

CHAPTER 10

The Federal Inspectors General

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This chapter provides a description of the role, jurisdiction, and powers of federal inspectors general.

INTRODUCTION

Inspectors general serve a vital role in the federal government. They operate as independent and objective watchdogs within federal agencies and have the responsibility to combat waste, fraud, and abuse in those agencies and the programs they administer.

The positive impact of the inspectors general on the federal government's operations is considerable. Every year, IG reports and their recommendations identify billions of dollars that could be better spent by the federal government. For example, in fiscal year 2021 alone, federal IGs identified more than \$62 billion that agency management could spend more effectively.² IGs further contribute to the operational integrity of the federal government by detecting misconduct and helping to bring the wrongdoers to justice. IG investigations facilitate the prosecution of thousands of such individuals and the recovery of billions of dollars each year.³

Following this introduction to the role of the IGs in the federal government, the second section of this chapter gives an overview of the federal inspectors general community and addresses the legal authorities that define its structure, how IGs are appointed and removed, and noteworthy distinctions among the individual IGs. The third section then discusses the unique dual-reporting obligation to which IGs are subject, as well as certain other features intended to ensure independence and objectivity in IG operations. The fourth section describes how IGs fulfill their oversight role, focusing, in particular, on the three main categories of activity in which they engage—audits, evaluations/inspections, and investigations—and the powers they may exercise in doing so. Finally, the fifth section addresses recent amendments to relevant legislation as well as ongoing proposals for change.⁴

OVERVIEW OF THE FEDERAL IG COMMUNITY: LEGAL FRAMEWORK AND STRUCTURE

While the inspector general concept is nearly as old as the United States itself, it existed only in the context of the military for much of our country's history. It was not until the latter half of the 20th century that the inspector general was introduced on a broad scale to the civilian side of the federal government through the enactment of the Inspector General Act of 1978 (IG Act).⁵

The IG Act established an office of inspector general (OIG) in 12 federal agencies by consolidating the internal auditing and investigative authority of each agency into these independent units. Under the IG Act, the express purpose of these new OIGs was to promote economy, efficiency, and effectiveness and to prevent and detect fraud, waste, and abuse in their agencies' programs.⁶ Since the passage of the IG Act, the number of federal OIGs has steadily increased. Today, a total of 75 statutory inspectors general operate across different federal agencies, which is a sixfold increase in fewer than 40 years.⁷

Offices of inspector general share a number of common features. Under the IG Act, all inspectors general must be selected without regard to political affiliation and solely on the basis of integrity and demonstrated professional ability in any one of a number of fields, including accounting, auditing, financial analysis, law, management analysis, public administration, and investigations.⁸ The offices they lead are typically permanent, nonpartisan, and independent units that conduct audits, investigations, and other evaluations of the programs and operations of the federal department or agency in which they are located.⁹

While the OIGs across government have much in common, there are certain distinctions among them. Among the OIGs established under the IG Act as amended, IGs can be grouped into two distinct groups: those located in "establishment" agencies and those in "designated federal entities" (DFE).¹⁰ Whether an IG operates in an establishment agency or a DFE can affect the manner in which he or she is appointed, how an IG's office receives funding and resources, and even how the IG can be removed.¹¹ In addition, some distinctions between IGs are attributable to modifications made to the IG Act since 1978 and the enactment of separate legislation affecting specific OIGs.¹²

Another distinction within the IG community, and one of relatively recent provenance, is that between permanent, agency-based OIGs and "special" inspectors general established on a temporary basis to oversee specific government initiatives. The first of these short-term IGs, the Coalition Provisional Authority Office of Inspector General (CPA OIG), was established shortly after the 2003 invasion of Iraq to oversee the operations and programs of the Coalition Provisional Authority (CPA).¹³ Upon the CPA's dissolution in 2004, its inspector general was converted into SIGIR, the Special Inspector General for Iraq Reconstruction.¹⁴ Although SIGIR itself ceased operations in October 2013, other temporary inspectors general have been established to oversee and promote the integrity of other significant

government initiatives. The Special Inspector General for Afghanistan Reconstruction (SIGAR) and the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) were both established in 2008 under statutory authorities distinct from the IG Act, and both continue to carry out their targeted oversight mandates today.¹⁵

