —

(1) by striking out subparagraph (I);

(2) by redesignating subparagraphs (M) and (N) as subparagraphs (O) and (P), respectively;

(3) by redesignating subparagraphs (J) through (L) as subparagraphs (K) through (M), respectively;

(4) by redesignating subparagraphs (E) through (H) as subparagraphs (G) through (J), respectively;

(5) 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);"; and

(6) by inserting after subparagraph (M) (as redesignated by paragraph (3) of this subsection) the following new subparagraph:

"(N) of the Railroad Retirement Board, the Office of Inspector General (as established by section 23 of the Railroad Retirement Act of 1974);".

(c) Section 11 of such Act is amended —

(1) by inserting "Energy, Health and Human Services," after "Education," each place it appears in paragraphs (1) and (2);

(2) by striking out "Community Services," in paragraph (1);

(3) by striking out "the Community Services Administration," in paragraph (2);

(4) by inserting "or the Chairman of the Railroad Retirement Board;" before "as the case may be" in paragraph (1); and

(5) by inserting "the Railroad Retirement Board," after "National Aeronautics and Space Administration," in paragraph (2).

(d)(1)(A) Section 208 of the Department of Energy Organization Act is repealed.

(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 is repealed.

(3) Section 23 of the Railroad Retirement Act of 1974 is repealed.

(e) The transfer of functions under the amendments made by subsection (b) shall not affect 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. Any such individual shall continue to serve in such position until such individual dies, resigns, or is removed from office in accordance with the Inspector General Act of 1978.

UNIFORM SALARIES FOR INSPECTORS GENERAL

Sec. 3. (a) 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.

"Inspector General, Department of the Interior.

"Inspector General, Agency for International Development.

"Inspector General, Environmental Protection Agency.

"Inspector General, General Services Administration.

"Inspector General, National Aeronautics and Space Administration.

"Inspector General, Railroad Retirement Board.

"Inspector General, Small Business Administration.".

(b) 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; and
- (8) the Inspector General of the Small Business Administration.

ESTABLISHING AN OFFICE OF INSPECTOR GENERAL IN THE DEPARTMENT OF THE TREASURY, THE FEDERAL EMERGENCY MANAGEMENT AGENCY, THE NUCLEAR REGULATORY COMMISSION, AND THE OFFICE OF PERSONNEL MANAGEMENT

Sec. 4. (a) Section 9(a)(1) of the Inspector General Act of 1978 (as amended by section 2(b) of this Act) is further amended —

- (1) by redesignating subparagraphs (O) and (P) (as redesignated by paragraph (2) of section 2(b) of this Act) as subparagraphs (S) and (T), respectively;
 - (2) by redesignating subparagraph (N) (as added by paragraph (6) of section 2(b) of this Act) as subparagraph (R);
 - (3) by redesignating subparagraphs (K), (L), and (M) (as redesignated by paragraph (3) of section 2(b) of this Act) as subparagraphs (L), (N), and (O), respectively;
 - (4) by inserting after subparagraph (J) (as redesignated by paragraph (4) of section 2(b) of this Act) the following new subparagraph:

"(K) of the Department of the Treasury, the office of that department referred to as the 'Office of Inspector General', and 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', the 'Office of Inspections, Internal Revenue Service', and the 'Office of Inspections, United States Secret Service' which is engaged in internal audit activities;"
 - (5) by inserting after subparagraph (L) (as redesignated by paragraph (3) of this subsection) the following new subparagraph:

"(M) of the Federal Emergency Management Agency, the office of that agency referred to as the 'Office of Inspector General';"; and
 - (6) by inserting after subparagraph (O) (as redesignated by paragraph (3) of this subsection) the following new subparagraphs:

"(P) of the Nuclear Regulatory Commission, the office of that commission referred to as the 'Office of Inspector and Auditor';

"(Q) of the Office of Personnel Management, the offices of that agency referred to as the 'Office of Inspector General', the 'Insurance Audits Unit, Retirement and Insurance Group', and the 'Program Integrity Section of the Retirement Inspection Branch, Retirement and Insurance Group';".
- (b)(1) Section 11(1) of such Act (as amended by section 2(c) of this Act) is further amended —

(A) by striking out "or Transportation or" and inserting in lieu thereof "Transportation, or the Treasury;"

(B) by striking out ", or the Director of the United States Information Agency" and inserting in lieu thereof a semicolon and "the Director of the Federal Emergency Management Agency, the Office of Personnel Management, or the United States Information Agency;"; and

(C) by inserting "the Nuclear Regulatory Commission or" before "the Railroad Retirement Board" (as added by section 2(c)(4) of this Act).

(2) Section 11(2) of such Act (as amended by section 2(c) of this Act) is further amended —

(A) by striking out "or Transportation" and inserting in lieu thereof "Transportation, or the Treasury;";

(B) by inserting "the Federal Emergency Management Agency," after "the Environmental Protection Agency,"; and

(C) by inserting "the Nuclear Regulatory Commission, the Office of Personnel Management," after "the National Aeronautics and Space Administration,".

(c) The Inspector General Act of 1978 is amended by inserting after section 8A the following new sections:

"SPECIFIC PROVISIONS CONCERNING THE NUCLEAR REGULATORY COMMISSION

"Sec. 8B. (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, and shall not delegate such authority to any other officer or employee of the Commission.

"(b) Whenever the Inspector General of the Commission has reasonable grounds to believe there has been a violation of Federal criminal law, the Inspector General shall report to the Attorney General in accordance with section 4(d), and neither the Chairman nor any other member of the Commission shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any such report.

"(c) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Commission shall have the authority to perform audits and internal investigations of the activities of the Office of Investigations of the Commission.

"(d) The Director of the Office of Investigations of the Commission shall report to and be under the general supervision of the Chairman and other members of the Commission, but shall not report to, or be subject to supervision by, any other officer or employee of the Commission, except as provided in subsection (c). Neither the Chairman nor any other member of the Commission may prevent or prohibit the Director of the Office of Investigations from initiating, carrying out, or completing any investigation.

"(e) Whenever the Director of the Office of Investigations of the Commission has reasonable grounds to believe there has been a violation of Federal criminal law, the Director shall report such violation to the Attorney General. Neither the Chairman nor any other member of the Commission shall prevent or prohibit the Director from initiating, carrying out, or completing any such report.

"SPECIAL PROVISIONS REGARDING THE DEPARTMENT OF THE TREASURY

"Sec. 8C. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall have general 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, the Office of Inspections of the Internal Revenue Service, and the Office of Inspections of the United States Secret Service. The head of each such office shall periodically report to the Inspector General the significant investigative activities currently being carried out by such office.

"(b) Notwithstanding subsection (a), the Inspector General of the Department of the Treasury may conduct the investigation of any officer or employee of such Department if —

"(1) the Secretary of the Treasury or the Deputy Secretary of the Treasury directs the Inspector General to conduct an investigation;

"(2) the investigation concerns senior officers or employees of the Department of the Treasury, including officers appointed by the President, members of the Senior Executive Service, and individuals in positions classified at grade GS-

15 of the General Schedule or above; or

"(3) the investigation involves alleged notorious conduct or any other matter which, in the opinion of the Inspector General, is especially sensitive or of departmental significance.

"(c) If the Inspector General of the Department of the Treasury initiates an investigation under subsection (b), and the officer or employee of the Department of the Treasury subject to investigation is employed by or attached to a bureau or service referred to in subsection (a), the Inspector General shall provide the Secretary of the Treasury or the Deputy Secretary of the Treasury and the head of the office of such bureau or service referred to in subsection (a) with written notice that the Inspector General has initiated such an investigation. If the Inspector General issues a notice under the preceding sentence concerning the investigation of an officer or employee, no other investigation shall be initiated into the matter under investigation by the Inspector General and any other investigation of such matter shall cease."

(d) Section 5315 of title 5, United States Code (as amended by section 3(a) of this Act), is further amended by adding at the end thereof the following new items:

"Inspector General, Department of the Treasury.

"Inspector General, Federal Emergency Management Agency.

"Inspector General, Nuclear Regulatory Commission.

"Inspector General, Office of Personnel Management."

REQUIREMENTS AND PROTECTIONS FOR AUDIT AND INVESTIGATION UNITS

Sec. 5. (a) The Inspector General Act of 1978 (as amended by section 4(c) of this Act) is further amended by inserting after section 8C the following new section:

"PROTECTIONS AND REQUIREMENTS FOR AUDIT AND INVESTIGATION UNITS AT FEDERAL ENTITIES

"Sec. 8D. (a) An internal audit unit established in a Federal entity shall be responsible for the conduct of audits and investigations of the programs and operations of such entity in accordance with the requirements of this section.

"(b)(1) After the date which is 180 days after the date of enactment of this section, there shall be no more than one internal audit unit in any Federal entity. The head of the Federal entity shall transfer to the internal audit unit established in such entity the offices, units, or other components, or functions, powers or duties thereof, that the head of the Federal entity determines are properly related to the functions of the internal audit unit and would, if so transferred, further the purposes of this section. There shall not be transferred to an internal audit unit any program operating responsibilities.

"(2) If, after the date which is 180 days after the date of enactment of this section, there is a Federal entity in which there is no internal audit unit, the head of the Federal entity shall prepare and transmit to the Comptroller General of the United States and the Director of the Office of Management and Budget a notice which —

"(A) states that such an internal audit unit does not exist in such entity; and

"(B) specifies the action being taken by the head of such entity to ensure that adequate audits are conducted of the programs and operations of such entity.

"(3) If, on October 31 of the year after the year in which the head of a Federal entity transmits a notice required under paragraph (2), or on October 31 of any subsequent year, an internal audit unit does not exist in such entity, the head of such entity shall, on such October 31, transmit to the Comptroller General of the United States and the Director of the Office of Management and Budget a notice which contains the information described in subparagraphs (A) and (B) of such paragraph.

"(c)(1) The internal audit unit director shall be appointed by the head the Federal entity in accordance with the applicable laws and regulations governing appointments within the Federal entity.

"(2) Each internal audit unit director shall report to and be under the general supervision of the head of the Federal entity 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 Federal entity. Neither the head of the Federal entity nor the officer next in rank below such head shall prevent or prohibit the internal audit unit director from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

"(d) If an internal audit unit director is removed from office or is involuntarily transferred to another position or location, the head of the Federal entity shall promptly communicate the reasons for any such removal or involuntary transfer to both Houses of Congress.

"(e)(1) The Chief Postal Inspector of the United States Postal Service shall be the internal audit unit director of the United States Postal Service, and shall be appointed by, report to, and be under the general supervision of the Postmaster General. The Chief Postal Inspector may be removed from office or involuntarily transferred to another position or location if the Postmaster General issues a written order stating the reason for such action and such order is ratified by a two-thirds vote of the Governors of 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 Congress of the reasons for such removal or transfer.

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

"(f) Sections 4, 5, 6, and 7 of this Act shall be applied to each internal audit unit, internal audit unit director, Federal entity, and head of the Federal entity (as such terms are defined in subsection (g)) by substituting —

"(1) 'internal audit unit director' for 'Inspector General';

"(2) 'Federal entity' for 'establishment';

"(3) 'internal audit unit' for 'Office'; and

"(4) 'head of the Federal entity' for 'head of the establishment'.

"(g) As used in this section —

"(1) the term 'Federal entity' means an agency (as defined in section 552(e) of title 5, United States Code), other than (A) an establishment (as defined in section 11(2) of this Act) or part of an establishment, (B) the Executive Office of the President, (C) the agency referred to in section 5102(a)(1)(v) of title 5, United States Code, (D) the General Accounting Office, (E) the Department of Justice, 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 'head of the Federal entity' means the chief executive officer of a Federal entity;

"(3) the term 'internal audit unit' means a component of a Federal entity which carries out audits or investigations, or both, of the programs and operations of such entity, but does not include a component that carries out audits or investigations as an integral part of the conduct of the programs and operations of such entity; and

"(4) the term 'internal audit unit director' means the head of an internal audit unit."

(b) Section 410(b) of title 39, United States Code, is amended —

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon;

(3) by striking out "The" in paragraph (8) and inserting in lieu thereof "the";

(4) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and "and"; and

(5) by adding at the end thereof the following new paragraph:

"(9) the provisions of section 8D of the Inspector General Act of 1978."

PROVISIONS TO ENSURE UNIFORMITY AND RELIABILITY OF INSPECTOR GENERAL REPORTS

Sec. 6. (a) Section 5(a) of the Inspector General Act of 1978 is amended —

(1) by striking out "and" at the end of paragraph (5); and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) a listing of each audit report issued by the Office during the reporting period and the amounts of ineligible and

unsupported costs in each such report, together with a summary of the significant reports;

"(7) a detailed statistical analysis of audit reports, depicting in tables arranged by audit status information concerning —

"(A) the number of audit reports in each audit status;

"(B) the number of such reports for which an audit determination was not made within 6 months of the date of issuance of such reports; and

"(C) the amounts of ineligible costs, ineligible costs that were disallowed, unsupported costs, and unsupported costs that were disallowed;

"(8) a summary of each significant audit report for which a determination was not made within 6 months after the date of issuance of such report and an explanation of the reason such determination was not made;

"(9) a description of, and explanation of the reasons for, any significant revised audit determinations made during the reporting period; and

"(10) information concerning any significant audit determination with which the Inspector General is in disagreement.".

(b) Section 5 of such Act is further amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e)(1) The head of each establishment shall, not later than April 30 and October 31 of each year, prepare semiannual reports listing each audit report made by that establishment's Office of Inspector General which was not resolved within one year after the date on which an audit determination was made on such report. Such reports shall include —

"(A) an explanation of the reason such audit was not resolved; and

"(B) the amount of disallowed costs that are under administrative or judicial appeal and the amount of disallowed costs returned or offset by the government.

"(2) The semiannual reports of the head of each establishment under this subsection shall be transmitted by such head to the appropriate committees and subcommittees of Congress not later than April 30 and October 31 of each year, together with a report by the Office of Inspector General of the establishment containing any comments such Office deems appropriate.

"(3) Within sixty days after the transmission of the semiannual reports of each establishment head under this subsection 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.".

(c) Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

"(g) As used in this section —

"(1) the term 'ineligible cost' means an incurred cost that is questioned by the Office of Inspector General because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

"(2) the term 'unsupported cost' means an incurred cost that is questioned by the Office of Inspector General because the Office found that, at the time of the audit, such cost was not supported by adequate documentation;

"(3) the term 'disallowed cost' means an ineligible cost or unsupported cost that the management of an establishment has concluded, in an audit determination, should not be charged to the Federal Government;

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

"(5) the term 'audit resolution' means the completion of all corrective actions that the management of an establishment has concluded, in an audit determination, are necessary with respect to the findings and recommendations included in an audit report, and, in the event that the management of an establishment concludes no corrective action is necessary, 'audit resolution' occurs when an audit determination has been reached; and

"(6) the term 'audit status' includes the following four categories:

"(A) audits for which the audit report was issued before the reporting period and for which —

"(i) the audit determination was made before or during such period; and

"(ii) the audit determination was not made by the end of such period; and

"(B) audits for which the audit report was issued during the reporting period and for which —

"(i) the audit determination was made during such period; and

"(ii) the audit determination was not made by the end of such period."

(d) Section 3512(b)(2) of title 31, United States Code, is amended by adding at the end thereof the following: "Such standards shall include (A) a definition of audit resolution consistent with section 5(g)(5) of the Inspector General Act of 1978, and (B) a standard to ensure that an audit determination will be made on each audit report within 6 months after the issuance of such report, in the case of an audit performed by a Federal auditor, and within 6 months after receipt by the executive agency responsible for the program concerned, in the case of each audit performed by a non-Federal auditor. No order, circular, or directive prescribed by the Director of the Office of Management and Budget shall include an inconsistent definition or standard with respect to audit resolution."

OATH ADMINISTRATION AUTHORITY

Sec. 7. Section 6(a) of the Inspector General Act of 1978 is amended —

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and

(2) by inserting after paragraph (4) the following new paragraph:

"(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 investigator or such other 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;"

APPROPRIATION ACCOUNTS

Sec. 8. Section 1105(a)(25) of title 31, United States Code, is amended to read as follows:

"(25) a separate appropriation account for appropriations for each Office of Inspector General established by the Inspector General Act of 1978."

SECTION-BY-SECTION ANALYSIS

SHORT TITLE

The opening section states the title of this bill as the "Inspector General Act Amendments of 1987".

CONFORMATION OF AUTHORITIES OF EXISTING OFFICES OF INSPECTORS GENERAL

Section 2(a) is a technical amendment.

Sections 2 (b) and (c) bring the statutory Offices of Inspector General in the Departments of Energy and Health and Human Services and in the Railroad Retirement Board under the Inspector General Act of 1978, conforming their authorities and responsibilities to those of the other IG offices established under that Act. Sections (d) and (e) repeal existing laws establishing these three statutory offices, but also provide that the persons occupying such Inspector General positions on the date of enactment shall not be affected. References to the Community Services Administration are deleted because that agency was abolished.

UNIFORM SALARIES FOR INSPECTORS GENERAL

Section 3 provides that all statutory Inspectors General will be compensated at the Executive Level IV rate, regardless of the establishment in which they serve. Under present laws, statutory IGs are compensated at different rates even though their duties are the same.

