



Testimony

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INSPECTORS GENERAL

Oversight of Small Federal Agencies and the Role of the Inspectors General

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GAO Highlights

Highlights of [GAO-14-503T](#), a testimony before the Subcommittee on Financial and Contracting Oversight, Committee on Homeland Security and Governmental Affairs, U.S. Senate

Why GAO Did This Study

The IGs play a key role in federal agency oversight by enhancing government accountability and protecting the government's resources. This includes a strong leadership role in making recommendations to improve the effectiveness and efficiency of government offices and programs at a time when they are needed most.

This testimony focuses on (1) the creation of independent IG offices, (2) IG oversight of small agencies, and (3) IG independence and budgetary resources.

This testimony provides updates of current IG responsibilities; provisions of the IG Act, as amended; and draws on prior GAO reports and testimonies conducted in accordance with GAO's Quality Assurance Framework.

GAO has made numerous observations and provided matters for the Congress to consider in prior reports when addressing IG oversight at small federal agencies and IG independence.

View [GAO-14-503T](#). For more information, contact Beryl Davis, (202) 512-2623, davisbh@gao.gov.

April 10, 2014

INSPECTORS GENERAL

Oversight of Small Federal Agencies and the Role of the Inspectors General

What GAO Found

The Inspector General Act of 1978, as amended (IG Act), originally established inspectors general (IG) appointed by the President and confirmed by the Senate in 12 major departments and agencies of the government to conduct and supervise independent audits and investigations; recommend policies to promote economy, efficiency, and effectiveness; and prevent and detect fraud and abuse in their departments' and agencies' programs and operations. Based in part on GAO's findings that the internal audit offices of small federal agencies lacked independence and provided inadequate coverage of important programs, the Congress passed the IG Act Amendments of 1988 to establish IGs in designated federal entities (DFE), which are generally smaller agencies established in various statutes as commissions, boards, authorities, corporations, endowments, foundations, institutions, agencies, and administrations identified by the act. The DFE IGs are appointed by their respective entity heads with duties and responsibilities similar to those of IGs appointed by the President. The Congress used a budget threshold of \$100 million to help determine which DFEs should have IGs. However, additional DFEs below this threshold were also included for specific reasons.

Significant federal programs and agencies should be subject to oversight by independent IGs; however, small IG offices with limited resources might not have the ability to obtain the technical skills and expertise needed to provide adequate, cost-effective oversight. GAO has previously found that alternative approaches exist to achieve IG oversight that may be appropriate for federal agencies with small budgets and few resources. For example, GAO has recommended on a case-by-case basis that specific small agencies could benefit by obtaining IG oversight from another agency's IG office where the missions of the two agencies are somewhat similar.

Independence is one of the most important elements of an effective IG function. The IG Act, as amended, provides specific protections to IG independence. The IG Reform Act of 2008 further enhanced the IGs' independence by providing specified pay levels, IG legal counsel, a process for handling allegations of IG wrong-doing, and required notification to the Congress before an IG is removed or transferred. The IG Reform Act also requires the IGs' budget requests to be visible in the budget of the U.S. government submitted by the President to the Congress. Additional provisions to enhance the independence of IGs in DFEs with boards or commissions were included in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Specifically, these IGs are to report organizationally to the entire board or commission rather than a single chairperson. In addition, the IG Act requires a two-thirds majority of the board or commission to remove the IG.

Chairman McCaskill, Ranking Member Johnson, and Members of the Subcommittee:

I am pleased to be here today to discuss the oversight of federal agencies with relatively small budgets and resources and the role of the inspectors general (IG). IG offices play a key role in federal agency oversight by enhancing government accountability and protecting the government's resources. This includes a strong leadership role in recommending improvements to the effectiveness and efficiency of government offices and programs at a time when they are needed most. The Inspector General Act of 1978, as amended (IG Act), established IG offices at major departments and agencies to conduct and supervise audits and investigations; recommend policies to promote economy, efficiency, and effectiveness; and prevent and detect fraud and abuse in their departments' and agencies' programs and operations.¹

My testimony today focuses on (1) an overview of the creation of independent IG offices, (2) IG oversight of small agencies, and (3) IG independence and budgetary resources. In preparing this testimony, we included updates of current IG responsibilities and provisions of the IG Act and relied on our prior work related to these issues. More detail on our scope and methodology is included in each issued product. The work on which this testimony is based was conducted in accordance with all sections of GAO's Quality Assurance Framework that are relevant to our objectives. The framework requires that we plan and perform the engagement to meet our stated objectives and that we discuss any limitations in our work. We believe that the information and data obtained, and the analysis conducted, provide a reasonable basis for any findings and conclusions in this product. See the specific reports cited throughout this testimony for information on the standards applied.