Separately, the IG Act itself has been amended to address one broad area of oversight. Under section 8L of the IG Act, a provision added to the statute by a 2013 amendment, the CIGIE Chair must name a “lead inspector general” for any overseas contingency operation that exceeds 60 days, selecting him or her from among the inspectors general for the Department of Defense, Department of State, and the United States Agency for International Development.¹⁶ The designated lead inspector general has the responsibility for providing oversight and reporting over all aspects of the contingency operation and coordinating among the inspectors general at the other two agencies.¹⁷ Thus, with respect to overseas military operations, section 8L provides an alternative to the ad hoc approach that Congress has taken in establishing special inspectors general.¹⁸

In addition, two oversight bodies were established to monitor, investigate, and provide transparency for the distribution of substantial domestic economic relief bills. The first was the Recovery Accountability and Transparency (RAT) Board, which was created under the American Recovery and Reinvestment Act of 2009, a roughly \$830 billion stimulus package designed to address the economic downturn unfolding in 2008–2009.¹⁹ The RAT board, which consisted of an IG chairperson and 12 other IGs, ended its operations in 2015. The second oversight committee—the Pandemic Response Accountability Committee (PRAC)—was established as part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The PRAC comprises a chair, vice chair, and 19 IG members and is a statutory committee within the Council of the Inspectors General on Integrity and Efficiency (CIGIE).²⁰ Similar to the RAT Board, PRAC’s mission is to promote transparency and oversight of the coronavirus response funds provided in the CARES Act and three related pieces of legislation.²¹ The CARES Act also established a Special Inspector General for Pandemic Recovery (SIGPR) to oversee and ensure the integrity of the distribution of the CARES Act funds.²²

Regardless of the type of OIG (establishment, DFE, or special IG), the principles governing the removal of an Inspector General from office generally remain the same: the Inspector General Act permits the President (or the agency head for DFE IGs) to remove or transfer an Inspector General but also requires 30 days’ written notice to Congress, including a reason for the removal.²³ This authority to remove IGs has been invoked rarely in the four decades since the enactment of the IG Act, and IGs have commonly served through multiple presidential administrations, including transitions between administrations of opposing political parties.²⁴ The issue of IG removals took on greater prominence following President Trump’s removal of two IGs in 2020 under circumstances that raised concerns by stakeholders that the terminations may have been motivated by politically sensitive

work or controversial decisions made by their offices.²⁵ These removals prompted some efforts in Congress to curtail or counter the President's removal authority, as discussed later in the chapter.²⁶

ENSURING OIG INDEPENDENCE: DUAL-REPORTING AND OTHER MECHANISMS

In enacting the IG Act, Congress recognized that for the IGs to be truly effective in combating fraud, waste, and abuse within their agencies, they would need to be objective in their work. The key ingredient in ensuring objectivity is independence from agency management. With this in mind, Congress took a number of steps to ensure OIG operational independence from agency management, and one of the most prominent was the imposition of the so-called dual-reporting obligation.

Pursuant to the dual-reporting obligation, IGs are required to report about their oversight activities to both the head of their agency *and* Congress.²⁷ Specifically, an IG must keep both the relevant agency head and Congress “fully and currently informed” about the office’s activities, disclosing any identified problems or deficiencies in the agency’s administration of programs and operations, its recommendations for addressing those problems, and any progress made in pursuing corrective action.²⁸ The dual-reporting obligation promotes independence by ensuring the IG can provide effective oversight without undue pressure from the agency and by putting into place structural requirements for the IG to report outside of the agency itself.²⁹

IGs satisfy this dual-reporting obligation—at least in part—through two types of reports. First, IGs provide Congress with a periodic snapshot of their oversight activities through semiannual reports.³⁰ These reports, which are commonly called SARs, provide information regarding the OIG’s activities over the prior six months, including describing problems or deficiencies that the OIG identified during that period, summarizing current or unimplemented recommendations, and tallying prosecutorial referrals made to the Department of Justice or other law enforcement authorities during the period.³¹