ESTABLISHING AN OFFICE OF INSPECTOR GENERAL IN THE TREASURY DEPARTMENT, FEMA, NRC AND OPM

Sections 4 (a) and (b) establish new statutory Offices of Inspector General in the Department of the Treasury, the Federal Emergency Management Agency, the Nuclear Regulatory Commission, and the Office of Personal Management, and mandate the transfer of certain existing audit and investigative units in these establishments to the newly-created statutory IG offices.

Section 4(c) adds specific provisions to the IG Act of 1978 (in new Section 8B) concerning the authorities and responsibilities of the NRC's statutory Inspector General, and the NRC's existing separate Office of Investigations, responsible for investigating potential wrongdoing by NRC licensees and applicants for licenses. Further, it sets forth special provisions (in new Section 8C) regarding the authorities of the Inspector General established in the Treasury Department.

Section 4(d) amends section 5315 of title 5 (as previously amended by section 3 of this bill) to provide the uniform rate of pay for the newly-created Inspectors General.

REQUIREMENTS AND PROTECTIONS FOR AUDIT AND INVESTIGATION UNITS

Section 5 amends the Inspector General Act of 1978 by inserting a new Section 8D establishing requirements for the internal audit units in certain Federal organizations not now covered by the Act.

Subsection (a) provides that an "internal audit unit" in a "Federal entity" (both terms defined in the bill) shall be responsible for conducting audits and investigations of the entity's programs and operations in accordance with the requirements of Section 5. This makes the internal audit unit solely responsible for such audits and investigations.

Subsection (b) provides for the consolidation of existing audit and investigative units in Federal entities into a single unit within 180 days after the date of enactment of Section 5. No program operating responsibilities may be transferred to such a unit. Any entity now having audit, or audit and investigative staff would be covered. Any entity which later establishes audit, or audit and investigative capability of its own would also be covered.

It also provides that in the event a Federal entity remains without an internal audit unit, such entity shall report that fact to the Comptroller General and OMB on an annual basis, along with information concerning the steps such entity has taken to provide adequate audit coverage of its programs.

Subsection (c) requires the internal audit unit director to be appointed by the Federal entity head in accordance with the applicable laws and regulations governing appointments within the Federal entity. Further, it provides that the internal audit unit director is to report to the Federal entity head, or to the extent such authority is delegated, to the deputy head. Neither of these officials shall prevent or prohibit the internal audit unit director from initiating, carrying out, or completing any audit or investigation.

Subsection (d) provides that if an internal audit unit director is removed or involuntarily transferred, the Federal entity head shall promptly communicate to both Houses of Congress the reasons for such action.

Subsection (e) provides additional protection against unilateral removal of the Chief Postal Inspector of the United States Postal Service, who is deemed to be the "internal audit unit director" at that Federal entity.

Subsections (f) and (g) extends to the internal audit units certain provisions of the Inspector General Act of 1978 (in sections 4-7) and provides definitions for (1) "Federal entity," (2) "head of the Federal entity," (3) "internal audit unit," and (4) "internal audit unit director".

Section 5(b) is a technical amendment.

PROVISIONS TO ENSURE UNIFORMITY AND RELIABILITY OF INSPECTOR GENERAL REPORTS

Section 6 amends section 5(a) of the Inspector General Act of 1978 to require more uniform and statistically reliable reports.

Section 6(a) sets forth the information to be provided in reports issued by Inspectors General on their audit findings.

Section 6(b) sets forth the information to be provided in reports on audit resolution to be issued by the heads of federal entities and the reporting dates.

Section 6(c) defines: (1) "ineligible cost," (2) "unsupported cost," (3) "disallowed cost," (4) "audit determination," (5) "audit resolution," and (6) "audit status".

Section 6(d) amends section 3512(b)(2) of title 31 to establish a standard definition for the term "audit resolution".

OATH ADMINISTRATION AUTHORITY

Section 7 amends section 6(a) of the Inspector General Act of 1978 to authorize all Inspectors General to administer oaths, affirmations and affidavits in the performance of their assigned duties. During the conduct of investigations, it is often necessary for IG personnel to take voluntary sworn statements. Most IG offices now have authority to administer oaths for this purpose but a few do not. This amendment makes the authority uniform for all IG offices.

APPROPRIATIONS ACCOUNTS

Section 8(a) amends section 1205(a)(2) of title 31 to require the President to include in his budget submission a "separate appropriation account" for appropriations for each Office of Inspector General. At present, many, but not all, of the statutory Offices of Inspector General receive their appropriations through separate appropriation accounts. The others have their funds commingled in accounts which include funds for other agency activities. The first method prevents agency heads from transferring funds into or out of the IGs' account without statutory authority. This method is preferable because it enhances the independence of the Inspector General offices from the agency's program offices.

Mr. ROTH. Mr. President, I am pleased to join Chairman Glenn and all of our colleagues on the Governmental Affairs Committee in introducing the Inspector General Act Amendments of 1987.

The introduction of this bill is a continuation of efforts since the enactment of the Inspector General Act of 1978 to expand and improve the inspector general concept throughout the Government. The bill is comprised in large part of provisions from bills passed in the last Congress by the House (H.R. 3077) and the Senate (S. 2005). Given the broad bipartisan and bicameral support for the ideas contained in this legislation, I am confident that we can enact constructive improvements to the inspector general offices and processes.

Inspectors general have clearly proven their worth, since the first Office of Inspector General [OIG] was created at the Department of Health and Human Services in 1976. According to the President's recently issued management message, we have avoided \$84 billion in expenditures due to the efforts of our inspectors general since 1981. The President's Council on Integrity and Efficiency [PCIE] recently reported to our committee that, just in the last 6 months of fiscal 1986, our inspectors general were able to recover \$1 billion and avoid unnecessary expenditures of \$6.3 billion. Their work included: 2,363 successful prosecutions; 1,145 debarments and suspensions of persons or firms doing business with the Government; and, 580 administrative sanctions against Federal and contractor employees.

Following on the establishment of 12 OIG's in the Inspector General Act of 1978, I am pleased to say that during my tenure as chairman of the Committee on Governmental Affairs, an OIG was established in 1982 at the Defense Department. But, several large and many small agencies do not have the elements which have enabled our existing inspectors general to be successful in rooting out fraud and abuse in Federal programs. Those elements are: Consolidation into one office of all of the internal audit and investigative functions of the agency; protection of the integrity of the audit and investigative functions through independence from program functions and program supervisors, with the audit chief reporting directly to the agency head; and, the audit and investigative authorities of the Inspector General Act of 1978.

The need to bring the concepts embodied in the Inspector General Act of 1978 to smaller agencies of Government has been thoroughly documented. In May 1984, the General Accounting Office [GAO] issued a report (AFMD 84-45) on the audit capability of agencies not subject to the Inspector General Act. GAO found that some agencies were not complying with Office of Management and Budget [OMB] circulars on Federal program audits and audit followup or with GAO's audit standards; some agencies had no audit coverage; in some agencies, the internal auditor did not report to the agency head or deputy, instead reporting in some instances to the program people whose programs they were to audit; and, at several agencies that had more than one audit or investigative unit, there were no procedures for coordination.

A followup study issued by GAO last year (AFMD 86-11) found that, at 41 agencies without statutory IG's, problems similar to those reported in 1984 continued to exist. Demonstrating the importance of this issue is the fact that these 41 agencies had a combined total budget authority of over \$100 billion and employed more than a quarter of a million people.

I asked the PCIE to conduct a study of the extent and effectiveness of internal audit and investigative activities at Federal entities, particularly those which would not have internal audit units in conformity with the provisions of S. 2005.

The preliminary findings of that study were recently provided to our committee, and they are similar to those of GAO.

Given the success of the Inspector General Act in consolidating and strengthening the audit and investigative units in cabinet departments and other executive agencies, its provisions should be extended to other smaller Federal agencies.

In hearings before our committee in 1986, OMB Director James C. Miller expressed the administration's support for the efforts of the committee to extend the IG concept to smaller agencies.

The administration also recommended several improvements to the functions of inspectors general, specifically: Elimination of the disparity of salary levels of the statutory IG's; provision of the authority of the IG's to administer oaths; and, conformation of the separate statutory IG's at the Departments of Energy and HHS with the provisions of the Inspector General Act.

Those provisions to improve the audit and investigative functions at the smaller agencies and the three provisions recommended by the administration formed the heart of S. 2005, which I introduced on January 22, 1986, and which passed the Senate on October 18, 1986. I am pleased that the provisions of S. 2005 have been carried over into the bill we introduce today.

This bill contains other provisions which I believe the time has come to enact:

First, the bill would amend the Inspector General Act to establish Offices of Inspector General at the Treasury Department, the Federal Emergency Management Agency [FEMA], the Nuclear Regulatory Commission [NRC], and the Office of Personnel Management [OPM].

Next, the bill contains provisions intended to ensure the uniformity and reliability of IG reports.

Finally, the bill would provide separate appropriation accounts for the statutory Offices of Inspector General.

I wish to comment in more detail about each of these matters.

First, with respect to separate appropriation accounts, several OIG's already receive their funds through separately identified appropriation accounts rather than having their funds commingled with other agency accounts. James Richards, inspector general at the Department of the Interior and Chairman of the President's Council on Integrity and Efficiency, recently reported to our committee that most IG's would prefer to have the separate line item, feeling that it assures independence and management control over resources.

I believe that there are additional advantages: It fosters accountability for the IG's management of resources, and thereby fosters Congress' oversight of the economy and efficiency of the OIG's.

Next, with respect to the need for uniformity and reliability of IG reports, consistency in format and in the terminology used in IG reports would aid the Congress in performing its oversight functions and would seem to be useful to OMB in carrying out its management oversight functions.

With respect to reporting requirements generally, I am sensitive to concerns that have been raised about imposing the full panoply of reporting requirements in the Inspector General act on the smaller agencies. Accordingly, I also asked the PCIE to study the most appropriate and efficient methods of assuring effective audits and investigations at Federal entities, and the extent to which additional authorities, duties, and responsibilities specified in sections 4 through 7 of the Inspector General Act should be provided to all of the Federal entities covered by S. 2005. I believe that my colleagues share the same sensitivity and, with the help to be provided by the final report of the PCIE, which we expect to receive shortly and in advance of our hearings on this bill, I am confident that we can craft reasonable reporting provisions.

Finally, with respect to creating statutory OIG's at Treasury, FEMA, NRC, and OPM, careful consideration has gone into the decision to recommend the creation of OIG's at these agencies and further consideration will be given to the particular functions of these agencies and the role of the IG in them as we proceed through the hearings and markup of this bill.

Creation of a statutory OIG at the Treasury Department was recommended by GAO last year in response to my request for its assessment of the need for a statutory IG at Treasury (AFMD 86-3). I believe that we will adequately respond to the concerns of Treasury Department officials who, like their colleagues in other agencies prior to creation of OIG's in those agencies, feel that the Department's functions militate against the creation of a statutory IG.

The same devotion exists on the committee with respect to the creation of OIG's at FEMA, NRC, and OPM. The

committee is giving particular attention to both the internal and external investigative functions of the Nuclear Regulatory Commission. In 1981, GAO issued a report (EMD 81-72) in which it concluded that the independence of the Office of Inspector and Auditor — which would become the OIG under the terms of this bill — needed to be strengthened. GAO suggested that Congress consider establishing a statutory inspector general office at the NRC stating that —

Such an office could help ensure that the Congress and the Commissioners receive objective information on problems within the Commission and enhance public trust in the regulation of commercial nuclear power.

Evidence developed by the committee in recent weeks suggests that while the Office of Inspector and Auditor has been conforming its procedures to those of the statutory OIG's, it lacks the insurance that only statutory independence can provide.

In the course of the committee's investigation of the audit and investigative functions of the NRC, a number of questions have arisen over the organization and operation of those units and their relationship to the Commissioners and the Commission staff. Some of those questions go to the very organization of the Commission, a multimember rather than single-administrator agency. As a move to create a statutory OIG at the NRC, we must exercise great care to avoid stepping over into organizational questions which pertain to the conduct of the substantive responsibilities of the NRC. Our focus should be directed toward the assurance that the NRC has an inspector general who is independent and in charge of a consolidated internal audit and investigative unit and separated from program responsibilities.

I commend the chairman for his leadership in continuing this issue. I am pleased by the cosponsorship of all of our committee colleagues and would welcome other Senators to cosponsor this bill.

Mr. SASSER. Mr. President, I am pleased to join as an original cosponsor of this important piece of legislation. Throughout my service in the Senate, I have made the war against Federal waste and abuse a top priority. Our legislation makes great strides in this effort.

Today, we proposed to amend the Inspector General Act of 1978 to create inspector general positions in several new areas. We provide for these Government watchdogs at the Nuclear Regulatory Commission, the Department of the Treasury, the Federal Emergency Management Agency and the Office of Personnel Management.

Mr. President, creating an inspector general at the NRC is particularly important. Proper oversight of this Nation's nuclear utilities is an enormous responsibility. As the Chernobyl disaster vividly displayed to the world, mishaps at nuclear facilities threaten entire regions of our planet. We are still learning the horrible dimensions of that tragedy. We must take every step possible to safeguard against just this type of disaster in our country.

Guaranteeing that the NRC will take a tough stance when examining the safety of nuclear facilities in America is central to this effort. And placing an inspector general at the NRC will insure that we have an objective check on the performance of our only nuclear regulator.

Mr. President, an inspector general will also help ensure equal application of absolutely necessary safety standards. We must be certain that safety regulations are rigorously enforced and uniformly enforced. Mr. President, I fear that we have entered a period of unequal enforcement of critical nuclear safety standards.

Let me cite a few examples of what I mean, Mr. President. After the Three Mile incident, the NRC was brought in to investigate the plant's operations. One of the employees at the plant brought to the NRC's attention allegations of falsified leak rates at the plant. Yet, the NRC failed to investigate these allegations for over 18 months.

In California, we have the Diablo Canyon Nuclear Plant constructed precariously on a fault line. In addition to the questionable judgment that permitted this site decision, the NRC failed to catch other problems in the construction of this plant. It seems that the blueprints for the plant were reversed during construction and this problem went unnoticed by the NRC.

The Zimmer Plant in Midland, MI, was constructed so poorly that it will likely never operate. The NRC failed to catch these problems.

At the D.C. Cook Plant, the NRC delayed for an inordinate amount of time the investigation of material false statements made by the management of the plant. Officials at this plant were ultimately indicted by other Government bodies, despite the inaction by the NRC.

At the same time we see the NRC taking to task Steven White of the Tennessee Valley Authority for making material

false statements. We see many of TVA's nuclear operations examined with a fine tooth comb by the NRC.

Mr. President, I don't want to leave the wrong impression here. TVA, like all other nuclear facilities, should be scrupulously and diligently regulated. TVA should indeed be held to exacting safety standards. That is the law of the land and it should be enforced.

However, just as TVA is closely and carefully examined in its nuclear operations, so should all other nuclear power facilities be vigorously overseen. I am not convinced that this has been the case for the past few years. The standard for private facilities must be the same as the standard for public utilities. All nuclear plants should be required to live up to a uniformly high standard of safety practices.

I believe the residents of the Tennessee Valley will benefit from stringent oversight by the NRC. Yet, I also believe that the safety of other regions of our country is being called into question by recent NRC policy. It is my hope that establishing an inspector general at the NRC will help rectify this situation.

We need a policy of evenhanded application of nuclear safety standards. Only through such an evenhanded approach can we guarantee the safety of all regions of our country which utilize nuclear power.

Our legislation will help return us to such a policy. I urge my colleagues to join in our effort.

SUBJECT: AUDITS (91%); LEGISLATION (91%); ACCOUNTING (90%); MISCONDUCT (78%);

LEXSEE 134 CONG REC S 10914

Congressional Record — Senate

Thursday, August 4, 1988

100th Cong. 2nd Sess.

134 Cong Rec S 10913

REFERENCE: Vol. 134 No. 115

TITLE: INSPECTOR GENERAL ACT AMENDMENTS

SPEAKER: Mr. BYRD

TEXT: [*S10913] Mr. BYRD. Mr. President, on behalf of Mr. Glenn, I ask that the Chair lay before the Senate a message from the House on S. 908, the Inspector General Act.

The PRESIDING OFFICER. laid before the Senate the following message from the House of Representatives:

RESOLVED, That the bill from the Senate (S. 908) entitled "An Act to amend the Inspector General Act of 1978", do pass with the following amendments:

Strike out all after the enacting clause and insert:

TITLE I — INSPECTOR GENERAL ACT AMENDMENTS

SECTION 101. SHORT TITLE.

This Act may be cited as the "Inspector General Act Amendments of 1988".

SEC. 102. ESTABLISHMENT OF NEW OFFICES OF INSPECTOR GENERAL.

(a) Purpose; Establishment. — Section 2(1) of the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App.) 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) Addition of Departments of Energy, Health and Human Services, Justice, and Treasury, FEMA, and Railroad Retirement Board to List of Covered Establishments. — Section 11 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 Emergency Management Agency or the United States Information Agency; or the Chairman of 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 [*S10914] and Space Administration, the Railroad Retirement Board, the Small Business Administration, the United States Information Agency, or the Veterans' Administration; as the case may be;".

(c) Transfers of Existing Audit and Investigation Units. — Section 9(a)(1) of such Act is amended —

(1) by striking out subparagraph (I), relating to the Community Services Administration;

(2) by redesignating subparagraphs (J) through (N) as subparagraphs (I) through (M), respectively;

(3) by striking out "and" at the end of subparagraphs (L) and (M) (as so redesignated); and

(4) by adding at the end thereof the following new subparagraphs:

"(N) 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 Inspection, 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;

"(O) of the Department of the Treasury, the offices 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, Customs Service', and the 'Office of Inspections, Secret Service', which is engaged in internal audit activities;

"(P) of the Federal Emergency Management Agency, the office of that agency referred to as the 'Office of Inspector General';

"(Q) of the Department of Energy, the Office of Inspector General (as established by section 208 of the Department of Energy Organization Act);

"(R) of the Department of Health and Human Services, the Office of Inspector General (as established by title II of Public Law 94-505); and

"(S) of the Railroad Retirement Board, the Office of Inspector General (as established by section 23 of the Railroad Retirement Act of 1974);".

(d) Technical and Conforming Amendments. — (1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"Inspector General, Department of Justice.

"Inspector General, Department of the Treasury.

"Inspector General, Agency for International Development.

"Inspector General, Department of Commerce.

"Inspector General, Department of the Interior.

"Inspector General, Environmental Protection Agency.

"Inspector General, Federal Emergency Management Agency.

"Inspector General, General Services Administration.

"Inspector General, National Aeronautics and Space Administration.

"Inspector General, Small Business Administration.

"Inspector General, Railroad Retirement Board.".

(2) Section 5316 of such title is amended by striking out each of the following paragraphs:

"Inspector General, Agency for International Development.

"Inspector General, Department of Commerce.

"Inspector General, Department of the Interior.

"Inspector General, Community Services Administration.

"Inspector General, Environmental Protection Agency.

"Inspector General, General Services Administration.

"Inspector General, National Aeronautics and Space Administration.

"Inspector General, Small Business Administration.".

(3)(A)(i) Section 208 of the Department of Energy Organization Act is repealed.

(ii) The table of contents in the first section of such Act is amended by striking out the item relating to section 208.

(B) Title II of Public Law 94-505 is repealed.

(C) Section 23 of the Railroad Retirement Act of 1974 is repealed.

(4) 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.

SEC. 103. EXTENSION OF INSPECTOR GENERAL ACT PROTECTIONS AND REQUIREMENTS TO CERTAIN DESIGNATED FEDERAL ENTITIES.

The Inspector General Act of 1978 is further amended by inserting after section 8A the following new section:

"PROTECTIONS AND REQUIREMENTS FOR CERTAIN DESIGNATED FEDERAL ENTITIES

"Sec. 8B. (a) Not later than 180 days after the date of enactment of this section, there shall be established 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.

"(b) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity involved, but shall not report to, or be subject to supervision by, any other officer 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.

"(c) Except as provided in subsection (g), 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) If the Inspector General is removed from office or is transferred to another position or location, the head of the designated Federal entity shall promptly communicate the reasons for any such removal or transfer to each House of the Congress.

"(e)(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 such terms are defined in subsection (h)) 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.

"(f) Within one year after the date of enactment of this section, and on October 31 of each succeeding calendar year, the head of each Federal entity which is not a designated Federal entity shall prepare and transmit to the Director of the

Office of Management and Budget and to each House of the Congress a report which —

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

"(2) 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

"(3) 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.

"(g) 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 Chief Postal Inspector shall be appointed by the Governors of the United States Postal Service and may be removed from office or transferred to another position or location within the United States Postal Service by the Governors. If the Chief Postal Inspector is removed or transferred in accordance with this subsection, the Governors shall promptly notify each House of the Congress of the reasons for such removal or transfer.

"(h) Notwithstanding section 11 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 —

[*S10915] "(A) an establishment (as defined in section 11(2) of this Act) or part of an establishment;

"(B) the Executive Office of the President;

"(C) the Central Intelligence Agency;

"(D) the General Accounting Office; or

"(E) 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 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 Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce 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 Nuclear Regulatory Commission, the Office of Personnel Management, 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 the director, administrator, president, or chief policy-making officer or board of a Federal entity, or any other person or persons designated by statute as the head of a Federal entity;

"(4) the term 'head of the designated Federal entity' means the director, administrator, president, or chief policy-making officer or board of a designated Federal entity, or any other person or persons designated by statute as the head of a designated Federal entity;

"(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."

SEC. 104. PROVISIONS TO ENSURE UNIFORMITY AND RELIABILITY OF INSPECTOR GENERAL REPORTS.

(a) Report Information Required on Audits. — Section 5(a) of the Inspector General Act of 1978 is amended by striking out "and" at the end of paragraph (5) and by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) a listing, subdivided according to subject matter, of each audit report issued by the Office during the reporting period, and, where applicable, the amounts of costs reported as ineligible costs and the amounts of costs reported as unsupported costs, in each such report;

"(7) a summary of each particularly significant report; and

"(8) statistical tables showing the total number of audit reports and, where applicable, the total dollar amounts of costs reported as ineligible costs and costs reported as unsupported costs, such amounts which management, in a management decision, has agreed to recover, amounts of funds recommended to be put to better use and the amounts of such funds which management has agreed should be put to better use, for audit reports —

"(A) for which no management decision had been made by the beginning of the period,

"(B) which were issued during the period,

"(C) for which a management decision was made during the period,

"(D) for which no management decision has been made by the end of the period, and

"(E) which were over six months old with no management decision at the end of the period;

"(9) a summary of each particularly significant audit report issued before the commencement of the reporting period for which a management decision was not made within 6 months after the date of issuance of such report, an explanation of the reason such management decision was not made, and a statement as to the current status of each such report;

"(10) a description of, and explanation of the reasons for, any significant revised management decision made during the reporting period;

"(11) information concerning any significant management decision with which the Inspector General is in disagreement; and

"(12) separate sections that include, with respect to each audit and investigative office of the establishment outside the Office of Inspector General (other than audit or investigative offices that conduct audits or investigations as an integral part of a program of the establishment), the matters required to be included under paragraphs (1) through (5) and (7) through (11) of this subsection."

(b) Report on Final Action. — Section 5(b) of such Act is amended —

(1) by inserting "(1)" after "(b)"; and

(2) by striking out "containing any comments such head deems appropriate." and inserting the following:

"containing —

"(A) any comments such head deems appropriate;

"(B) a list of audit reports issued by the establishment's Office of Inspector General on which final action had not been taken within one year after the date on which a management decision was made in response to such report and an explanation of the reason final action had not been taken, except that such list may exclude audit reports under formal administrative or judicial appeal but shall identify the number of reports so excluded; and

"(C) statistical tables showing the total number of audit reports and, where applicable, the total dollar amounts of ineligible and unsupported costs agreed upon; such amounts actually returned to or offset by the Federal Government; the amounts of funds which management agreed to put to better use; and the amounts of funds put to better use as a result of final action on a management decision; for audit reports for which a management decision had been made by the end of the period but on which final action —

"(i) had not been taken by the beginning of the period,

"(ii) was taken during the period,

"(iii) was pending at the end of the period, and

"(iv) has not been taken within one year of the date of the management decision.

"(2) 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."

(c) Conforming Amendment: Definitions. — Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) As used in this section —

"(1) the term 'ineligible cost' means a cost that is questioned by the Office because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

"(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 was not supported by adequate documentation;

"(3) 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 written final decision by management concerning its response, including actions concluded to be necessary, to such findings and recommendations.

"(4) the term 'final action' means 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, in the event that agency management concludes no corrective action is necessary, final action occurs when a management decision has been reached."

SEC. 105. OATH ADMINISTRATION AUTHORITY.

Section 6(a) of the Inspector General Act of 1978 is amended —

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and

(2) by inserting after paragraph (4) the following new paragraph:

"(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;"

SEC. 106. EXTERNAL REVIEWS.

Section 4(b) of the Inspector General Act of 1978 is amended —

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end the following:

"(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 and internal audit offices described in section 8B(f)(1), reviews shall be performed exclusively by an audit entity in the Federal Government, including the General Accounting Office or another Office of Inspector General."

SEC. 107. TECHNICAL AMENDMENT.

(a) Senior Executive Service Positions. — Section 6 of the Inspector General Act of 1978 is amended by adding at the end thereof the following:

"(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."

[*S10916] (b) Coast Guard Operation as Part of Department or Agency. — Section 8(e) of the Inspector General Act of 1978 is amended by inserting before the period at the end thereof the following: ", 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".

SEC. 108. REPORT ON IMPLEMENTATION.

Within one year after the date of enactment of this Act, the head of each designated Federal entity (as such term is defined in section 8B(h) 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 agency of the requirements of section 8B of such Act. Such report shall identify any area or areas in which implementation is not complete and describe the reasons for that failure.

SEC. 109. PAYMENT AUTHORITY SUBJECT TO APPROPRIATIONS.

Any authority to make payments under this Act shall be effective only to such extent as provided in appropriations Acts.

SEC. 110. APPROPRIATION ACCOUNTS.

Section 1105(a)(25) of title 31, United States Code, is amended to read as follows:

"(25) a separate appropriation account for appropriations for each Office of Inspector General established by section 2 of the Inspector General Act of 1978."

SEC. 111. DISCLOSURE OF TAX RETURNS AND RETURN INFORMATION.

Section 5(e)(3) of the Inspector General Act of 1978 is amended by striking out "Nothing" in the first sentence and inserting in lieu thereof "Except to the extent provided in section 6103(f) of the Internal Revenue Code of 1986, nothing".

SEC. 112. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act, except that section 5(b)(1) (A), (B), and (C) of the Inspector General Act of 1978 (as amended by section 104(b) of this Act) shall take effect one year after the date of enactment of this Act.

TITLE II — GOVERNMENT PRINTING OFFICE INSPECTOR GENERAL

SEC. 201. SHORT TITLE.

This Act may be cited as the "Government Printing Office Inspector General Act of 1988".

SEC. 202. OFFICE OF INSPECTOR GENERAL.

Title 44 of the United States Code is amended by adding at the end the following new chapter:

"CHAPTER 39 — GOVERNMENT PRINTING OFFICE: OFFICE OF INSPECTOR GENERAL

"Sec.

"3901. Purpose and establishment and Office of Inspector General.

"3902. Appointment of Inspector General; supervision; removal.

"3903. Duties, responsibilities, authority, and reports of the Inspector General.

"§ 3901. Purpose and establishment and Office of Inspector General

"In order to create an independent and objective office —

"(1) to conduct and supervise audits and investigations relating to the Government Printing Office;

"(2) to provide leadership and coordination and recommend policies to promote economy, efficiency, and effectiveness;
and

"(3) to provide a means of keeping the Public Printer and the Congress fully and currently informed about problems and deficiencies relating to the administration and operations of the Government Printing Office;

there is hereby established an Office of Inspector General in the Government Printing Office.

"§ 3902. Appointment of Inspector General; supervision; removal

"(a) Appointment of Inspector General. — There shall be at the head of the Office of Inspector General, an Inspector General who shall be appointed by the Public Printer 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. The Inspector General shall report to, and be under the general supervision of, the Public Printer. The Public Printer shall have no authority to 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) Removal. — The Inspector General may be removed from office by the Public Printer. The Public Printer shall, promptly after such removal, communicate in writing the reasons for any such removal to each House of the Congress.

"§ 3903. Duties, responsibilities, authority, and reports of the Inspector General

"(a) Sections 4, 5, 6 (other than subsection (a)(7) thereof), and 7 of the Inspector General Act of 1978 (5 U.S.C. App.) shall apply to the Inspector General of the Government Printing Office and the Office of such Inspector General and shall be applied to the Government Printing Office and the Public Printer by substituting —

"(1) 'Government Printing Office' for 'establishment'; and

"(2) 'Public Printer' for 'head of the establishment'.

"(b) The Inspector General, in carrying out the provisions of this chapter, 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 subject to the provisions of this title governing appointments and employment in the Government Printing Office."

SEC. 203. AMENDMENT TO TABLE OF CHAPTERS.

The table of chapters for title 44, United States Code, is amended by adding at the end the following new item:

"39. Government Printing Office:	3901".
Office of Inspector General	

SEC. 204. EFFECTIVE DATE.

The provisions of this title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act.

Amend the title so as to read: "An Act to amend the Inspector General Act of 1978 to establish offices of inspector general in certain departments, and for other purposes."

Mr. BYRD. Mr. President, I move that the Senate disagree to the amendments of the House and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to name the conferees on the part of the Senate.

The motion was agreed to, and the Chair (Mr. Levin) appointed Mr. Glenn, Mr. Chiles, Mr. Sasser, Mr. Pryor, Mr. Roth, Mr. Stevens, and Mr. Heinz, and for the purposes of the Nuclear Regulatory Commission provisions only, Mr. Breaux, and Mr. Simpson conferees on the part of the Senate.

SUBJECT: AUDITS (90%);

LEXSEE 134 CONG REC S 14446

Congressional Record — Senate

Tuesday, October 4, 1988;
(Legislative day of Monday, September 26, 1988)

100th Cong. 2nd Sess.

134 Cong Rec S 14446

REFERENCE: Vol. 134 No. 139

TITLE: INSPECTOR GENERAL ACT

SPEAKER: Mr. BYRD; Mr. GLENN; Mr. PRYOR; Mr. ROTH; Mr. SASSER

TEXT: [*S14446] Mr. BYRD. Mr. President, I submit a report of the committee of conference on S. 908 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 908) to amend the Inspector General Act of 1978 to establish Offices of Inspector General in certain departments, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of September 30, 1988.)

Mr. GLENN. Mr. President, I commend to my colleagues passage of the conference report on S. 908, a bill to amend the Inspector General Act of 1978 to establish Offices of Inspector General in certain departments, and for other purposes. This bill is the result of one of my first initiatives as chairman of the Governmental Affairs Committee — to review the status of audit and investigative coverage throughout government. Specifically, I sought to determine whether a case could be made for expanding the inspector general concept to departments, agencies and other federally-funded entities not currently covered by the 1978 Inspector General Act.

That law, which will be 10 years old on October 12, established permanent Offices of Inspector General in 12 departments and agencies, to join the two already in the Department of Health, Education and Welfare and the Energy Department. These offices, as well as several more created by subsequent legislation, were established to serve as an important check on government waste, fraud and mismanagement and to aid the Congress' oversight committees by providing invaluable information from their audits, investigations and analyses. In short, they were setup to maintain and elevate public confidence in Government.

With the assistance and cooperation of the Ranking Minority Member, Senator Roth, the committee held three hearings in 1987 on the operations and needs of the inspector general community and conducted numerous interviews with knowledgeable Government officials. The statistics the committee heard from the current IG community were quite impressive:

From March 1981 through fiscal year 1987, the current inspectors general claim that over \$100 billion in Federal funds have been saved or put to better use as a result of management actions on their findings and recommendations;

During this same period, the IG's claim responsibility for over 23,000 successful prosecutions against wrongdoers who defrauded Federal programs and over 8,000 administrative sanctions against unscrupulous individuals and firms doing business with the Government.

The accomplishments of the IG community in fulfilling the mandate of the 1978 legislation and the Governmental Affairs Committee's own review made it clear that there was a need to establish better audit and investigation capabilities in a number of departments, agencies, and federally funded entities not covered by the 1978 law.

I introduced S. 908 in April 1987. The bill, which was cosponsored by every member of the Governmental Affairs Committee, passed the Senate in February 1988 by a vote of 85 to 0. H.R. 4054, the House version of the bill, introduced by Congressmen Brooks and Horton, was adopted on July 26 by voice vote.

There were several important substantive differences between the two bills which were resolved in conference. S. 908 will extend the statutory inspector general concept to nearly 40 additional departments, agencies, and designated Federal entities. In addition, S. 908 contains some long needed amendments to the Inspector General Act of 1978 by providing uniform definitions, standards, and authorities applicable to all inspectors general. S. 908 includes several changes made to the bill by the House which, in my judgment, have the effect of strengthening and clarifying the IG's role in government. All of these changes are important and timely adjustments of the IG system, so that it will work even more successfully in the years to come.

S. 908 creates Offices of Inspector General — headed by Presidentially appointed, Senate-confirmed IG's — in the Departments of Justice and the Treasury, the Office of Personnel Management, the Federal Emergency Management Agency, and the Nuclear Regulatory Commission. The creation of these new Offices of Inspector General is supported by the General Accounting Office.

All of these agencies were left out of the original law 10 years ago. But they are major agencies, with huge budgetary authority, important missions, and programs that require strict controls against fraud, waste, and abuse. In particular, the committee's investigation of serious deficiencies in the audit and investigation functions at the NRC demonstrated the need for a truly independent inspector general in that independent regulatory agency. Unlike the current situation at the NRC, a statutory inspector general would have the authority and expertise to investigate wrongdoing wherever it occurs, even if it may involve the office of an NRC Commissioner.

Currently, the Justice and Treasury Departments are the only two Cabinet-level Departments without statutory Offices of Inspector General. In April 1981, President Reagan supported legislation creating additional inspectors general (quote) "who will have powers tailored to the specific needs of the Departments of *** Treasury, and Justice." (end quote)

However, the administration subsequently retreated from this position and over the years the two Departments at issue resisted enactment of such legislation, arguing that no legislative formulation specifically met their particular needs.

The Governmental Affairs Committee's recent, in-depth reviews of the Justice and Treasury Departments indicate that such opposition to inspector general legislation is unjustified. These departments, like the 19 Federal agencies before them, share the basic need for the leadership of an independent statutory inspector general. Such an individual will better assist the department heads and their program managers to make the most efficient, effective and legal use of the resources available for their law enforcement and myriad other missions. Moreover, the semiannual reports summarizing the IGs' audit and investigative activities will aid the Treasury Secretary's, Attorney General's and Congress oversight of the departments' programs and operations.

At the same time, the committee recognizes the propriety of including "special provisions" for these departments designed to accommodate their specific needs and unique missions. The precedent for this was established in 1982 legislation creating the IG Office at the Defense Department.

With regard to the Treasury Department, the "special provisions" which were included in the initial Senate bill have been retained, with one major revision. Unlike the Senate-passed bill, the conference agreement does not include a separate IG for the IRS. Instead, the conference agreement provides [*S14447] that the single Treasury IG must abide by procedures governing access to and disclosure of taxpayer returns and return information. The Treasury Department and IRS do not object to S. 908, as revised in conference.

The Justice Department was not included in the initial Senate bill to provide the Senate with more time to fully evaluate the GAO's 1986 recommendation for a statutory IG in the Department. In May 1987, the Governmental Affairs Committee held a hearing that focused in part on the status of the audit and internal investigative functions at the Justice Department. Among the many concerns expressed at the hearing was the fact that the audit activities were not consolidated in one Department-level office, and that too many individuals were responsible for this function. The Justice Department indicated that it was proposing a reorganization of its audit activities by creating an "Office of Audit and Review" that

would be a single, independent office reporting directly to a high-level official. This proposal would not have transferred the Department's Office of Professional Responsibility or any other internal investigation offices into the Office of Audit and Review.

This reorganization never occurred. Since the Governmental Affairs Committee's hearing, the Legislation and National Security Subcommittee of the House Committee on Government Operations has finished its review of the problems in Justice's 14 separate audit and internal investigations units. In June 1988 the committee published the results of its study for use in considering the House bill to extend the statutory IG concept to the Departments of Justice and the Treasury.

Frankly, the most difficult issue for the conference committee to resolve was the relationship between the Justice Department's Office of Professional Responsibility, known as "O-P-R", and the proposed Office of Inspector General. OPR is a small unit of 6 to 8 attorneys, who supervise and carry out internal investigations of Department and bureau employees. Normally, such a function would be automatically transferred to the new Office of Inspector General.

The conference agreement reflects an effort to accommodate the Attorney General's concern about impinging upon the Attorney General's authority to investigate allegations of misconduct by officers and employees of the Justice Department, especially those who perform attorney, criminal investigations or other law enforcement functions. In deference to the specific request of the current Attorney General, who assisted in the creation of OPR in 1975, the Senate receded to the House and retained OPR outside the Office of Inspector General.

In addition, the conference agreement requires the IG to refer to the head of OPR, for investigation, any information or allegations relating to alleged misconduct on the part of Justice Department attorneys, criminal investigators, and law enforcement personnel. Under this arrangement, I expect that every effort will be made by the IG and the head of OPR to coordinate efforts, share resources and combine their expertise to provide the Attorney General and the Department's program managers with the best possible audit and investigative coverage.

In the future the Attorney General may determine that the Office of Professional Responsibility and several other audit, internal investigation, and inspection units remaining outside the Office of Inspector General should be consolidated in that Office. Pursuant to the Inspector General Act, the Attorney General is authorized to effect the transfer of resources and functions necessary to achieve this consolidation. Such a transfer would be consistent with the inspector general concept, and I urge that the Attorney General give early and careful consideration to this action.

Mr. President, this administration was initially unwilling to consider extending the statutory inspector general concept to the Justice and Treasury Departments.

However, with diligence and hard work, we were able to bring the administration to the negotiating table to work out a reasonable and workable compromise. In view of the extensive discussions held with representatives of this administration to reach agreement on this legislation, particularly the former Secretary of the Treasury and the current Attorney General, I am confident that this bill specifically meets the particular needs of these two Departments.

I ask unanimous consent to insert into the Record a September 26, 1988 letter from Attorney General Thornburgh to me stating that the Department of Justice will not object to the enactment of S. 908, as revised in conference.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Office of the Attorney General,
Washington, DC, September 26, 1988.

Hon. John Glenn,
Chairman, Committee of Governmental Affairs, U.S. Senate, Washington, DC.

Dear Mr. Chairman: Several days ago, in light of an apparent consensus among the Members of Congress that an Inspector General for the Department of Justice should be included in the report resulting from the Conference of the House and the Senate on S. 908, I authorized my staff to work with yours to develop language that would meet our basic concerns with the House bill.

As I indicated in my letter of September 13, I believe that any Attorney General must have the authority to investigate allegations of misconduct by officers and employees of this Department, especially, investigative, prosecutorial, and law enforcement personnel. I argued that the Office of Professional Responsibility (OPR), which was created during my previous tenure in the Department, has handled this function efficiently and with unquestioned integrity. The proposed

compromise responds, in large part, to that issue by recognizing the existence of OPR, and by requiring the Inspector General to refer to OPR any allegations relating to the conduct of attorney, investigative, or law enforcement personnel.

The proposed compromise also provides authority for the Attorney General to prohibit the IG from carrying out certain audits or investigations, if to do so would involve sensitive matters involving ongoing investigations or proceedings, undercover operations, confidential sources, or intelligence and other national security matters.

I want to know that I very much appreciate the considerable efforts that you and the Senate Committee staff, on both sides of the aisle, have made to craft language that retains OPR and that attempts to address the other reservations reflected by my letter. While we have made significant progress, thanks in large part to the willingness of you and Senator Roth to work with us, points of disagreement still remain.

Specifically, the bill treats differently the law enforcement agencies within the Executive Branch. The U.S. Marshals Service, the Immigration and naturalization Service, and the Bureau of Prisons are, unlike comparable agencies such as the Secret Service and the Bureau of Alcohol, Tobacco, and Firearms, required to transfer to the new Inspector General all of their internal affairs or internal investigative resources. In my judgment, no law enforcement agency should be precluded from having the authority to investigate and to react instantly to situations that strike at the very heart of its mission. We appreciate your attempt to address this issue by including in the compromise a provision that requires the IG to transfer back to OPR 20 positions, which will give OPR additional resources to conduct misconduct investigations throughout the Department.

In addition, I remain concerned about the effect that an Inspector General may have on some of the Department's unique investigative and law enforcement functions, particularly those of the Federal Bureau of Investigation and the Drug Enforcement Administration, as well as the effect on the exercise of prosecutorial and litigative discretion.

Mr. Chairman, I continue to believe, personally, that a statutory Inspector General for the Department of Justice is unnecessary and unwarranted as a matter of policy and law. This has been the long-standing position of the Department as well, both in this and in previous Administrations. However, I recognize and am grateful for your good faith and responsible efforts to address our heartfelt concerns, and I accept the fact that the legislative environment precludes us from going any further at this time. On that basis, I intend to recommend to the President that we not oppose adoption of the agreed-upon Conference provisions.

Sincerely,
Dick Thornburgh,
Attorney General.

Mr. GLENN. Before turning the floor over to the distinguished ranking minority member of the Governmental Affairs Committee, I would like to take this opportunity to revisit an early action of the Reagan administration and sound a note of caution for future administrations concerning the IG community. Under the law, the IG's are required to be appointed by [*S14448] the President "without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financing analysis, law, management analysis, public administration, or investigations." Unlike most Presidential appointees, inspectors general are not permitted to engage in partisan, political activities. An Inspector General may only be removed by the President and if removed, the President must communicate the reasons to both Houses of Congress.

On January 20, 1981, as one of his first official acts, President Reagan ordered the mass removal of all incumbent inspectors general. In his letter to the Speaker of the House and the President of the Senate, President Reagan made clear that the inspectors general were being treated in the same manner as other political appointees. I believe President Reagan's wholesale removal of all incumbent inspectors general without any meaningful examination of their qualifications and performance was a serious mistake that should not be repeated by any future President. Such mass removal gives the appearance of an attempt to politicize these nonpolitical offices, an act which flies in the face of the spirit, if not the letter of the law.

Mr. President, Senator Roth, the ranking minority member of the Governmental Affairs Committee and an original cosponsor of S. 908, deserves special tribute for his leadership in the area of fighting Government waste, fraud and abuse. During the time we have served together on the Governmental Affairs Committee, he has tirelessly worked for more efficient Government. Over the years he has consistently introduced or cosponsored legislation to improve and fine-tune the Inspector General system. His contribution to crafting this legislation has been considerable and I greatly

appreciate his cooperation in moving it forward so we have it under consideration today. I also want to give particular credit to the staff members of the Governmental Affairs Committee who were instrumental in producing this legislation and negotiating it through the Senate and the conference.

Dr. Leonard Weiss, the staff director, planned the project with me and supervised it from the beginning. Lorraine Lewis and Stephen Ryan, counsels to the committee, carried the heavy day-to-day burden of investigations, hearings, and negotiations needed to bring the legislation to its final form and to a successful conclusion. The assistance and cooperation of the minority staff, particularly John Parisi and Martha Morrison, who also put in long hours to work out the necessary details of this legislation, were essential to this success.

I also would like to thank the other members of the conference committee — Senators Chiles, Sasser, Pryor, Stevens, and Heinz — and their staffs, for contributing to the success of this bill and doing such an outstanding job.

With those comments, Mr. President, I yield the floor.

Mr. ROTH. Mr. President, I am pleased to join the distinguished Governmental Affairs Committee chairman, my friend, John Glenn, to urge our colleagues to support the conference report on S. 908, the Inspector General Act Amendments of 1988. This is a most important piece of legislation that has been forged with strong bipartisan support. I believe it is particularly appropriate that we are considering this legislation now — during the 10th anniversary of the Inspector General Act of 1978.

As my colleagues know, the IG Act was designed to improve the auditing and investigative functions in Federal agencies so that American taxpayers could be more confident that their tax dollars are being spent appropriately and wisely. Each Office of Inspector General established was intended to consolidate under one independent official the responsibility of preventing and detecting waste, fraud, and abuse in Federal programs, as well as to promote the efficiency and effectiveness of those programs.

Charging the IG's with the responsibility to carry out all audits and investigations related to management efficiency, Congress intended that the IG's would be our first line of defense in attacking waste, fraud, and abuse. Because of their responsibility to report semiannually to Congress on their findings and activities, and to immediately notify Congress whenever they encounter a particularly flagrant example of fraud or mismanagement, the IG's have a unique role in our Government.

The concept has proven over the past decade to be highly successful in improving the use of Federal resources. The inspectors general more than pay for themselves in terms of misspent funds recovered as well as costs avoided. In fact, in a statement delivered recently before a congressional panel, Joe Wright, Deputy Director of OMB, testified that "for every dollar we spend on the IG's, we have gotten about \$45 in return in better use of funds and recoveries."

Moreover, the President's Council on Integrity and Efficiency [PCIE] has reported that in fiscal year 1987 alone, the inspectors general reported \$20 billion in recoveries, savings, and avoidance of unnecessary expenditures; 4,365 convictions; and 2,059 administrative sanctions against persons or firms doing business with the Government. I think my colleagues will agree that the IG's have collectively achieved some very notable successes in the fight against poor management and fraudulent activities.

As I have stated in the past, I believe it is very important that we continue to extend the IG concept to those establishments that have not had the benefit of this checkpoint. The conference report we bring to the floor today will do just that by establishing new statutory Offices of Inspector General with Presidentially appointed IG's in the Departments of the Treasury and Justice — the only two remaining Departments in the Federal Government without statutory IG's — as well as the Federal Emergency Management Agency, the Nuclear Regulatory Commission, and the Office of Personnel Management.

As the chairman has indicated, the statutory establishment of these Presidentially appointed IG's has been recommended by the General Accounting Office on several occasions. While the President has in the past supported the establishment of statutory IG's "who will have powers tailored to the specific needs of the Departments of *** Treasury and Justice," there has been considerable resistance within the Departments themselves to the idea. Consequently, we have made very concerted and sincere efforts to respond to the legitimate concerns of Treasury and Justice Department officials.

This conference agreement represents many long, difficult hours of negotiation with representatives of both Departments. We have attempted to remain sensitive to the important and unique roles of these two Departments by

granting the Treasury Secretary and the Attorney General, respectively, the authority to halt the IGs' work to preserve the confidentiality of sensitive information or to protect the national interests of the United States. We have reiterated the facts that the IG Act; First, specifically prohibits the IG from disclosing information that is "prohibited from disclosure by any other provision of law;" and second, specifically prohibits the transfer of any program operating responsibilities to the IG.

Moreover, in direct response to the specific request of the Attorney General, we have agreed to keep the Office of Professional Responsibility intact and outside the Office of Inspector General.

In addition to establishing these Presidentially appointed IG's, I am very pleased that our conference agreement addresses the audit and investigative needs of the smaller agencies and federally funded entities by establishing Offices of Inspector General in 33 "designated Federal entities." The IG for each of these designated entities will be appointed by the head of the entity and will be responsible for reporting activities to the agency head as well as Congress. As I indicated in February during Senate consideration of S. 908, the need to bring the concepts embodied in the Inspector General Act to these entities has been thoroughly documented by the General Accounting Office and the President's Council on Integrity and Efficiency. The administration has expressed support for our efforts [*S14449] to extend the IG concept to smaller entities as well.

The conference agreement includes a number of amendments to the Inspector General Act that have been advocated for several years. Among these changes are modifications to the reporting requirements intended to assure more uniformity and attention to audit follow-up; a uniform salary level for all Inspectors General; separate appropriations accounts for Offices of Inspector General; and conformation of existing OIG's at the Departments of HHS and Energy and Railroad Retirement Board under the IG Act.

Mr. President, the conference agreement we have before us is a reasonable compromise that I believe merits the support of our colleagues. I am very proud of my longstanding involvement in promoting the Inspector General concept and this legislation builds logically and realistically on the original act. For his exemplary leadership, I want to congratulate Senator Glenn and to commend him for his tireless efforts and personal commitment to reach agreement on this legislation. I truly appreciate all that he has done and all that his fine staff, particularly Steve Ryan and Lorraine Lewis, have done to lead us to this juncture. The conference agreement is a true bipartisan effort and I commend it to my colleagues.

Mr. SASSER. Mr. President, I rise today in support of the conference report on the Inspector General Act Amendments of 1988.

I am pleased to have been an original cosponsor of this important piece of legislation. Inspectors general are watchdogs for the American taxpayer — a front line of defense against waste and fraud in the Federal Government.

These amendments establish an office headed by a Presidentially appointed inspector general in the following five agencies: the Department of the Treasury, the Internal Revenue Service, the Office of Personnel Management, the Nuclear Regulatory Commission, and the Federal Emergency Management Agency.

This bill also extends some of the provisions of the Inspector General Act to 33 smaller Federal agencies, such as: the Equal Employment Opportunity Commission, the National Science Foundation, the National Labor Relations Board, the Federal Communications Commission, and the Federal Trade Commission.

For many years I have been a staunch supporter of inspectors general and I have made the fight against waste and fraud in the Federal Government a priority during my service in the Senate. In my work on the Committee on Government Affairs I have seen that the work of inspectors general can result in significant savings to the American taxpayer.

In fact, Joseph J. Wright, Deputy Director of the Office of Management and Budget, reported that since 1978 when the Inspector General Act was enacted, more than \$120 billion in Federal funds have been saved by these inspectors general.

The hearing record on this legislation is replete with testimony supporting the value of inspectors general. For example, between 1981 and 1987, there were 23,000 successful prosecutions against wrongdoing as the result of the work of inspectors general. These prosecutions resulted in the imposition of 8,000 administrative sanctions against individuals or firms.

The intent of this bill is to give some real teeth to the audit and investigative capabilities of a Federal agency. As our conference report indicates, all too often audits and investigations are not conducted in an effective manner. Or, they may be conducted — but are not followed up on — by agency heads. In that case, the audit function is underutilized.

But with this legislation, inspectors general, heads of internal audit units, and agency heads have a responsibility to see audits and investigations through to their logical conclusion — promoting more efficient and economical agency operations.

This bill very wisely creates four new statutory inspectors general and requires centralized internal audit units in more than 30 smaller agencies. Another set of very small Federal agencies is required to follow more uniform audit and review procedures.

We conferees have been involved in extensive negotiations with the Departments of Justice and Treasury on this bill. The Justice Department has been particularly resistant to a Presidentially appointed inspector general. The Department prefers its existing Office of Professional Responsibility to a statutory inspector general. The record however does not support the view that the Office of Professional Responsibility is effectively policing the Justice Department.

But after long, hard negotiations, we have reached a compromise wherein the Office of Professional Responsibility will deal with issues of professional ethics and the Office of Inspector General will investigate fiscal matters.

Congress has indicated strong support for the inspector general concept. S. 908 was reported by a unanimous vote from the Senate Governmental Affairs Committee, passed the Senate by a unanimous vote of 85 to 0 on February 2, and the House on July 26 (H.R. 4054). That vote indicates strong bipartisan support for this legislation.

Given the overwhelming support for this measure, I would urge all of my colleagues to vote for this conference report — thereby expressing a resounding vote of confidence for the inspector general concept.

Mr. PRYOR. Mr. President, I rise today in support of the conference report on S. 908, a bill that makes several important changes to the Inspector General Act of 1978. The bill establishes Offices of Inspector General in the Departments of Justice and the Treasury, the Nuclear Regulatory Commission, the Office of Personnel Management and the Federal Emergency Management Agency.

Though there are presently some level of internal audit and program review capacities at these agencies, this bill elevates these offices to Presidentially appointed inspectors general. We have seen, over the 10-year history of the original Inspector General Act, the importance of having these offices as independent as possible. I believe that the improvements required by this bill will greatly increase the ability of the Federal Government to fight waste, fraud, and mismanagement. Furthermore, this strengthening of the inspectors general will greatly assist the Congress in performing its vital oversight function.

Mr. President, while there is much to commend in this bill, I want especially to draw attention to the elevation of the inspector general at the Department of the Treasury from being a creation of the Department to being one that is statutory. As most of you know, the taxpayers bill of rights is one of my top legislative priorities for this Congress. A key aspect of the taxpayers bill of rights is the creation of a statutory inspector general at the Department of the Treasury. As a conferee on this bill, I have been most interested in making sure this important component of the taxpayers bill of rights was included.

For far too long the Department of the Treasury has thrown a protective mantle around the Internal Revenue Service and kept it away from adequate internal review. This is all part of a calculated attempt to keep the IRS both mysterious and frightening to the average citizen. With the creation of a statutory inspector general at Treasury, both the Congress and the public will be assured that the IRS, like almost every other Government entity, is subject to sufficient internal oversight.

Mr. President, I should point out that while we have given the inspector general the authority to audit and review the internal workings of the IRS, we have also maintained the safeguards that govern the access to information contained on the returns of taxpayers.

As chairman of the Senate Finance Subcommittee with oversight over the IRS, I have become increasingly convinced that a strong and independent inspector general is vital to correcting some of that agency's all too frequent abuses. In a series of hearings that I have chaired over the past 2 years, I have heard testimony time and time again from average taxpayers, small business owners, and even from IRS employees, of cases in which the IRS was acting inappropriately. Having a statutory inspector general will give these parties an effective avenue [*S14450] through which they can express their grievances. IRS employees, business people, and taxpayers shouldn't have to wait for a congressional hearing to have someone review the potentially inappropriate activity of a Government agency, especially when it is an agency like the IRS that touches all of our lives.

Mr. President, in closing, I am delighted that a key portion of the taxpayers bill of rights is today one step closer to becoming the law of the land. My colleagues can rest assured that I will continue working to see that the rest of the taxpayers bill of rights is enacted.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

MOTION TO RECEDE FROM DISAGREEMENT WITH THE HOUSE ON THE TITLE

Mr. BYRD. Mr. President, I move that the Senate recede from its disagreement to the amendment of the House to the title of the bill.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

SUBJECT: LEGISLATION (90%);

LEXSEE 134 CONG REC S 17263

Congressional Record — Senate

Friday, October 21, 1988;
(Legislative day of Tuesday, October 18, 1988)

100th Cong. 2nd Sess.

*134 Cong Rec S 17263***REFERENCE:** Vol. 134 No. 151**TITLE:** S. 908, INSPECTOR GENERAL LEGISLATION**SPEAKER:** Mr. DeCONCINI; MR. GLENN**TEXT:** Text that appears in UPPER CASE identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

[*S17263] MR. GLENN. IT HAS COME TO MY ATTENTION THAT THERE IS LANGUAGE IN THE CURRENT TREASURY DEPARTMENT APPROPRIATIONS ACT — PUBLIC LAW 100-440 — WHICH STATES THAT "[N]ONE OF THE FUNDS MADE AVAILABLE BY [THAT] ACT MAY BE USED TO PLACE THE UNITED STATES SECRET SERVICE, THE UNITED STATES CUSTOMS SERVICE, OR THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS UNDER THE OPERATIONS, OVERSIGHT, OR JURISDICTION OF THE INSPECTOR GENERAL OF THE DEPARTMENT OF THE TREASURY." THIS PROHIBITION BECAME EFFECTIVE ON SEPTEMBER 22, 1988.

ON OCTOBER 18, 1988, THE PRESIDENT SIGNED INTO LAW S. 908, THE INSPECTOR GENERAL ACT AMENDMENTS OF 1988, WHICH PLACES THE TREASURY DEPARTMENT UNDER THE COVERAGE OF THE INSPECTOR GENERAL ACT OF 1978. SECTION 102(D) OF THAT LAW — PUBLIC LAW 100-504 — PROVIDES THAT, "NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THAT PORTION OF EACH OF THE OFFICES OF THE TREASURY 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 SHALL BE TRANSFERRED TO THE STATUTORY OFFICE OF INSPECTOR GENERAL." THE "NOTWITHSTANDING *** LAW" LANGUAGE OF PUBLIC LAW 100-504 WAS CONTAINED IN THE ORIGINAL SENATE VERSION OF S. 908 AND ITS INCLUSION WAS EXPLAINED IN THE GOVERNMENTAL AFFAIRS COMMITTEE'S REPORT TO ACCOMPANY THE BILL (S. RPT. 100-150) AT PAGE 29. THIS LANGUAGE WAS INCLUDED SPECIFICALLY TO OVERRIDE PROVISIONS IN TREASURY APPROPRIATIONS MEASURES WHICH PROHIBIT THE USE OF FUNDS TO PLACE THE CUSTOMS SERVICE, SECRET SERVICE, AND BATF UNDER THE INSPECTOR GENERAL.

EVEN THOUGH SECTION 102(D) OF PUBLIC LAW 100-504 DOES NOT BECOME EFFECTIVE UNTIL 180 DAYS AFTER OCTOBER 18, 1988, IT WAS OUR INTENTION THAT THE TREASURY DEPARTMENT USE THIS PERIOD TO PLAN FOR EFFECTING AN ORDERLY TRANSFER OF THE INTERNAL AUDIT FUNCTIONS OF THE CUSTOMS SERVICE, SECRET SERVICE, AND BATF TO THE STATUTORY OFFICE OF INSPECTOR GENERAL AND THAT THE TRANSFER WOULD BE EXECUTED BY THE 181ST DAY. IS THIS CONSISTENT WITH YOUR UNDERSTANDING OF THE RELATIONSHIP BETWEEN PUBLIC LAW 100-440 AND PUBLIC LAW 100-504?

Mr. DeCONCINI. As chairman of the Subcommittee on Treasury, Postal Service, and General Government of the Committee on Appropriations, I carefully followed the progress of S. 908 and supported its enactment into law. I agree with your analysis of the relationship between Public Law 100-440 and Public Law 100-504 and see no reason why the Treasury Department cannot immediately plan for effecting an orderly transfer of the internal audit functions of the Customs Service, Secret Service, and BATF to the Office of Inspector General.

Mr. GLENN. Thank you for your continuous support of S. 908, which made possible its enactment into law.

SUBJECT: LEGISLATION (91%); APPROPRIATIONS (90%); CUSTOMS (90%); AUDITS (89%);

LEXSEE 134 CONG REC H 5827

Congressional Record — House

Tuesday, July 26, 1988

100th Cong. 2nd Sess.

134 Cong Rec H 5827

REFERENCE: Vol. 134 No. 108

TITLE: INSPECTOR GENERAL ACT AMENDMENTS OF 1988

SPEAKER: Mr. BROOKS; Mr. HORTON

TEXT: [*H5827] Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4054) to amend the Inspector General Act of 1978 to establish offices of inspector general in certain departments, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4054

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

SECTION 101. SHORT TITLE.

This Act may be cited as the "Inspector General Act Amendments of 1988".

SEC. 102. ESTABLISHMENT OF NEW OFFICES OF INSPECTOR GENERAL.

(a) Purpose; Establishment. — Section 2(1) of the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App.) 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) Addition of Departments of Energy, Health and Human Services, Justice, and Treasury, FEMA, and Railroad Retirement Board to List of Covered Establishments. — Section 11 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 Emergency Management Agency or the United States Information Agency; or the Chairman of 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 Railroad Retirement Board, the Small Business Administration, the United States Information Agency, or the Veterans' Administration; as the case may be;".

(c) Transfers of Existing Audit and Investigation Units. — Section 9(a)(1) of such Act is amended —

- (1) by striking out subparagraph (I), relating to the Community Services Administration;
- (2) by redesignating subparagraphs (J) through (N) as subparagraphs (I) through (M), respectively;
- (3) by striking out "and" at the end of subparagraphs (L) and (M) (as so redesignated); and
- [*H5828] (4) by adding at the end thereof the following new subparagraphs:

"(N) 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 Inspection, 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;

"(O) of the Department of the Treasury, the offices 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, Customs Service', and the 'Office of Inspections, Secret Service', which is engaged in internal audit activities;

"(P) of the Federal Emergency Management Agency, the office of that agency referred to as the 'Office of Inspector General';

"(Q) of the Department of Energy, the Office of Inspector General (as established by section 208 of the Department of Energy Organization Act);

"(R) of the Department of Health and Human Services, the Office of Inspector General (as established by title II of Public Law 94-505); and

"(S) of the Railroad Retirement Board, the Office of Inspector General (as established by section 23 of the Railroad Retirement Act of 1974);".

(d) Technical and Conforming Amendments. — (1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

- "Inspector General, Department of Justice.
- "Inspector General, Department of the Treasury.
- "Inspector General, Agency for International Development.
- "Inspector General, Department of Commerce.
- "Inspector General, Department of the Interior.
- "Inspector General, Environmental Protection Agency.
- "Inspector General, Federal Emergency Management Agency.
- "Inspector General, General Services Administration.
- "Inspector General, National Aeronautics and Space Administration.
- "Inspector General, Small Business Administration.
- "Inspector General, Railroad Retirement Board.".

(2) Section 5316 of such title is amended by striking out each of the following paragraphs:

- "Inspector General, Agency for International Development.";
- "Inspector General, Department of Commerce.";
- "Inspector General, Department of the Interior."; and

"Inspector General, Community Services Administration.

"Inspector General, Environmental Protection Agency.

"Inspector General, General Services Administration.

"Inspector General, National Aeronautics and Space Administration.

"Inspector General, Small Business Administration.".

(3)(A)(i) Section 208 of the Department of Energy Organization Act is repealed.

(ii) The table of contents in the first section of such Act is amended by striking out the item relating to section 208.

(B) Title II of Public Law 94-505 is repealed.

(C) Section 23 of the Railroad Retirement Act of 1974 is repealed.

(4) 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.

SEC. 103. EXTENSION OF INSPECTOR GENERAL ACT PROTECTIONS AND REQUIREMENTS TO CERTAIN DESIGNATED FEDERAL ENTITIES.

The Inspector General Act of 1978 is further amended by inserting after section 8A the following new section:

"PROTECTIONS AND REQUIREMENTS FOR CERTAIN DESIGNATED FEDERAL ENTITIES

"Sec. 8B. (a) Not later than 180 days after the date of enactment of this section, there shall be established 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.

"(b) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity involved, but shall not report to, or be subject to supervision by, any other officer 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.

"(c) Except as provided in subsection (g), 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) If the Inspector General is removed from office or is transferred to another position or location, the head of the designated Federal entity shall promptly communicate the reasons for any such removal or transfer to each House of the Congress.

"(e)(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 such terms are defined in subsection (h)) 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.

"(f) Within one year after the date of enactment of this section, and on October 31 of each succeeding calendar year, the head of each Federal entity which is not a designated Federal entity shall prepare and transmit to the Director of the Office of Management and Budget and to each House of the Congress a report which —

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

"(2) 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

"(3) 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.

"(g) 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 Chief Postal Inspector shall be appointed by the Governors of the United States Postal Service and may be removed from office or transferred to another position or location within the United States Postal Service by the Governors. If the Chief Postal Inspector is removed or transferred in accordance with this subsection, the Governors shall promptly notify each House of the Congress of the reasons for such removal or transfer.

"(h) Notwithstanding section 11 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 in section 11(2) of this Act) or part of an establishment;

"(B) the Executive Office of the President;

"(C) the Central Intelligence Agency;

"(D) the General Accounting Office; or

"(E) 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 ACTION, Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System, the Board for International Broadcasting, the [*H5829] Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce 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 Nuclear Regulatory Commission, the Office of Personnel Management, 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 the director, administrator, president, or chief policy-making officer or board of a Federal entity, or any other person or persons designated by statute as the head of a Federal entity;

"(4) the term 'head of the designated Federal entity' means the director, administrator, president, or chief policy-making officer or board of a designated Federal entity, or any other person or persons designated by statute as the head of a designated Federal entity;

"(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."

SEC. 104. PROVISIONS TO ENSURE UNIFORMITY AND RELIABILITY OF INSPECTOR GENERAL REPORTS.

(a) Report Information Required on Audits. — Section 5(a) of the Inspector General Act of 1978 is amended by striking out "and" at the end of paragraph (5) and by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) a listing, subdivided according to subject matter, of each audit report issued by the Office during the reporting period, and, where applicable, the amounts of costs reported as ineligible costs and the amounts of costs reported as unsupported costs, in each such report;

"(7) a summary of each particularly significant report; and

"(8) statistical tables showing the total number of audit reports and, where applicable, the total dollar amounts of costs reported as ineligible costs and costs reported as unsupported costs, such amounts which management, in a management decision, has agreed to recover, amounts of funds recommended to be put to better use and the amounts of such funds which management has agreed should be put to better use, for audit reports —

"(A) for which no management decision had been made by the beginning of the period,

"(B) which were issued during the period,

"(C) for which a management decision was made during the period,

"(D) for which no management decision has been made by the end of the period, and

"(E) which were over six months old with no management decision at the end of the period;

"(9) a summary of each particularly significant audit report issued before the commencement of the reporting period for which a management decision was not made within 6 months after the date of issuance of such report, an explanation of the reason such management decision was not made, and a statement as to the current status of each such report;

"(10) a description of, and explanation of the reasons for, any significant revised management decision made during the reporting period;

"(11) information concerning any significant management decision with which the Inspector General is in disagreement; and

"(12) separate sections that include, with respect to each audit and investigative office of the establishment outside the Office of Inspector General (other than audit or investigative offices that conduct audits or investigations as an integral part of a program of the establishment), the matters required to be included under paragraphs (1) through (5) and (7) through (11) of this subsection."

(b) Report on Final Action. — Section 5(b) of such Act is amended —

(1) by inserting "(1)" after "(b)"; and

(2) by striking out "containing any comments such head deems appropriate." and inserting the following:

"containing —

"(A) any comments such head deems appropriate;

"(B) a list of audit reports issued by the establishment's Office of Inspector General on which final action had not been taken within one year after the date on which a management decision was made in response to such report and an explanation of the reason final action had not been taken, except that such list may exclude audit reports under formal administrative or judicial appeal but shall identify the number of reports so excluded; and

"(C) statistical tables showing the total number of audit reports and, where applicable, the total dollar amounts of ineligible and unsupported costs agreed upon; such amounts actually returned to or offset by the Federal Government; the amounts of funds which management agreed to put to better use; and the amounts of funds put to better use as a result of final action on a management decision; for audit reports for which a management decision had been made by the end of the period but on which final action —

- "(i) had not been taken by the beginning of the period,
- "(ii) was taken during the period,
- "(iii) was pending at the end of the period, and
- "(iv) has not been taken within one year of the date of the management decision.

"(2) 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."

(c) Conforming Amendment: Definitions. — Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) As used in this section —

"(1) the term 'ineligible cost' means a cost that is questioned by the Office because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

"(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 was not supported by adequate documentation;

"(3) 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 written final decision by management concerning its response, including actions concluded to be necessary, to such findings and recommendations.

"(4) the term 'final action' means 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, in the event that agency management concludes no corrective action is necessary, final action occurs when a management decision has been reached."

SEC. 105. OATH ADMINISTRATION AUTHORITY.

Section 6(a) of the Inspector General Act of 1978 is amended —

- (1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and
- (2) by inserting after paragraph (4) the following new paragraph:

"(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;"

SEC. 106. EXTERNAL REVIEWS.

Section 4(b) of the Inspector General Act of 1978 is amended —

- (1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;
- (2) by inserting "(1)" after "(b)"; and
- (3) by adding at the end the following:

"(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 and internal audit offices described in section 8B(f)(1), reviews shall be performed exclusively by an audit entity in the Federal Government, including the General Accounting Office or another Office of Inspector General."

SEC. 107. TECHNICAL AMENDMENT.

(a) Senior Executive Service Positions. — Section 6 of the Inspector General Act of 1978 is amended by adding at the end thereof the following:

"(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."

(b) Coast Guard Operation as Part of Department or Agency. — Section 8(e) of the Inspector General Act of 1978 is amended by inserting before the period at the end thereof the following: ", 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".

SEC. 108. REPORT ON IMPLEMENTATION.

Within one year after the date of enactment of this Act, the head of each designated Federal entity (as such term is defined in section 8B(h) 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 [*H5830] status of the implementation by that agency of the requirements of section 8B of such Act. Such report shall identify any area or areas in which implementation is not complete and describe the reasons for that failure.

SEC. 109. PAYMENT AUTHORITY SUBJECT TO APPROPRIATIONS.

Any authority to make payments under this Act shall be effective only to such extent as provided in appropriations Acts.

SEC. 110. APPROPRIATION ACCOUNTS.

Section 1105(a)(25) of title 31, United States Code, is amended to read as follows:

"(25) a separate appropriation account for appropriations for each Office of Inspector General established by section 2 of the Inspector General Act of 1978."

SEC. 111. DISCLOSURE OF TAX RETURNS AND RETURN INFORMATION.

Section 5(e)(3) of the Inspector General Act of 1978 is amended by striking out "Nothing" in the first sentence and inserting in lieu thereof "Except to the extent provided in section 6103(f) of the Internal Revenue Code of 1986, nothing".

SEC. 112. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act, except that section 5(b)(1) (A), (B), and (C) of the Inspector General Act of 1978 (as amended by section 104(b) of this Act) shall take effect one year after the date of enactment of this Act.

TITLE II — GOVERNMENT PRINTING OFFICE INSPECTOR GENERAL

SEC. 201. SHORT TITLE.

This Act may be cited as the "Government Printing Office Inspector General Act of 1988".

SEC. 202. OFFICE OF INSPECTOR GENERAL.

Title 44 of the United States Code is amended by adding at the end the following new chapter:

"CHAPTER 39 — GOVERNMENT PRINTING OFFICE: OFFICE OF INSPECTOR GENERAL

"Sec.

"3901. Purpose and establishment and Office of Inspector General.

"3902. Appointment of Inspector General; supervision; removal.

"3903. Duties, responsibilities, authority, and reports of the Inspector General.

"§ 3901. Purpose and establishment and Office of Inspector General

"In order to create an independent and objective office —

"(1) to conduct and supervise audits and investigations relating to the Government Printing Office;

"(2) to provide leadership and coordination and recommend policies to promote economy, efficiency, and effectiveness;

and

"(3) to provide a means of keeping the Public Printer and the Congress fully and currently informed about problems and deficiencies relating to the administration and operations of the Government Printing Office;

there is hereby established an Office of Inspector General in the Government Printing Office.

"§ 3902. Appointment of Inspector General; supervision; removal

"(a) Appointment of Inspector General. — There shall be at the head of the Office of Inspector General, an Inspector General who shall be appointed by the Public Printer 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. The Inspector General shall report to, and be under the general supervision of, the Public Printer. The Public Printer shall have no authority to 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) Removal. — The Inspector General may be removed from office by the Public Printer. The Public Printer shall, promptly after such removal, communicate in writing the reasons for any such removal to each House of the Congress.

"§ 3903. Duties, responsibilities, authority, and reports of the Inspector General

"(a) Sections 4, 5, 6 (other than subsection (a)(7) thereof), and 7 of the Inspector General Act of 1978 (5 U.S.C. App.) shall apply to the Inspector General of the Government Printing Office and the Office of such Inspector General and shall be applied to the Government Printing Office and the Public Printer by substituting —

"(1) 'Government Printing Office' for 'establishment'; and

"(2) 'Public Printer' for 'head of the establishment'.

"(b) The Inspector General, in carrying out the provisions of this chapter, 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 subject to the provisions of this title governing appointments and employment in the Government Printing Office."

SEC. 203. AMENDMENT TO TABLE OF CHAPTERS.

The table of chapters for title 44, United States Code, is amended by adding at the end the following new item:

"39. Government Printing Office: 3901".
Office of Inspector General

SEC. 204. EFFECTIVE DATE.

The provisions of this title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. Brooks] will be recognized for 20 minutes and the gentleman from New York [Mr. Horton] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BROOKS asked and was given permission to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, H.R. 4054, the Inspector General Act Amendments of 1988, would establish statutory offices of inspector general in all regulatory agencies and other Federal entities that receive more than \$100 million in appropriations. It would combine existing audit and investigative functions in these 33 entities and provide them more independence.

In three of the entities — the Departments of Justice and Treasury, and the Federal Emergency Management Agency — the inspector general would be Presidentially appointed. In the others, the inspector general would be appointed by the head of the entity. The authorities, duties, and protections of the Inspector General Act of 1978 would be extended to all inspectors general. The bill would also conform offices of inspector general created in the Departments of Energy and Health and Human Services and in the Railroad Retirement Board to the 1978 act thereby bringing all statutorily established inspectors general in the executive branch under one act.

In addition, the bill provides for more uniform reporting of the inspectors general's activities and requires each inspector general and the head of each entity to make semiannual reports to the Congress. Such reports would detail the work of the inspector general and the success of management in implementing the inspectors general's recommendations. The bill also provides definitions and other guidance to improve the reports of the inspectors general.

Further, at the request of Chairman Annunzio of the Joint Committee on Printing to consider establishment of a statutory inspector general in the Government Printing Office, the committee amended the bill for that purpose.

Recognizing the unique structure of the National Labor Relations Act and the NLRB, our intent is that the "head of the designated Federal entity" for the purposes of this bill will be the chair of the NLRB. The chair shall exercise such authority consistent with the past practices of the Board which has been to balance the responsibilities of the Board and the unique responsibilities of the general counsel.

The purpose of the amendment to section 6 of the Inspector General Act of 1978, adding a new subsection (d), is to clarify the authority of inspectors general with respect to Senior Executive Service [SES] positions within the offices of an inspector general. The amendment makes clear that the inspector general is the appointing authority under the provisions of title V, United States Code, with respect to SES members and positions which are, or would be, within the office of the inspector general.

Specifically, it is intended that each inspector general shall have the authority to: First, select and appoint individuals to SES positions within the office of inspector general; second, fix the rate of pay under section 5383 of title V for senior executives appointed by the inspector general; third, appraise the performance of senior executives under section 4314 of title V; and fourth, remove senior executives because of poor performance under section 3592 of title V.

[*H5831] With respect to suspensions and removals for cause under the provisions of section 7543 of title V, and reassignments under section 3395, it is expected that such actions may be initiated by the agency head only with the concurrence of the inspector general.

Finally, where appropriate, agency heads should consider delegating to inspectors general other authorities under the SES provisions of title V with respect to SES members and positions within the offices of inspectors general.

Statutorily established offices of inspector general are urgently needed in all of these Federal entities. They are particularly needed in the Departments of Justice and Treasury — the last two Cabinet departments without statutory officers of inspector general — to help the Attorney General and Secretary of the Treasury to make the most efficient use of limited resources. I urge all Members to support this bill.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, as you know, we have repeatedly over the years attempted to extend the provisions of the Inspector General Act of 1978 to major departments and agencies of the Federal Government that lack coordinated and consolidated audit and investigative units. In each of the past four Congresses, the House has overwhelmingly passed legislation very similar to the bill we have before us today.

At our Legislation and National Security Subcommittee hearing on H.R. 4054 held in May, we received testimony from the General Accounting Office, the Office of Management and Budget, and several inspectors general. The efforts of the IG's over the past decade received unanimous praise. Joseph J. Wright, Deputy Director of OMB, reported that since enactment of the IG Act of 1978, "more than \$120 billion in Federal funds has been saved or put to better use because of inspector general recommendations." Mr. Speaker, let me repeat that figure: \$120 billion. I believe all my colleagues

would agree that is a very impressive figure.

It is because of our strong commitment to the IG concept and the indisputable preponderance of evidence that IG's have greatly improved operations in their departments and agencies, in addition to saving the American taxpayers literally billions of dollars, that we have continued to pursue this goal. We may now be very close to realizing that objective.

As an original cosponsor of the IG Act, I feel very much like a proud parent when reciting the accomplishments of the inspectors general. Much like a child's growth and development in the formative years, the experiences gained by the inspector general community provide a base for further growth and refinement. The lessons we have learned over the past 10 years and the successes we have witnessed form the basis for the legislation we have before us today.

This bill, which would establish statutory offices of inspector general at the Department of Justice and the Department of the Treasury, is intended to assure that the programs and operations of these departments are reviewed by independent units in terms of effectiveness and efficiency. We do not intend that the IG's second-guess prosecutorial or other law enforcement decisions. But we are convinced that these two departments — the only remaining departments in the Government without statutory IG's — The Federal Emergency Management Agency, and the Government Printing Office can benefit greatly from the improved internal audit and investigative functions that statutory IG's can provide.

H.R. 4054 would strengthen existing audit and investigative offices in agencies without statutory inspectors general. This would be accomplished by consolidating audit operations in each agency and by providing that each audit operation be given the same duties and responsibilities now provided to statutory inspectors general.

Additionally, H.R. 4054 makes important modifications to the reporting requirements to assure more uniformity and attention to audit followup.

Mr. Speaker, we have a tremendous opportunity before us this year. Senate passage of an inspector general bill this past February was a significant and long-awaited milestone. Our Committee on Government Operations unanimously approved H.R. 4054 last month. It is a good bill. I am very optimistic about the prospects for IG legislation during this Congress and urge my colleagues to support this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Montgomery). The question is on the motion offered by the gentleman from Texas [Mr. Brooks] that the House suspend the rules and pass the bill, H.R. 4054, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of the Senate bill (S. 908) to amend the Inspector General Act of 1978, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 908

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That this Act may be cited as the "Inspector General Act Amendments of 1988".

CONFIRMATION OF AUTHORITIES OF EXISTING OFFICES OF INSPECTORS GENERAL

Sec. 2. (a) Section 2(1) of the Inspector General Act of 1978 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) Section 9(a)(1) of such Act is amended —

(1) by striking out subparagraph (I);

(2) by redesignating subparagraphs (M) and (N) as subparagraphs (O) and (P), respectively;

(3) by redesignating subparagraphs (J) through (L) as subparagraphs (K) through (M), respectively;

(4) by redesignating subparagraphs (E) through (H) as subparagraphs (G) through (J), respectively;

(5) 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);"; and

(6) by inserting after subparagraph (M) (as redesignated by paragraph (3) of this subsection) the following new subparagraph:

"(N) of the Railroad Retirement Board, the Office of Inspector General (as established by section 23 of the Railroad Retirement Act of 1974);".

(c) Section 11 of such Act is amended —

(1) by inserting "Energy, Health and Human Services," after "Education," each place it appears in paragraphs (1) and (2);

(2) by striking out "Community Services," in paragraph (1);

(3) by striking out "the Community Services Administration," in paragraph (2);

(4) by inserting "or the Chairman of the Railroad Retirement Board," before "as the case may be" in paragraph (1); and

(5) by inserting "the Railroad Retirement Board," after "National Aeronautics and Space Administration," in paragraph (2).

(d)(1)(A) Section 208 of the Department of Energy Organization Act is repealed.

(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 is repealed.

(3) Section 23 of the Railroad Retirement Act of 1974 is repealed.

(e) The transfer of functions under the amendments made by subsection (b) shall not affect 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. Any such individual shall continue to serve in such position until such individual dies, resigns, or is removed from office in accordance with the Inspector General Act of 1978.

[*H5832] UNIFORM SALARIES FOR INSPECTORS GENERAL

Sec. 3. (a) 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.

"Inspector General, Department of the Interior.

"Inspector General, Agency for International Development.

"Inspector General, Environmental Protection Agency.

"Inspector General, General Services Administration.

"Inspector General, National Aeronautics and Space Administration.

"Inspector General, Railroad Retirement Board.

"Inspector General, Small Business Administration.".

(b) 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; and
- (8) the Inspector General of the Small Business Administration.

ESTABLISHING AN OFFICE OF INSPECTOR GENERAL IN THE DEPARTMENT OF THE TREASURY, THE INTERNAL REVENUE SERVICES, THE FEDERAL EMERGENCY MANAGEMENT AGENCY, THE NUCLEAR REGULATORY COMMISSION, AND THE OFFICE OF PERSONNEL MANAGEMENT

Sec. 4. (a) Section 9(a)(1) of the Inspector General Act of 1978 (as amended by section 2(b) of this Act) is further amended —

- (1) by redesignating subparagraphs (O) and (P) (as redesignated by paragraph (2) of section 2(b) of this Act) as subparagraphs (T) and (U), respectively;
- (2) by redesignating subparagraph (N) (as added by paragraph (6) of section 2(b) of this Act) as subparagraph (S);
- (3) by redesignating subparagraphs (K), (L), and (M) (as redesignated by paragraph (3) of section 2(b) of this Act) as subparagraphs (M), (O), and (P), respectively;
- (4) by inserting after subparagraph (J) (as redesignated by paragraph (4) of section 2(b) of this Act) the following new subparagraphs:
 - "(K) 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;
 - "(L) of the Department of the Treasury, in the Internal Revenue Service of such department, the office of that service referred to as the 'Office of Assistant Commissioner (Inspection), Internal Revenue Service';";
- (5) by inserting after subparagraph (M) (as redesignated by paragraph (3) 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
- (6) by inserting after subparagraph (P) (as redesignated by paragraph (3) of this subsection) the following new subparagraphs:
 - "(Q) of the Nuclear Regulatory Commission, the offices 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';".

(b)(1) Section 11(1) of such Act (as amended by section 2(c) of this Act) is further amended —

(A) by striking out "or Transportation or" and inserting in lieu thereof "Transportation, or the Treasury;"

(B) by striking out ", or the Director of the United States Information Agency" and inserting in lieu thereof a semicolon and "the Director of the Federal Emergency Management Agency, the Office of Personnel Management, or the United States Information Agency;"

(C) by inserting "the Nuclear Regulatory Commission or" before "the Railroad Retirement Board" (as added by section 2(c)(4) of this Act); and

(D) by inserting "or the Commissioner of Internal Revenue" before "as the case may be".

(2) Section 11(2) of such Act (as amended by section 2(c) of this Act) is further amended —

(A) by striking out "or Transportation" and inserting in lieu thereof "Transportation, or the Treasury;"

(B) by inserting "the Federal Emergency Management Agency," after "the Environmental Protection Agency,"

(C) by inserting "the Nuclear Regulatory Commission, the Office of Personnel Management," after "the National Aeronautics and Space Administration," and

(D) by inserting "Internal Revenue Service" before "as the case may be".

(c) The Inspector General Act of 1978 is amended by inserting after section 8A the following new sections:

"SPECIFIC PROVISION CONCERNING THE NUCLEAR REGULATORY COMMISSION

"Sec. 8B. 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, and shall not delegate such authority to any other officer or employee of the Commission.

"SPECIAL PROVISIONS REGARDING THE DEPARTMENT OF THE TREASURY

"Sec. 8C. (a) 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. The head of each such office shall report to the Inspector General the significant investigative activities being carried out by such office.

"(b) Notwithstanding subsection (a), the Inspector General of the Department of the Treasury may conduct an investigation of any officer or employee of such Department (other than the Internal Revenue Service) if —

"(1) the Secretary of the Treasury or the Deputy Secretary of the Treasury requests the Inspector General to conduct an investigation;

"(2) the investigation concerns senior officers or employees of the Department of the Treasury, including officers appointed by the President, members of the Senior Executive Service, and individuals in positions classified at grade GS-15 of the General Schedule or above or classified at a grade equivalent to such grade or above such equivalent grade; or

"(3) the investigation involves alleged notorious conduct or any other matter which, in the opinion of the Inspector General, is especially sensitive or of departmental significance.

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

"(d)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General of the Department of the Treasury and the Inspector General of the Internal Revenue Service shall be under the authority, direction, and control of the Secretary of the Treasury and the Commissioner of Internal Revenue, respectively, with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning —

"(A) ongoing criminal investigations or proceedings;

"(B) sensitive 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 in paragraph (1), the Secretary of the Treasury or the Commissioner of Internal Revenue may prohibit the Inspector General of the Department of the Treasury or the Inspector General of the Internal Revenue Service, respectively, from initiating, 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 or the Commissioner determines that such prohibition is necessary to preserve the confidentiality of or prevent the disclosure of any information described in paragraph (1).

"(3)(A) 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 of such exercise. Within 30 days after receipt of any such notice, the Inspector General of the Department of the Treasury shall transmit [*H5883] a copy of such notice to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives, and to other appropriate committees or subcommittees of Congress.

"(B) If the Commissioner of Internal Revenue exercises any power under paragraph (1) or (2), the Commissioner shall notify the Inspector General of the Internal Revenue Service in writing of such exercise. Within 30 days after receipt of such notice, the Inspector General shall transmit a copy of such notice to the Committee on Governmental Affairs and the Committee on Finance of the Senate and to the Committee on Government Operations and the Committee on Ways and Means of the House of Representatives."

(d) Section 5315 of title 5, United States Code (as amended by section 3(a) of this Act) is further amended by adding at the end thereof the following new items:

"Inspector General, Department of the Treasury.

"Inspector General, Internal Revenue Service.

"Inspector General, Federal Emergency Management Agency.

"Inspector General, Nuclear Regulatory Commission.

"Inspector General, Office of Personnel Management."

(e) In addition to the standards prescribed by the first sentence of section 3(a), the Inspector General of the Internal Revenue Service shall at the time of appointment be in a career reserved position in the Senior Executive Service in the Internal Revenue Service as defined under section 3132(a)(8) of title 5, United States Code, with demonstrated ability in investigative techniques or internal audit functions with respect to the programs and operations of the Internal Revenue Service.

(f)(1) In addition to the duties and responsibilities specified in this Act, the Inspector General of the Internal Revenue Service shall perform such duties and exercise such powers as may be prescribed by the Commissioner of Internal Revenue, to the extent such duties and powers are not inconsistent with the purposes of this Act.

(2) No audit or investigation conducted by the Inspector General of the Department of the Treasury or the Inspector General of the Internal Revenue Service shall affect a final decision of the Secretary of the Treasury or his designee described in section 6406 of the Internal Revenue Code of 1986.

REQUIREMENTS AND PROTECTIONS FOR AUDIT AND INVESTIGATION UNITS

Sec. 5. (a) The Inspector General Act of 1978 (as amended by section 4(c) of this Act) is further amended by inserting after section 8C the following new section:

"SPECIFIC REQUIREMENTS FOR FEDERAL ENTITIES

"Sec. 8D. (a) 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 in section 11(2) of this Act) or part of an establishment;

"(B) the Executive Office of the President;

"(C) the Central Intelligence Agency;

"(D) the General Accounting Office;

"(E) the Department of Justice; 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 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 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 the director, administrator, president, chairman, or chief executive officer of a Federal entity, or any other body designated by statute as the head of a Federal entity;

"(4) the term 'head of the designated Federal entity' means the director, administrator, president, chairman, or chief executive officer of a designated Federal entity, or any other body designated by statute as the head of a designated Federal entity;

"(5) the term 'internal audit unit' means a component of a Federal entity which carries out audits or investigations, or both, of the programs and operations of such entity, but does not include a component that carries out audits or investigations as an integral part of the conduct of the programs and operations of such entity; and

"(6) the term 'internal audit unit director' means the head of an internal audit unit.

"(b) After the date which is 180 days after the date of enactment of this section, there shall be established in each designated Federal entity an internal audit unit. The head of the designated Federal entity shall transfer to the internal audit unit established in such entity 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 internal audit unit and would, if so transferred, further the purposes of this section. There shall not be transferred to an internal audit unit any program operating responsibilities.

"(c) The internal audit unit director 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 internal audit unit director 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. The head of the designated Federal entity shall not prevent or prohibit the internal audit unit director 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 internal audit unit director 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 the reasons for any such removal or transfer to both Houses of Congress.

"(f)(1) The Chief Postal Inspector of the United States Postal Service shall be the internal audit unit director 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. The Chief Postal Inspector may be removed from office or transferred to another position or location within the United States Postal Service if the Postmaster General issues a written order stating the reason for such action and two-thirds of the Governors of the United States Postal Service vote to ratify such order. If the Chief Postal Inspector is removed or transferred in accordance with this subsection, the Postmaster General shall promptly notify both Houses of Congress of the reasons for such removal or transfer.

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

"(g)(1) Sections 4, 5, 6, and 7 of this Act (other than sections 6(a)(7) and 6(a)(8)) shall be applied to each internal audit unit, internal audit unit director, designated Federal entity, and head of the designated Federal entity (as such terms are defined in subsection (a)) by substituting —

"(A) 'internal audit unit director' for 'Inspector General';

"(B) 'designated Federal entity' for 'establishment';

"(C) 'internal audit unit' for 'Office'; and

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

"(2) In addition to the other authorities specified in this Act, an internal audit unit director 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 internal audit unit 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) The provisions of subsection (d) of section 8C (other than the provisions of subparagraphs (A), (B), (C), and (E) of subsection (d)(1)) shall apply to the internal audit unit director of the Board of Governors of the Federal Reserve System 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.

"(h) Within one year after the date of enactment of this section, and on October 31 of each calendar year thereafter, the head of each Federal entity which is not a designated Federal entity shall prepare and transmit to the Director of the Office of Management and Budget a report which —

"(1) states whether there has been established in the Federal entity an internal audit unit that meets the requirements of this section;

"(2) specifies the actions taken by the Federal entity to ensure that audits are conducted of its programs and operations in accordance [*H5834] with the standards for audit of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States, including a list of each audit report completed by a Federal or non-Federal auditor during the reporting period; and

"(3) 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."

(b) Section 410(b) of title 39, United States Code, is amended —

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon;

(3) by striking out "The" in paragraph (8) and inserting in lieu thereof "the";

(4) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and "and"; and

(5) by adding at the end thereof the following new paragraph:

"(9) the provisions of section 8D of the Inspector General Act of 1978."

PROVISIONS TO ENSURE UNIFORMITY AND RELIABILITY OF INSPECTOR GENERAL REPORTS

Sec. 6. (a) Section 5(a) of the Inspector General Act of 1978 is amended —

(1) by striking out "and" at the end of paragraph (5); and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) a list, subdivided according to subject matter, of each audit report completed by the Office during the reporting period, together with a summary of the significant reports;

"(7) a detailed statistical analysis of audit reports, depicting in tables arranged by audit status information concerning —

"(A) the number of audit reports in each audit status;

"(B) the number of such reports for which an audit determination was not made within 6 months of the date of completion of such reports;

"(C) where applicable, the amounts of ineligible costs, ineligible costs that were disallowed, unsupported costs, and unsupported costs that were disallowed; and

"(D) where applicable, the amount of disallowed costs returned to, or offset by, the Government;

"(8) a summary of each significant audit report completed before the commencement of the reporting period and identified under paragraph (7)(B), together with an explanation of the reason the audit determination was not made during the period described in such paragraph;

"(9) a description of, and an explanation of the reasons for, any significant revised audit determinations made during the reporting period; and

"(10) information concerning any significant audit determination with which the Inspector General is in disagreement."

(b) Section 5(b) of such Act is amended by inserting "(1)" after "containing" and by inserting before the period a comma and "(2) a list of each audit report made by the establishment's Office of Inspector General which was not resolved within one year after the date on which an audit determination was made on such report, (3) an explanation of the reason such audit was not resolved, and (4) for each such audit report, the amount of disallowed costs that are under administrative or judicial appeal and the amount of any disallowed costs returned to, or offset by, the Government".

(c) Section 5(c) of such Act is amended by adding at the end thereof the following new sentence: "The head of each establishment shall also make copies of the report of such head required under subsection (b) available to the public upon request and at a reasonable cost."

(d) Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) As used in this section —

"(1) the term 'ineligible cost' means an incurred cost that is questioned by the Office of Inspector General because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

"(2) the term 'unsupported cost' means an incurred cost that is questioned by the Office of Inspector General because the Office found that, at the time of the audit, such cost was not supported by adequate documentation;

"(3) the term 'disallowed cost' means an ineligible cost or unsupported cost that the management of an establishment has concluded, in an audit determination, should not be charged to the Federal Government;

"(4) the term 'audit determination' means the evaluation by the management of an establishment of the findings and recommendations included in an audit report and the issuance of a written final decision by management concerning its

response, including corrective actions concluded to be necessary, to such findings and recommendations;

"(5) the term 'audit resolution' means the completion of all corrective actions that the management of an establishment has concluded, in an audit determination, are necessary with respect to the findings and recommendations included in an audit report, and, in the event that the management of an establishment concludes no corrective action is necessary, 'audit resolution' occurs when an audit determination has been reached; and

"(6) the term 'audit status' includes the following six categories:

"(A) audits for which the audit report was completed before the commencement of the reporting period and for which —

"(i) the audit determination was not made by the end of such period;

"(ii) the audit determination was made during such period and for which audit resolution has not occurred; and

"(iii) the audit determination was made during such period and for which audit resolution has occurred; and

"(B) audits for which the audit report was completed during the reporting period and for which —

"(i) the audit determination was not made by the end of such period;

"(ii) the audit determination was made during such period and for which audit resolution has not occurred; and

"(iii) the audit determination was made during such period and for which audit resolution has occurred.".

(e) Section 3512(b)(2) of title 31, United States Code, is amended by adding at the end thereof the following: "Such standards shall include (A) a definition of audit resolution consistent with section 5(f)(5) of the Inspector General Act of 1978, and (B) a standard to ensure that an audit determination will be made on each audit report within 6 months after the completion of such report, in the case of an audit performed by a Federal auditor, and within 6 months after receipt by the executive agency responsible for the program concerned, in the case of each audit performed by a non-Federal auditor. No order, circular, or directive prescribed by the Director of the Office of Management and Budget shall include an inconsistent definition or standard with respect to audit resolution.".

OATH ADMINISTRATION AUTHORITY

Sec. 7. Section 6(a) of the Inspector General Act of 1978 is amended —

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and

(2) by inserting after paragraph (4) the following new paragraph:

"(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 investigator or such other 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;".

APPROPRIATION ACCOUNTS

Sec. 8. Section 1105(a)(25) of title 31, United States Code, is amended to read as follows:

"(25) a separate appropriation account for appropriations for each Office of Inspector General established by the Inspector General Act of 1978.".

DISCLOSURE OF TAX RETURNS AND RETURN INFORMATION

Sec. 9. Section 5(e)(3) of the Inspector General Act of 1978 is amended by striking out "Nothing" in the first sentence and inserting in lieu thereof "Except to the extent provided in section 6103(f) of the Internal Revenue Code of 1986, nothing".

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Brooks moves to strike all after the enacting clause of the Senate bill, S. 908, and to insert in lieu thereof the provisions of H.R. 4054, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Inspector General Act of 1978 to establish offices of inspector general in certain departments, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4054) was laid on the table.

SUBJECT: AUDITS (90%); LEGISLATION (90%);

LEXSEE 134 CONG REC H 9607

Congressional Record — House

Wednesday, October 5, 1988

100th Cong. 2nd Sess.

134 Cong Rec H 9607

REFERENCE: Vol. 134 No. 140

TITLE: CONFERENCE REPORT ON S. 908, INSPECTOR GENERAL ACT AMENDMENTS OF 1988

SPEAKER: Mr. BROOKS; Mr. HORTON; Mr. WALKER

TEXT: [*H9607] Mr. BROOKS. Mr. Speaker, I call up the conference report on the Senate bill (S. 908) to amend the Inspector General Act of 1978 to establish Offices of Inspector General in certain departments, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of [*H9608] Friday, September 30, 1988, at page H9197).

The SPEAKER pro tempore. The gentleman from Texas [Mr. Brooks] will be recognized for 30 minutes and the gentleman from New York [Mr. Horton] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BROOKS asked and was given permission to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, since the first Office of Inspector General was established in 1976 in the then Department of Health, Education, and Welfare, 20 additional offices of inspector general have been established, bringing the total number of agencies with offices of inspector general to 21.

The inspectors general have proved to be a sound investment in good government. They have contributed substantially to improved efficiency and effectiveness in the departments and agencies where they are located.

Mr. Speaker, with approval of this conference report, offices of inspector general, headed by Presidentially appointed IG's, will be created in the Federal Emergency Management Agency, the Nuclear Regulatory Commission, the Office of Personnel Management and the two departments remaining without them — the Departments of Justice and the Treasury. The conferees have worked hard to fashion an agreement that meets the special needs of these two Departments, and, we have done so without sacrificing the independence of the inspectors general.

This conference report represents agreement among the conferees to extend the inspector general concept to all departments, all regulatory agencies and to all entities that receive \$100 million or more in appropriations. In addition, it places all of the inspectors general under the same act so that there will be uniformity in duties, responsibilities, reporting, and expectations.

Mr. Speaker, the compromise is a good one and I urge all Members to vote in favor of this conference report.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill was unanimously reported from the Legislation and National Security Subcommittee and the full Government Operations Committee.

It expands on the tested inspector general concept and raises to 56 the number of statutory inspectors general in

Federal agencies and departments. Ten years ago Chairman Brooks and I authored landmark legislation — the Inspector General Act of 1978. In the past decade inspectors general have saved literally tens of billions of dollars in direct savings, in improved operational efficiencies and in curbing waste, fraud, and abuse of taxpayer dollars.

The major provisions of this conference report are those creating statutory inspectors general in the Departments of Justice and Treasury — the only two departments currently operating without IG's. In addition, more than 30 agencies would be equipped with inspectors general if this conference report becomes law.

Mr. Speaker, this conference report is the result of numerous oversight hearings, and countless hours of drafting and negotiation between the House, the Senate, and the affected agencies. This is a solid piece of legislation and I urge my colleagues to support it.

Mr. HORTON. Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

Two hundred nineteen Members are present, a quorum.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were — yeas 418, nays 0, not voting 13, as follows:

(See Roll No. 429 in the ROLL segment.)

[*H9609] Mr. CONYERS changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ROLL:

[Roll No. 429]

YEAS--418

Ackerman	Akaka	Alexander
Anderson	Andrews	Annunzio
Anthony	Applegate	Archer
Armey	Aspin	Atkins
AuCoin	Badham	Baker
Ballenger	Barnard	Bartlett
Barton	Bateman	Bates
Beilenson	Bennett	Bentley
Bereuter	Berman	Bevill
Bilbray	Bilirakis	Bliley
Boehlert	Boggs	Boland
Bonior	Bonker	Borski

134 Cong Rec H 9607, *H9609

[Roll No. 429]

Bosco	Boucher	Boxer
Brennan	Brooks	Broomfield
Brown (CA)	Brown (CO)	Bruce
Bryant	Buechner	Bunning
Burton	Bustamante	Byron
Callahan	Campbell	Cardin
Carper	Carr	Chandler
Chapman	Chappell	Cheney
Clarke	Clay	Clement
Clinger	Coats	Coble
Coelho	Coleman (MO)	Collins
Combest	Conte	Conyers
Cooper	Costello	Coughlin
Courter	Coyne	Craig
Crane	Crockett	Dannemeyer
Darden	Davis (IL)	Davis (MI)
de la Garza	DeFazio	DeLay
Dellums	Derrick	DeWine
Dickinson	Dicks	Dingell
DioGuardi	Dixon	Donnelly
Dorgan (ND)	Dornan (CA)	Downey
Dreier	Durbin	Dwyer
Dymally	Dyson	Early
Eckart	Edwards (CA)	Edwards (OK)
Emerson	English	Erdreich
Espy	Evans	Fascell
Fawell	Fazio	Feighan
Fields	Fish	Flake
Flippo	Florio	Foglietta
Foley	Ford (MI)	Ford (TN)
Frank	Frenzel	Frost
Gallegly	Gallo	Garcia
Gaydos	Gejdenson	Gekas
Gephardt	Gibbons	Gilman
Gingrich	Glickman	Gonzalez
Goodling	Gordon	Gradison
Grandy	Grant	Gray (IL)
Gray (PA)	Green	Guarini
Gunderson	Hall (OH)	Hall (TX)
Hamilton	Hammerschmidt	Hansen
Harris	Hatcher	Hawkins
Hayes (IL)	Hayes (LA)	Hefley
Hefner	Henry	Herger
Hertel	Hiler	Hochbrueckner
Holloway	Hopkins	Horton
Houghton	Hoyer	Hubbard
Huckaby	Hughes	Hunter
Hutto	Hyde	Inhofe
Ireland	Jacobs	Jeffords
Jenkins	Johnson (CT)	Johnson (SD)
Jones (NC)	Jones (TN)	Jontz
Kanjorski	Kaptur	Kasich
Kastenmeier	Kennedy	Kennelly

134 Cong Rec H 9607, *H9609

[Roll No. 429]

Kildee	Kleczka	Kolbe
Kolter	Konnyu	Kostmayer
Kyl	LaFalce	Lagomarsino
Lancaster	Lantos	Latta
Leach (IA)	Leath (TX)	Lehman (CA)
Lehman (FL)	Leland	Lent
Levin (MI)	Levine (CA)	Lewis (FL)
Lewis (GA)	Lightfoot	Lipinski
Livingston	Lloyd	Lott
Lowery (CA)	Lujan	Luken, Thomas
Lukens, Donald	Lungren	Madigan
Manton	Markey	Marlenee
Martin (IL)	Martin (NY)	Martinez
Matsui	Mavroules	Mazzoli
McCandless	McCloskey	McCollum
McCrery	McCurdy	McDade
McEwen	McGrath	McHugh
McMillan (NC)	McMillen (MD)	Meyers
Mfume	Michel	Miller (CA)
Miller (OH)	Miller (WA)	Mineta
Moakley	Molinari	Mollohan
Montgomery	Moody	Moorhead
Morella	Morrison (CT)	Morrison (WA)
Mrazek	Murphy	Murtha
Myers	Nagle	Natcher
Neal	Nelson	Nichols
Nielson	Nowak	Oakar
Oberstar	Obey	Olin
Ortiz	Owens (NY)	Owens (UT)
Oxley	Packard	Panetta
Parris	Pashayan	Patterson
Payne	Pease	Pelosi
Penny	Pepper	Perkins
Petri	Pickett	Pickle
Porter	Price	Pursell
Quillen	Rahall	Rangel
Ravenel	Ray	Regula
Rhodes	Richardson	Ridge
Rinaldo	Ritter	Roberts
Robinson	Rodino	Roe
Rogers	Rose	Rostenkowski
Roth	Roukema	Rowland (CT)
Rowland (GA)	Roybal	Russo
Sabo	Saiki	Savage
Sawyer	Saxton	Schaefer
Scheuer	Schneider	Schroeder
Schuette	Schulze	Schumer
Sensenbrenner	Sharp	Shaw
Shays	Shumway	Shuster
Sikorski	Sisisky	Skaggs
Skeen	Skelton	Slattery
Slaughter (NY)	Slaughter (VA)	Smith (FL)
Smith (IA)	Smith (NE)	Smith (NJ)

134 Cong Rec H 9607, *H9609

[Roll No. 429]

Smith (TX)	Smith, Denny (OR)	Smith, Robert (NH)
Smith, Robert (OR)	Snowe	Solarz
Solomon	Spence	Spratt
St Germain	Staggers	Stallings
Stangeland	Stark	Stenholm
Stokes	Stratton	Studds
Stump	Sundquist	Sweeney
Swift	Swindall	Synar
Tallon	Tauke	Tauzin
Thomas (CA)	Thomas (GA)	Torres
Torricelli	Towns	Traficant
Traxler	Udall	Upton
Valentine	Vander Jagt	Vento
Visclosky	Volkmer	Vucanovich
Walgren	Walker	Watkins
Waxman	Weber	Weiss
Weldon	Wheat	Whittaker
Whitten	Williams	Wilson
Wise	Wolf	Wolpe
Wortley	Wyden	Wylie
Yates	Yatron	Young (AK)
Young (FL)		

NAYS--0

NOT VOTING--13

Boulter	Coleman (TX)	Daub
Dowdy	Gregg	Hastert
Kemp	Lewis (CA)	Lowry (WA)
Mack	MacKay	Mica
Taylor		

SUBJECT: LEGISLATION (91%); LEGISLATORS (90%);

Establishment of PCIE Inspectors General

<u>Year</u>	<u>Pub. L.#</u>	<u>Agency</u>
1976	94-505	Department of Health, Education, and Welfare ¹
1977	95-91	Department of Energy ²
1978	95-452	Department of Agriculture Department of Commerce Department of Housing and Urban Development Department of Interior Department of Labor Department of Transportation Community Services Administration ³ Energy Research and Development Administration ⁴ Environmental Protection Agency Federal Energy Administration ⁵ General Services Administration National Aeronautics and Space Administration Small Business Administration Veteran& Administration ⁶
1979	96-88	Department of Education
1980	96-465	Department of State
1981	97-113	Agency for International Development ⁷
1982	97-252	Department of Defense
1983	98-76	Railroad Retirement Beard ⁸
1986	99-399	US. Information Agency ⁹
1987	100-213	Arms Control and Disarmament Agency ¹⁰
1988	100-504	Department of Justice Department of the Treasury ¹¹ Federal Emergency Management Administration ¹² Nuclear Regulatory Commission Office of Personnel Management
1989	101 -73	Resolution Trust Corporation ¹³
1989	101 -1 93	Central Intelligence Agency
1993	103-204	FDIC IG converted into a PCIE member effective 1994
1993	103-82	Corporation for National and Community Service
1994	103-296	Social Security Administration
1998	105-206	Treasury Inspector General for Tax Administration
2000	106-422	TVA IG converted into a PCIE member
2002	107-296	The Department of Homeland Security
2002	107-189	The Export-Import Bank

Establishment of ECIE Inspectors General

<u>Year</u>	<u>Pub. L.#</u>	<u>Agency</u>
1980	96-294	United States Synthetic Fuels Corporation ¹⁴
1988	100-504	ACTION ¹⁵ Amtrak Appalachian Regional Commission Board for International Broadcasting Commodity Futures Trading Commission Consumer Product Safety Commission Corporation for Public Broadcasting Equal Employment Opportunity Commission Farm Credit Administration Federal Communications Commission Federal Deposit Insurance Corporation ¹⁶ Federal Election Commission Federal Home Loan Bank Board ¹⁷ Federal Labor Relations Authority Federal Maritime Commission Federal Reserve Board Federal Trade Commission Interstate Commerce Commission ¹⁸ 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 Panama Canal Commission ¹⁹ Peace Corps Pension Benefit Guaranty Corporation Securities and Exchange Commission Smithsonian Institution Tennessee Valley Authority ²⁰ United States International Trade Commission United States Postal Service ²¹
1988	100-504	Government Printing Office
1999	106-31	Denali Commission
2003	108-106	Iraq Coalition Provisional Authority

-
- ¹ Year: 1988; Pub. L. # 100-504; Comments: Conformed OIG of Department of Health and Human Services to the IG Act of 1978.
- ² Year: 1988; Pub. L. # 100-504; Comments: Conformed OIG of Energy to the IG Act of 1978.
- ³ No longer exists.
- ⁴ No longer exists.
- ⁵ No longer exists.
- ⁶ Veterans' Administration re-designated Department of Veterans Affairs.
- ⁷ Year: 1981; Pub. L. # 97-113; Comments: Originally directed also to supervise audit, investigative, and security activities relating to operations of US International Development Cooperative Agency; jurisdiction over Overseas Private.
Year: 1981; Pub. L. # 97-65; Comments: Investment Corporation (22 USC § 2199(e))
- ⁸ Year: 1988; Pub. L. # 100-504; Comments: Conformed OIG of RRB to the IG Act of 1978.
- ⁹ Year: 1996; Pub. L. # 104-134; Comments: USIA OIG merged with Department of State OIG.
Year: 1996; Pub. L. # 104-208; Comments: Merger effective 9/30/1996.
- ¹⁰ Year: 1988; Pub. L. # 105-277; Comments: ACDA and Broadcasting Board of Governors were subsumed by State OIG.
- ¹¹ Year: 1996; Pub. L. # 103-325; Comments: Department of the Treasury OIG assumed jurisdiction over the Community Development Financial Institutions Fund.
- ¹² Year: 2000; Pub. L. # 106-377; Comments: FEMA OIG subsumed responsibility as IG of the Chemical Safety and Hazard Investigation Board.
- ¹³ Year: 1993; Pub. L. # 103-204; Comments: Set 12/31/1995 as sunset date for RTC and the transition of resources to FDIC.
- ¹⁴ No longer exists.
- ¹⁵ No longer exists.
- ¹⁶ Year: 1993; Pub. L. # 103-204; Comments: FDIC IG converted to a PCIE member.
Year: 1990; Pub. L. # 101-610; Comments: ACTION to be administered by the Commission for National and Community Service
- ¹⁷ Year: 1989; Pub. L. # 101-73; Comments: Abolished FHLBB; created Federal Housing Finance Board.
- ¹⁸ No longer exists.
- ¹⁹ No longer exists.
- ²⁰ Year: 2001; Pub. L. # 106-422; Comments: TVA IG converted into a PCIE member.
- ²¹ Year: 2001; Pub. L. # 106-422; Comments: Originally declared Chief Postal Inspector as the IG.
Year: 1996; Pub. L. # 104-208; Comments: Postal Inspector General no longer IG, distinct position.

LEXSEE 57 FR 20627

Title 3 —

The President

Integrity and Efficiency in Federal Programs

Executive Order 12805 of May 11, 1992

57 FR 20627

May 14, 1992

TEXT: By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to coordinate and enhance governmental efforts to promote integrity and efficiency and to detect and prevent fraud, waste, and abuse in Federal programs, the establishment of two Councils of Federal Inspectors General and appropriate Federal officials is hereby ordered as follows:

Section 1. Establishment of the President's Council on Integrity and Efficiency.

(a) There is established as an interagency committee the President's Council on Integrity and Efficiency (PCIE).

(b) The PCIE shall be composed of the following members:

(1) The Deputy Director for Management of the Office of Management and Budget, who shall be Chairperson of the Council;

(2) All civilian Presidentially appointed Inspectors General whose offices were established in the Inspector General Act of 1978 and subsequent amendments;

(3) The Vice Chairperson of the Executive Council on Integrity and Efficiency;

(4) The Controller of the Office of Federal Financial Management;

(5) The Associate Deputy Director for Investigations of the Federal Bureau of Investigation;

(6) The Director of the Office of Government Ethics;

(7) The Special Counsel of the Office of Special Counsel; and

(8) The Deputy Director of the Office of Personnel Management.

(c) The Chairperson may, from time to time, invite other officials to participate in meetings of the PCIE.

(d) The Chairperson shall, to the extent possible, convene meetings of the PCIE monthly.

Sec. 2. Establishment of the Executive Council on Integrity and Efficiency.

(a) There is established as an inter-entirety committee the Executive Council on Integrity and Efficiency (ECIE).

(b) The ECIE shall be composed of the following members:

(1) The Deputy Director for Management of the Office of Management and Budget, who shall be Chairperson of the Council;

(2) All civilian statutory Inspectors General not represented on the PCIE;

(3) The Vice Chairperson of the PCIE;

(4) The Controller of the Office of Federal Financial Management;

- (5) The Associate Deputy Director for Investigations of the Federal Bureau of Investigation, or his or her designee;
- (6) The Director of the Office of Government Ethics, or his or her designee;
- (7) The Special Counsel of the Office of Special Counsel, or his or her designee; and
- (8) The Deputy Director of the Office of Personnel Management, or his or her designee.

(c) If any individual simultaneously serves as a Presidentially appointed Inspector General and as Inspector General of an entity represented on the ECIE, that individual may send a designee to ECIE meetings.

(d) The Chairperson may, from time to time, invite other officials to participate in meetings of the ECIE.

(e) The Chairperson or, in his or her absence, the Controller of the Office of Federal Financial Management shall, to the extent possible, convene meetings of the ECIE monthly.

Sec. 3. Functions of the PCIE and the ECIE.

(a) The Councils shall continually identify, review, and discuss areas of weakness and vulnerability in Federal programs and operations to fraud, waste, and abuse, and shall develop plans for coordinated, Governmentwide activities that address these problems and promote economy and efficiency in Federal programs and operations. These activities will include interagency and inter-entity audit and investigation 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. The Councils shall recognize the preeminent role of the Department of Justice in law enforcement and litigation.

(b) The Councils shall develop policies that will aid in the establishment of a corps of well-trained and highly skilled Office of Inspector General staff members.

(c) The individual members of the Councils should, to the extent permitted under law, adhere to professional standards developed by the Councils and participate in the plans, programs, and projects of the Councils.

(d) The creation and operation of the Councils shall neither interfere with existing authority and responsibilities in the relevant agencies and entities nor augment or diminish the statutory authority or responsibilities of individual members of either Council.

Sec. 4. Responsibilities of the Chairperson of the PCIE and the ECIE.

(a) The Chairperson may appoint a Vice Chairperson from the PCIE and the ECIE to assist in carrying out the functions of each Council.

(b) The Chairperson shall, in consultation with the members of each Council, establish the agenda for PCIE and ECIE activities.

(c) The Chairperson shall, on behalf of the Councils, report to the President on the activities of the Councils. The Chairperson shall, as appropriate, advise the Councils with respect to the President's consideration of the Councils' activities.

(d) The Chairperson shall provide agency and entity heads with summary reports of the activities of the Councils.

(e) The Chairperson shall establish, in consultation with members of the Councils, such committees of the PCIE and the ECIE as deemed necessary and appropriate for the efficient conduct of PCIE and ECIE functions. The Chairperson may invite members of the ECIE to serve on each PCIE Committee. Similarly, the Chairperson may invite members of the PCIE to serve on each ECIE Committee.

(f) The Chairperson shall convene joint meetings of the PCIE and the ECIE at least annually.

Sec. 5. Administrative Provisions.

(a) The Director of the Office of Management and Budget shall provide the PCIE and the ECIE with such administrative support as may be necessary for the performance of the functions of the Councils.

(b) The heads of agencies and entities represented on the PCIE and the ECIE shall provide their representatives with such administrative support as may be necessary, in accordance with law, to enable the representatives to carry out their responsibilities.

Sec. 6. *Revocation.* Executive Order No. 12625 of January 27, 1988, entitled "Integrity and Efficiency in Federal Programs," is revoked.

/s/ George Bush

THE WHITE HOUSE,

May 11, 1992.

[FR Doc. 92-11528 Filed 5-12-92; 3:10 pm]

Billing code 3195-01-M

LEXSEE 61 FR 13043

FEDERAL REGISTER

Vol. 61, No. 59

Presidential Documents

PRESIDENT OF THE UNITED STATES

Executive Order 12993 of March 21, 1996

Title 3-

The President

Administrative Allegations Against Inspectors General

61 FR 13043

DATE: Tuesday, March 26, 1996

To view the next page, type .np* TRANSMIT.

To view a specific page, transmit p* and the page number, e.g. p*1

[*13043]

Certain executive branch agencies are authorized to conduct investigations of allegations of wrongdoing by employees of the Federal Government. For certain administrative allegations against Inspectors General ("IGs") and, as explained below, against certain staff members of the Offices of Inspectors General ("OIGs"), it is desirable to authorize an independent investigative mechanism.

The Chairperson of the President's Council on Integrity and Efficiency ("PCIE") and the Executive Council on Integrity and Efficiency ("ECIE"), in consultation with members of the Councils, has established an Integrity Committee pursuant to the authority granted by Executive Order No. 12805.

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure that administrative allegations against IGs and certain staff members of the OIGs are appropriately and expeditiously investigated and resolved, it is hereby ordered as follows:

Section 1. The Integrity Committee. (a) To the extent permitted by law, and in accordance with this order, the Integrity Committee shall receive, review, and refer for investigation allegations of wrongdoing against IGs and certain staff members of the OIGs.

(b) The Integrity Committee shall consist of at least the following members:

(1) The official of the Federal Bureau of Investigation ("FBI") serving on the PCIE, as designated by the Director of the FBI. The FBI member shall serve as Chair of the Integrity Committee.

(2) The Special Counsel of the Office of Special Counsel;

(3) The Director of the Office of Government Ethics;

(4) Three or more IGs, representing both the PCIE and the ECIE, appointed by the Chairperson of the PCIE/ECIE.

(c) The Chief of the Public Integrity Section of the Criminal Division of the Department of Justice, or his designee, shall serve as an advisor to the Integrity Committee with respect to its responsibilities and functions in accordance with this order.

Sec. 2. Referral of Allegations. (a) The Integrity Committee shall review all allegations of wrongdoing it receives against an IG who is a member of the PCIE or ECIE, or against a staff member of an OIG acting with the knowledge of the IG or when the allegation against the staff person is related to an allegation against the IG, except that where an allegation concerns a member of the Integrity Committee, that member shall recuse himself from consideration of the matter.

(b) An IG shall refer any administrative allegation against a senior staff member to the Integrity Committee when:

(1) review of the substance of the allegation cannot be assigned to an agency of the executive branch with appropriate jurisdiction over the matter; and

(2) the IG determines that an objective internal investigation of the allegation, or the appearance thereof, is not feasible. [*13044]

(c) The Integrity Committee shall determine if there is a substantial likelihood that the allegation, referred to it under paragraphs (a) or (b) of this section, discloses a violation of any law, rule or regulation, or gross mismanagement, gross waste of funds or abuse of authority and shall refer the allegation to the agency of the executive branch with appropriate jurisdiction over the matter. However, if a potentially meritorious administrative allegation cannot be referred to an agency of the executive branch with appropriate jurisdiction over the matter, the Integrity Committee shall certify the matter to its Chair, who shall cause a thorough and timely investigation of the allegation to be conducted in accordance with this order.

(d) If the Integrity Committee determines that an allegation does not warrant further action, it shall close the matter without referral for investigation and notify the Chairperson of the PCIE/ECIE of its determination.

Sec. 3. Authority to Investigate. (a) The Director of the FBI, through his designee serving as Chairperson of the Integrity Committee, is authorized and directed to consider and, where appropriate, to investigate administrative allegations against the IGs and, in limited cases as described in sections 2(a) and 2(b) above, against other staff members of the OIGs, when such allegations cannot be assigned to another agency of the executive branch and are referred by the Integrity Committee pursuant to section 2(c) of this order.

(b) At the request of the Director of the FBI, through his designee serving as Chairperson, heads of agencies and entities represented in the PCIE and ECIE may, to the extent permitted by law, provide resources necessary to the Integrity Committee. Employees from those agencies and entities will be detailed to the Integrity Committee, subject to the control and direction of the Chairperson, to conduct an investigation pursuant to section 2(c): Provided, that such agencies or entities shall be reimbursed by the agency or entity employing the subject of the investigation. Reimbursement for any costs associated with the detail shall be consistent with applicable law, including but not limited to the Economy Act (31 U.S.C. 1535 and 1536), and subject to the availability of funds.

(c) Nothing in the above delegation shall augment, diminish, or otherwise modify any existing responsibilities and authorities of any other executive branch agency.

Sec. 4. Results of Investigation. (a) The report containing the results of the investigation conducted under the supervision of the Chair of the Integrity Committee shall be provided to the members of the Integrity Committee for consideration.

(b) With respect to those matters where the Integrity Committee has referred an administrative allegation to an agency of the executive branch with appropriate jurisdiction over the matter, the head of that agency shall provide a report to the Integrity Committee concerning the scope and results of the inquiry.

(c) The Integrity Committee shall assess the report received under (a) or (b) of this section and determine whether the results require forwarding of the report, with Integrity Committee recommendations, to the Chairperson of the PCIE/ECIE for resolution. If the Integrity Committee determines that the report requires no further referral or recommendations, it shall so notify the Chairperson of the PCIE/ECIE.

(d) Where the Chairperson of the PCIE/ECIE determines that dissemination of the report to the head of the subject's employing agency or entity is appropriate, the head of the agency or entity shall certify to the Chairperson of the PCIE/ECIE within sixty 60 days that he has personally reviewed the report, what action, if any, has been or is to be taken,

and when any action taken will be completed. The PCIE/ECIE Chairperson may grant the head of the entity or agency a 30-day extension when circumstances necessitate such extension.

(e) The Chairperson of the PCIE/ECIE shall report to the Integrity Committee the final disposition of the matter, including what action, if any, has been [*13045] or is to be taken by the head of the subject's employing agency or entity. When the Integrity Committee receives notice of the final disposition, it shall advise the subject of the investigation that the matter referred to the Integrity Committee for review has been closed.

Sec. 5. Procedures. (a) The Integrity Committee, in conjunction with the Chairperson of the PCIE/ECIE, shall establish the policies and procedures necessary to ensure consistency in conducting investigations and reporting activities under this order.

(b) Such policies and procedures shall specify the circumstances under which the Integrity Committee, upon review of a complaint containing allegations of wrongdoing, may determine that an allegation is without merit and therefore the investigation is unwarranted. A determination by the Integrity Committee that an investigation is unwarranted shall be considered the Integrity Committee's final disposition of the complaint.

(c) The policies and procedures may be expanded to encompass other issues related to the handling of allegations against IGs and others covered by this order.

Sec. 6. Records Maintenance. All records created and received pursuant to this order are records of the Integrity Committee and shall be maintained by the FBI.

Sec. 7. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

/S/ WILLIAM J. CLINTON

THE WHITE HOUSE,

March 21, 1996.

[FR Doc. 96-7460 Filed 3-25-96; 8:45 am]

Billing code 3195-01-P