¹Pub. L. No. 95-452, 92 Stat. 1101 (Oct. 12, 1978), *codified, as amended*, at 5 U.S.C. App.

Overview of the Creation of IG Offices

The IG Act originally established IGs appointed by the President and confirmed by the Senate in 12 major departments and agencies of the government in 1978.² Since then, additional IGs have been added through a series of amendments to the IG Act. The Inspector General Act Amendments of 1988 established IGs appointed by their respective entity heads in designated federal entities (DFE) identified by the act with duties and responsibilities similar to those of IGs appointed by the President.³ DFEs are generally smaller agencies established in various statutes as commissions, boards, authorities, corporations, endowments, foundations, institutions, agencies, and administrations.⁴

Prior to the 1988 amendments, both GAO and the President's Council on Integrity and Efficiency, which preceded the Council of Inspectors General on Integrity and Efficiency (CIGIE), had found that the internal audit offices of small federal agencies lacked independence and provided inadequate coverage of important programs that could benefit from independent oversight by an IG.⁵ Additional criteria used by the Congress to determine where to establish these new IG offices included a budget threshold of at least \$100 million for the DFEs. Specifically, those

²In 1978, 12 IGs were established by the IG Act at the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation; and at the Community Services Administration (which has since been abolished), Environmental Protection Agency, General Services Administration, National Aeronautics and Space Administration, Small Business Administration, and Veterans Administration (now the Department of Veterans Affairs).

³Pub. L. No. 100-504, 102 Stat. 2515 (Oct. 18, 1988).

⁴In addition to IGs established by amendments to the IG Act, we reported in 2011 that there were 10 IG offices established by various other statutes similar to the IG Act. They are the IG offices at the Architect of the Capitol, Central Intelligence Agency, Government Accountability Office, Government Printing Office, Library of Congress, Office of the Director of National Intelligence, Special Inspector General for Afghanistan Reconstruction, Special Inspector General for Iraq Reconstruction, Special Inspector General for the Troubled Asset Relief Program, and U.S. Capitol Police. (GAO, *Inspectors General: Reporting on Independence, Effectiveness, and Expertise*, [GAO-11-770](#) (Washington, D.C.: Sept. 21, 2011). The Special Inspector General for Iraq Reconstruction terminated its operations as of September 30, 2013.

⁵CIGIE was established by the Inspector General Reform Act of 2008, Pub. L. 110-409, 122 Stat. 4302 (Oct. 14, 2008), to replace the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency, which had been established by executive orders. CIGIE consists mainly of IGs, to address integrity, economy, and effectiveness issues that transcend individual government agencies, and to increase the professionalism and effectiveness of personnel in the IG offices.

agencies with an annual budget of \$100 million or greater were considered for inclusion in the 1988 amendments. However, other agencies below this budget threshold were also included for specific reasons. While the IGs in DFEs generally have the same authorities and responsibilities as those established by the 1978 IG Act, there is a clear distinction—they are appointed and removed by their agency heads rather than by the President and are not subject to Senate confirmation.

The 1988 amendments established a new category of “federal entity,” which is defined to exclude departments and agencies and DFEs with statutory IGs under the IG Act, as well as judicial and legislative branch entities and others as specified. Further, the 1988 amendments require the Office of Management and Budget (OMB), in consultation with GAO, to annually publish a list of (1) DFEs and, for DFEs that are not boards or commissions, their DFE heads and (2) the federal entities, as that term is defined by the IG Act. OMB’s list of DFEs and federal entities is to be published annually in the Federal Register.⁶ The 1988 amendments also require that federal entities, which are defined to exclude entities with a statutory IG under the IG Act, report annually by October 31 to each House of the Congress and to OMB on, among other things, the audit and investigative activities in their respective organizations.

The IGs appointed by the President are generally located in the largest departments and agencies of the government; the DFEs generally have smaller budgets and their IGs have correspondingly smaller budgets and fewer staff members. In our 2011 report of survey results of the IG community,⁷ we found 30 departments and agencies with IGs appointed by the President, 33 DFEs with IGs, and 10 IGs established by various statutes similar to the IG Act that were not included in our survey. The presidentially appointed IGs and the DFE IGs reported to us total budget authority for fiscal year 2010 of about \$2.2 billion with approximately 13,000 authorized full-time equivalent staff (FTE). The presidentially appointed IGs’ budget authority constituted about 84 percent of the total IG budget authority and about 86 percent of the total IGs’ FTEs.