A second type of report, the so-called seven-day letter, ensures that the IG can, if necessary, inform Congress of serious problems within the agency in relatively short order. Whenever an IG becomes aware of “particularly serious or flagrant problems, abuses, or deficiencies” relating to agency programs or operations, he or she is authorized to report such matters immediately to the agency head.³² Within seven days of receipt, the agency head must transmit the IG’s report, along with any comments of his or her own, to the appropriate congressional committees.³³ In practice, seven-day letters are rare.³⁴ One former IG called it the “nuclear weapon” of the IG world, as the issuance of such a letter may create substantial difficulties for the relevant agency head (such as public embarrassment and political repercussions from Congress) and therefore cause lasting damage to the relationship

between the agency and its OIG.³⁵ As a result, issuing a seven-day letter is generally considered a tool of last resort among IGs.³⁶ To date, there is documentation of only three agencies that have issued a seven-day letter. Two agencies have publicly acknowledged transmitting such a letter. The Department of Treasury stated that the last seven-day letter it issued occurred in 2000.³⁷ The EPA has issued two seven-day letters, one in 2013 and another in 2019.³⁸ Despite the relative rarity of the seven-day letter, the existence of this option nevertheless provides IGs with considerable leverage vis-à-vis agency management in fulfilling their oversight duties. As one former inspector general described the seven-day letter, “Using it is not what you aspire to do . . . [b]ut having it there is a great deterrent and a force multiplier for getting things done.”³⁹

In addition to these reports, IGs often fulfill their dual-reporting obligation in many ways not expressly provided for under the IG Act. For instance, IGs regularly communicate with Members of Congress by submitting formal reports and letters and holding informal briefings. Some OIGs are required, pursuant to other legal authority, to submit agency or program-specific reports to Congress.⁴⁰ IGs also testify before congressional committees and meet with members and staff.⁴¹

Aside from the dual-reporting obligation, various other measures protect IG independence and objectivity. For instance, for several administrative purposes the IG is considered its own agency.⁴² An OIG can have its own personnel office to effect recruitment, screening, selection, promotion, and discipline of its employees.⁴³ Larger OIGs may also have their own technology network separate from that of the agency.⁴⁴ All IGs must have access to legal advice by counsel reporting to the IG, another IG, or CIGIE;⁴⁵ that is, IGs do not rely on agency counsel. In addition, the IG Act specifically requires OIGs to report on “any attempt” to “interfere with the independence” of the OIG, including through “budget constraints designed to limit [its] capabilities” or through resistance or objection to oversight activities, including through restrictions on or significant delays to access to information.⁴⁶

Further, the IG Act makes clear that OIGs operate with a great deal of discretion in setting priorities and engaging in oversight. For example, section 6 of the IG Act provides that IGs have the discretion to make such reports relating to the administration of their agency’s programs and operations as are in their judgment “necessary or desirable.”⁴⁷ Therefore, while IGs report to the head of their agency and function under its “general supervision,”⁴⁸ this supervision generally may not be used to limit the IG’s operational discretion. In fact, the IG Act expressly states that the head of an agency is not permitted to exercise its supervisory 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.”⁴⁹ Moreover, the head of an establishment agency cannot remove an IG; instead, only the President has this authority. While a DFE Agency Head may remove a DFE IG, there are conditions that must be met before removal.⁵⁰

To ensure IGs remain separate and independent, they are prohibited from receiving “program operating responsibilities” from the agencies they oversee.⁵¹ If an agency could transfer operational responsibilities to its OIG, the OIG might find itself in the position of having to review a program for which it has responsibility. By prohibiting such a transfer, Congress sought to ensure that IGs would not have a vested interest in agency policies or programs and would remain unbiased in their review of those programs.⁵² As a result, however, OIGs must ultimately rely on agency management to take action when problems are identified, as they have no ability to implement corrective steps on their own.

OIG RESPONSIBILITIES AND RELATED POWERS

In pursuit of their mission to prevent and detect waste, fraud, and abuse, OIGs operate under a broad statutory mandate to “conduct audits and investigations relating to the programs and operations” of the agency they oversee and to “conduct . . . other activities . . . for the purpose of promoting economy and efficiency in the administration” of that agency.⁵³ This language in the IG Act refers to three categories of activity through which OIGs fulfill this mission: audits, inspections and evaluations, and investigations. Sometimes, OIGs will initiate work in response to requests from agency management or Congress.⁵⁴ In other cases, OIGs conduct work in response to media reports concerning their agency. IGs have a great deal of discretion in determining whether an inquiry is necessary at all and, if so, which of these options is most appropriate.

Audits are formal assessments of the effectiveness, economy, and integrity of agency programs and operations, including those performed by agency grantees and contractors. An OIG might initiate an audit for a host of reasons. Many audits are akin to a doctor’s periodic check-up—routine matters planned months in advance—while others may be prompted by the perception that a program or agency operation is particularly high risk.⁵⁵ Certain audits are required by law, such as those mandated by the Geospatial Data Act of 2018⁵⁶ and the DATA Act.⁵⁷

Regardless of the reasons behind its initiation, an OIG audit will always be a structured, formal process. OIG audits must be conducted in compliance with the Government Accountability Office’s rigorous Government Auditing Standards—also known as the “Yellow Book”⁵⁸—which require “auditors to plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for [their] findings and conclusions based on [their] audit objectives.”⁵⁹

The typical audit is conducted through a multistep process. First, in an engagement letter, the OIG notifies the agency of the audit, thereby alerting the relevant staff of upcoming fieldwork, defining the scope of the audit, and scheduling an entrance meeting. Next, at the entrance meeting with relevant agency staff, the auditors identify what they will need in order to complete the fieldwork—this

may include access to files, computer systems, or the opportunity to interview employees about the subject of the audit. The auditors will then begin their fieldwork, which may include interviews with agency staff, agency contractors or grantees, and sometimes program beneficiaries. After the completion of fieldwork, some auditors may provide a discussion draft of the audit report that includes preliminary findings and recommendations for the auditees to review; the auditee may respond by providing additional information or documentation. Following the discussion draft, the OIG and auditees usually hold an exit conference with the audited unit's management and other stakeholders to discuss issues such as the accuracy of the discussion draft report. Management can also share its perspective and reactions to the findings and recommendations. Afterwards, a formal draft report is prepared and provided to unit management, which, in most cases, will have an opportunity to review the draft and provide comments or planned corrective actions. Lastly, the auditors prepare a final report, which may contain findings and recommendations to enhance management practices and procedures, offering better ways to spend agency funds, or questioning expenditures.⁶⁰

Ultimately, agency management will either concur or reject the IG's findings and recommendations. If the agency concurs with the recommendations, it will generally prepare an action plan to correct any problems identified by the audit.⁶¹ When agency management disagrees with an OIG recommendation and the parties cannot agree on a satisfactory result, OMB has established a process to prioritize such disputed recommendations and resolve the matter.⁶² Specifically, after the auditee develops a final action plan for each recommendation, the OIG either agrees or disagrees in writing with the proposed actions. In the case of a disagreement, the auditor will attempt to informally resolve the matter with the auditee. If this is not successful, the matter is then referred to each agency's designated Audit Follow-up Official.⁶³

Some OIGs also conduct inspections and evaluations, a flexible category of reviews that has long been used by oversight organizations as effective mechanisms to fulfill their mission.⁶⁴ CIGIE has described inspections and evaluations as "systematic and independent assessments of the design, implementation, and results of an Agency's operations, programs, or policies."⁶⁵ OIGs are expanding programs in inspections and evaluations. The majority of OIGs perform inspection and evaluation work in some capacity, and many have Inspection and Evaluation offices, commonly referred to as I & E units, with dedicated staff.⁶⁶

Inspections and evaluations are subject to the requirements of CIGIE's Quality Standards for Inspection and Evaluation, which is called the "Blue Book,"⁶⁷ rather than to the standards of the Yellow Book.⁶⁸ However, in practice, there are many similarities, as inspections and evaluations also engage in fieldwork, develop findings and recommendations, and follow an analogous reporting process. The Blue Book guides the review through all of these phases as well as planning, data and evidence collection and analysis, and follow up.⁶⁹

Because of the relative flexibility of many aspects of the Blue Book, OIG inspections and evaluations can cover a wide range of approaches and topics. For example, the U.S. Department of State OIG inspects more than 260 embassies, diplomatic posts, and international broadcasting installations throughout the world to assess a wide range of issues, including whether policy goals are being achieved and whether the interests of the United States are being represented and advanced effectively.⁷⁰ The Department of Defense evaluations component conducts independent reviews of its agency's operations and activities, including classified programs, space and missile programs, construction, safety, health care, and oversight of criminal investigations and audits conducted by other entities within the Department of Defense.⁷¹ Some OIGs conduct inspections and evaluations to assess allegations of mismanagement that do not rise to the level of misconduct warranting criminal or administrative investigation.⁷² Moreover, some I & E units produce reports concerning the potential misconduct of or concerns regarding a specific office or program.⁷³

In contrast to audits, inspection and evaluation work, which are conducted to examine program or operational performance or financial management on a systemic level, OIG investigations are generally more targeted in scope. Investigations typically examine specific allegations concerning possible violations of law, regulation, or agency policy.⁷⁴ All OIGs investigate certain types of matters, such as allegations of fraud involving agency grants and contracts, improprieties in agency programs and operations, and allegations of employee misconduct.⁷⁵ Depending on the statutory responsibilities of their agencies, some OIGs also have unique investigative authority over other matters beyond the agencies' employees and recipients of grants and contracts. For example, the Department of Labor OIG investigates allegations of labor racketeering; the Social Security Administration OIG pursues fraud involving disability benefits and Social Security payments; and the Department of Health & Human Services OIG investigates cases of delinquent child-support payments and Medicare fraud.⁷⁶

Much like OIG audits, investigations often proceed through a structured, multi-step process. OIG investigations must comply with CIGIE's Quality Standards for Investigation, which provide qualitative standards for planning investigations, executing investigations, reporting the information obtained in the course of an investigation, and managing investigative information.⁷⁷ Upon receiving a complaint or allegation, the threshold question for any OIG is whether the allegations warrant devoting a portion of its limited resources to an investigation. OIGs may adopt specified criteria to assist them in making this decision. After deciding to pursue an investigation, the OIG will create an investigative plan, which is intended to focus on the pertinent facts of an allegation or complaint and specify how best to obtain evidence that will either prove or disprove those allegations.⁷⁸ Having devised a plan, OIG staff will begin to accumulate evidence, examining documents—including files, contracts, reports, and internal memoranda—and interviewing witnesses, technical experts, and the subjects of the investigation.⁷⁹

Once the investigation is complete, the OIG will generally produce a report based on the evidence gathered. After a final internal review of the report to ensure that its conclusions are fact-based, objective, and clear, the OIG will generally provide it to agency management, along with any recommendations for administrative action that the OIG believes will address the conduct at issue.⁸⁰ For example, after finding that an agency employee engaged in misconduct, an OIG may recommend that the agency consider taking personnel action (such as discipline or removal). If an OIG investigation identifies abuses by a government contractor, it may also refer the contractor to agency management for suspension or debarment, which are administrative remedies through which organizations and individuals are excluded from doing business with the federal government.⁸¹ Similarly, an OIG may refer a matter to its agency for action under the Program Fraud Civil Remedies Act (or PFCRA), which allows agencies to administratively pursue false statements claims of \$150,000 or less.⁸² An investigation may also culminate in the referral of a matter to authorities outside the agency. For example, if OIG determines there is a credible complaint of a Hatch Act violation, the IG must refer the allegation to the Office of Special Counsel.⁸³ Whenever the IG uncovers “reasonable grounds” to believe that a violation of federal criminal law has occurred, it is obligated to promptly report the matter to the Department of Justice.⁸⁴ In the event that the OIG believes a violation of state criminal law has occurred or that evidence uncovered in the course of an investigation warrants civil action, the OIG has discretion to refer the matter to the relevant law enforcement authority.⁸⁵

Following are examples of several recent OIG matters that illustrate the wide variety of OIG efforts:

- The Department of State (State) OIG conducted an audit of the armored vehicle program and found that the Bureau of Diplomatic Security (DS) did not effectively administer the program in accordance with department policies and guidelines because DS had not developed appropriate procedures, guidance, or processes. