



General Government Division

B-226126.3

June 7, 1988

The Honorable David Pryor
Chairman, Subcommittee on Federal Services,
Post Office, and Civil Service
Committee on Governmental Affairs
United States Senate

Dear Mr. Chairman:

This is in response to your request for our opinion regarding the status of a law requiring the Inspector General (IG) or comparable official at each executive agency to submit to Congress an evaluation of the agency's progress in establishing effective management controls and improving the accuracy and completeness of the information provided to the Federal Procurement Data System on contracts for consulting services. This statutory requirement currently is located at 31 U.S.C. § 1114 (1982).

We understand that some Inspectors General are not complying with the statute under the belief that the reporting requirement no longer exists. It is our view that the statutory requirement still is in effect since 31 U.S.C. § 1114 has not been repealed. The following is a summary of legislation containing the IG reporting requirement, along with an analysis of what has taken place in the past that led to the current status of the legislation.

History of Legislation

The current IG reporting requirement has its basis in a 1980 statute establishing a Federal Procurement Data System (FPDS) reporting requirement for fiscal year 1982. Section 307(b) of the Supplemental Appropriations and Rescission Act, 1980, approved, July 8, 1980, Public Law No. 96-304, 94 Stat. 928, provided that:

"Effective October 1, 1981, for application in fiscal year 1982, the Inspector General of . . . [an executive] department, agency, or

establishment, or comparable official . . . shall submit to the Congress along with the agency's budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements."

This provision was a temporary measure that by its terms was to be applied only for fiscal year 1982.

During the same year, Congress passed the Department of Transportation and Related Agencies Appropriation Act, 1981, approved October 9, 1980, Public Law No. 96-400. Section 323(c) of Public Law No. 96-400, 94 Stat. 1699, was the first of a series of appropriation act provisions containing the IG reporting requirement with no time limitation on its application. Section 323(c) began "For fiscal year 1982 and thereafter," followed by the same language contained in section 307(b) of Public Law No. 96-304, *supra*. Congress then passed identical provisions in a series of appropriation acts: Public Law 96-436, § 126, 94 Stat. 1869 (October 13, 1980); Public Law 96-514, § 309, 94 Stat. 2984 (December 12, 1980); Public Law 96-528, § 616, 94 Stat. 3117 (December 15, 1980); Public Law 97-102, § 318, 95 Stat. 1461 (December 23, 1981); and Public Law 97-369, § 318, 96 Stat. 1783 (December 18, 1982). Based on the provisions that had been enacted through 1980, the language of the IG reporting requirement was included in title 31 of the United States Code as 31 U.S.C. § 28(b) (1976 ed., Supp IV 1980).

On September 13, 1982, Congress enacted Public Law 97-258, revising, codifying and enacting into positive law title 31 of the United States Code. The purpose of the codification was to "restate in comprehensive form, without substantive change, certain general and permanent laws related to money and finance and to enact those laws as title 31, United States Code." H. R. Rep. No. 651, 97th Cong., 2d Sess. 1 (1982). Included in this legislation as 31 U.S.C. § 1114(b) was the IG reporting requirement, as follows:

"The Inspector General or comparable official of each agency shall submit to Congress each year, with the budget justification for the agency, an evaluation of the progress of the agency in establishing effective management controls and improving the accuracy and completeness of the information provided to the Federal Procurement

Data System on contracts for consulting services. If the agency does not have an Inspector General or comparable official, the head of the agency or officer or employee designated by the head of the agency shall submit the evaluation."

The Codification Act, 96 Stat. 1083, repealed all of the appropriation provisions referred to above, with the exception of Public Law 97-369, § 318, which had not yet been enacted. The Congressional Reports Elimination Act of 1982 was then enacted on December 21, 1982, Public Law 97-375, 96 Stat. 1819. Section 101 of this Act repealed two of the appropriation act provisions referred to above-- Public Law 96-436, § 126, and Public Law 96-528, § 616. The Reports Elimination Act cites section 28 of title 31 as the U.S. Code reference for these two appropriation provisions. The Act does not mention section 1114 (b) of title 31.

The House committee report on the Reports Elimination Act, H.R. Rep. No. 97-804, 97th Cong., 2d Sess. 5 (1982), states that section 101 "[r]epeals reporting requirement of the Inspector General or comparable official requiring an evaluation of an agency's progress" with regard to information provided to the FPDS. The House report also notes that "[t]his is one of six similar provisions for reporting requirements contained in six different appropriations measures." Id.

Analysis/Conclusion

Based on the historical development of the statutes containing the IG reporting requirement, it appears that the provision enacted in Public Law 97-258 and located in section 1114 of title 31 is current law. Congress enacted this provision as part of the codification of title 31 in September 1982 and has not repealed it. At the time of enactment of the Congressional Reports Elimination Act, the two IG reporting provisions "repealed" by the act already had been repealed with the revision of title 31. While it remains unclear exactly what Congress intended when it enacted the Reports Elimination Act, it is clear that the

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Elimination Act did not repeal 31 U.S.C. § 1114. As such,
the IG reporting requirement remains in effect.

If you have any questions, please contact me on .

Sincerely yours,

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Associate Director