⁶OMB published its most recent list on January 14, 2014. 79 Fed. Reg. 1896.

⁷[GAO-11-770](#).

IG Oversight of Small Agencies

GAO has long supported the creation of independent IG offices in appropriate federal departments, agencies, and entities, and we continue to believe that significant federal programs and entities should be subject to oversight by independent IGs. At the same time, we have reported some concerns about creating and maintaining small IG offices with limited resources, where an IG might not have the ability to obtain the technical skills and expertise needed to provide adequate and cost-effective oversight. In the final analysis, the determination of whether to place IGs in specific agencies is a policy decision to be decided by the Congress.⁸ As a result, we believe there are alternative approaches that the Congress may wish to consider to achieve IG oversight that is appropriate for federal agencies with relatively small budgets and resources. For example, we have recommended, on a case-by-case basis, that specific small agencies could benefit by obtaining IG oversight from another agency's IG office where the missions of the two agencies are somewhat similar. The following provides examples from our previously issued reports on alternatives suggested for IG oversight of small agencies.

- **Export-Import Bank.** In 2001, we were asked to review the need for an IG at the Export-Import Bank, which was defined by OMB as a federal entity under the IG Act, and was not subject to IG oversight.⁹ We found that the Export-Import Bank obtained an annual financial audit from an independent public accountant and received additional audits of administrative operations from its internal audit group. We also found that the Export-Import Bank had the largest budget of all other federal entities on OMB's list at the time, and that it was comparable in size to both departments and agencies with IGs appointed by the President and with DFEs with IGs appointed by the head of the DFE. The alternatives we provided for IG oversight of the Export-Import Bank included (1) establishing a new IG office through an amendment to the IG Act with an IG appointed by either the President or by the Export-Import Bank Chairman of the Board of Directors; (2) designating through legislation an existing IG office to provide oversight, such as the Agency for International Development IG; and (3) implementing a memorandum of understanding, which

⁸GAO, *U.S. Export-Import Bank: Views on Inspector General Oversight*, [GAO-01-1038R](#) (Washington, D.C.: Sept. 6, 2001).

⁹[GAO-01-1038R](#).

acts like a contract for outside IG services and would not require an amendment to the IG Act or other legislation. Subsequently, the Congress amended the IG Act in 2002 to establish a statutory IG for the Export-Import Bank, appointed by the President and confirmed by the Senate.¹⁰

- **Chemical Safety and Hazard Investigation Board (CSB).** In 2008, we reported on the responsiveness of CSB to past IG recommendations.¹¹ We concluded that after 10 years of operations, CSB continued to operate in noncompliance with its statutory mandates by not investigating all accidental chemical releases that involved a fatality, serious injury, or substantial property damage. Since fiscal year 2004, CSB had been obtaining IG oversight services from the Environmental Protection Agency (EPA) IG through a temporary statutory mandate included in its annual appropriation.¹² However, because of the significant issues uncovered by our review, we provided for congressional consideration alternative oversight mechanisms that could be achieved either by amending CSB's authorizing statute or by amending the IG Act to permanently give the EPA IG the authority to serve as the oversight body for CSB and to provide appropriations and staff allocations specifically for the audit function of CSB through a direct line in the EPA appropriation. Alternatives such as allowing CSB to contract for its own oversight or create an internal audit and investigative unit were not considered as options because of the potential limitations of contracting in terms of both audit independence and the potentially limited duration of the contracting relationship and due to the limited staffing that could reasonably be allocated to an internal oversight function at an agency

¹⁰Pub. L. No. 107-189, § 22(a)(c)(d), 116 Stat. 707,708 (June 14, 2002).

¹¹GAO, *Chemical Safety Board: Improvements in Management and Oversight Are Needed*, [GAO-08-864R](#) (Washington, D.C.: Aug. 22, 2008).

¹²See, e.g., Consolidated Appropriations Act, 2004, Pub. L. 108-199, 118 Stat. 3, 399 (Jan. 23, 2004): Regarding CSB oversight, "*Provided, further*, That notwithstanding any other provision of law, the individual appointed to the position of Inspector General of the Environmental Protection Agency (EPA) shall, by virtue of such appointment, also hold the position of Inspector General of the Board: *Provided further*, That notwithstanding any other provision of law, the Inspector General of the Board shall utilize personnel of the Office of Inspector General of EPA in performing the duties of the Inspector General of the Board, and shall not appoint any individuals to positions within the Board."

of its size. The EPA IG has reported continuing oversight efforts at CSB in recent semiannual reports to the Congress.¹³

- **National Mediation Board (NMB).** In a recent example, our mandated review of the programs and management practices at NMB concluded in a 2013 report that the board is a small agency, but with a vital role in facilitating labor relations in the nation's railroads and airlines.¹⁴ We found that NMB's strategic plan lacked assurance that its limited resources were effectively targeted toward the highest priorities. In addition, NMB lacked certain internal controls that could help achieve results and minimize operational problems. We also concluded that in addition to the periodic oversight by GAO and the annual audits of NMB's financial statements by independent public accountants, an existing IG office assigned with the responsibility for providing ongoing audits and investigations of NMB and its operations would result in more effective oversight. We provided a matter for congressional consideration, which discussed the authorization of an appropriate federal agency's IG office to provide independent audit and investigative oversight of NMB.

There are a number of examples where IGs in federal departments and agencies with relatively large budgets currently provide oversight of federal entities with relatively small budgets. To illustrate, the Department of State IG has oversight authority for the Broadcasting Board of Governors.¹⁵ In another example, the Agency for International Development IG provides oversight to several small federal entities, specifically the Millennium Challenge Corporation,¹⁶ the U.S. African Development Foundation, the Inter-American Foundation,¹⁷ and the

¹³Environmental Protection Agency Office of Inspector General, *Semiannual Report to Congress April 1, 2013 – September 30, 2013*, EPA-350-R-13-003 (Washington, D.C.: November 2013), and *Semiannual Report to Congress October 1, 2012 – March 31, 2013*, EPA-350-R-13-001 (Washington, D.C.: May 2013).

¹⁴GAO, *National Mediation Board: Strengthening Planning and Controls Could Better Facilitate Rail and Air Labor Relations*, [GAO-14-5](#) (Washington, D.C.: Dec. 3, 2013).

¹⁵Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. No. 105-277, div. G, § 1314, 112 Stat. 2681-761, 2681-776-77 (Oct. 21, 1998), *classified at* 22 U.S.C. § 6533.

¹⁶Millennium Challenge Corporation Act, Pub. L. No. 108-199, title VI, § 614(f)(1), 118 Stat. 211, 223 (Jan. 23, 2004), *classified at* 22 U.S.C. § 7713(f)(1).

¹⁷Consolidated Appropriations Act, 2000, Pub. L. No. 106-133, div. B, § 1000(a)(7), 113 Stat. 1501, 1536, Appendix G, § 205, 113 Stat. 1501, 1501A-422 (Nov. 29, 1999), *codified at* 5 U.S.C. appx. 8A(f)(a).

Overseas Private Investment Corporation.¹⁸ Finally, the Department of Transportation IG is authorized to provide oversight of the National Transportation Safety Board.¹⁹

IG Independence and Budgetary Resources

Independence is the cornerstone of professional auditing and one of the most important elements of an effective IG function. The IG Act provides specific protections to IG independence that are unprecedented for an audit and investigative function located within the organization being reviewed. These protections are necessary in large part because of the unusual reporting requirements of the IGs, who are subject to the general supervision of their agency heads and are also expected to provide independent reports of their work externally to the Congress.

The IG Act provides the IGs with independence by authorizing them to select and employ their own staffs, make such investigations and reports as they deem necessary, and report the results of their work directly to the Congress. In addition, the IG Act provides the IGs with a right of access to information, and prohibits interference with IG audits or investigations by agency personnel. The act further provides the IGs with the duty to inform the Attorney General of suspected violations of federal criminal law.

With the growing complexity of the federal government, the severity of the problems it faces, and the fiscal constraints under which it operates, it is important that an independent, objective, and reliable IG structure be in place where appropriate in the federal government to ensure adequate audit and investigative coverage. The IG Act provides each IG with the ability to exercise judgment in the use of independence protections specified in the act; therefore, the ultimate success or failure of an IG office is largely determined by the individual IG placed in that office and

¹⁸The Agency for International Development has provided IG oversight to the Overseas Private Investment Corporation pursuant to the interagency agreement that is in effect at the time the oversight services are rendered.

¹⁹National Transportation Safety Board Amendments Act of 2000, Pub. L. No. 106-424, § 12, 114 Stat. 1883, 1887 (Nov. 1, 2000), *codified, as amended, at* 49 U.S.C. §1137.

that person's ability to maintain independence both in fact and appearance.²⁰

The Congress passed the IG Reform Act of 2008 (Reform Act) to further enhance IG independence and accountability.²¹ Among other provisions, the Reform Act requires the rate of basic pay of the IGs appointed by the President to be at a specified level, and for the DFE IGs, at or above that of a majority of other senior-level executives at their entities. The Reform Act also requires an IG to obtain legal advice from his or her own counsel or to obtain counsel from another IG office or from CIGIE. Additionally, the act provides a statutory process for handling allegations of wrongdoing by IGs so that such reviews are not done by the same management officials who are subject to IG oversight. The act also requires both the President and the DFE heads to give written reasons to the Congress for removing or transferring an IG at least 30 days prior to the action.

The Reform Act also increased the visibility of the IGs' budgetary resources through the annual budget process. Specifically, the act requires that IG budget requests include certain information and be separately identified in the President's budget submission to the Congress. In addition, along with the separately identified IG budgets, an IG may include comments with respect to the budget if the amount of the IG budget submitted by the agency or the President would substantially inhibit the IG from performing the duties of the office. These budget provisions are intended to help ensure adequate funding and additional independence of IG budgets by providing the Congress with transparency into the funding of each agency's IG while not interfering with the agency head's or the President's right to formulate and transmit their own budget amounts for the IG.

In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended the IG Act with provisions to enhance the independence of IGs in DFEs with boards or commissions.²² Specifically, the Dodd-Frank Act changed who would be considered the head of

²⁰GAO, *Inspectors General: Opportunities to Enhance Independence and Accountability*, [GAO-07-1089T](#) (Washington, D.C.: July 11, 2007).

²¹Pub. L. No 110-409, 122 Stat. 4302 (Oct. 14, 2008).

²²Pub. L. No. 111-203, §§ 989B-D, 1081, 124 Stat. 1376, 1945-46, 2080 (July 21, 2010).

certain DFEs for purposes of IG appointment, general supervision, and reporting under the IG Act. If the DFE has a board or commission, the IG Act now requires each of these IGs to report organizationally to the entire board or commission as the head of the DFE rather than an individual chairman. In addition, the IG Act requires the written concurrence of a two-thirds majority of the board or commission to remove an IG. Prior to this protection, most DFE IGs reported to, and were subject to removal by, the individual serving as head of the DFE.

In other past legislative reforms, the Congress has taken actions to convert IGs from appointment by the agency heads to appointment by the President with Senate confirmation as a way to enhance IG independence. For example, on the heels of the savings and loan and banking crisis over two decades ago, the role of the Federal Deposit Insurance Corporation's (FDIC) IG became increasingly important in providing oversight. Because of the perceived limitation of the FDIC IG's independence resulting from agency appointment, the Congress converted the IG from agency appointment to appointment by the President with Senate confirmation.²³ In another example, the Congress took action to convert the Tennessee Valley Authority (TVA) IG to appointment by the President with Senate confirmation because of concerns about interference by TVA management.²⁴ In both cases, Congress recognized that the IG's independence would be enhanced by the presidential appointment.

Concluding Observations

IGs play a critical role in federal oversight and we believe that all significant federal programs and entities should be subject to oversight by IGs. We have supported the creation of additional IG offices and the enhancements to their independence by past legislation. However, we continue to have some concerns about creating and maintaining IG offices in relatively small federal agencies where it may not be cost-effective to obtain the skills and expertise needed to provide adequate

²³Resolution Trust Corporation Completion Act, Pub. L. No.103-204, § 23, 107 Stat.2369, 2407-08 (Dec. 17, 1993). To increase the independence of the entity's IG, this act converted the FDIC IG from appointment by the head of FDIC to appointment by the President with Senate confirmation.

²⁴Pub. L. No. 106-422, § 1, 114 Stat. 1872 (Nov. 1, 2000). To obtain increased IG independence, this act converted the TVA IG from appointment by the head of TVA to appointment by the President with Senate confirmation.

oversight. We believe there are alternatives to creating additional IG offices that can be both effective and less costly. These alternatives for oversight should be decided on a case-by-case basis depending on the critical nature of the small agencies' missions and the risks identified that require increased oversight. Because the Congress relies on the IGs to provide current information about their respective agencies' programs and activities, the determination of where and how to provide IG oversight in specific agencies is a policy decision addressed best by the Congress.

This concludes my formal statement. Chairman McCaskill, Ranking Member Johnson, and Members of the Subcommittee, I would be pleased to answer any questions that you or the Subcommittee members may have at this time.

GAO Contact and Staff Acknowledgments

If you or your staff have any questions about this testimony, please contact me at (202) 512-2623 or davisbh@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this testimony are Jackson Hufnagle (Assistant Director), Lauren S. Fassler, Gregory Marchand, Taya Tasse, and Clarence Whitt.

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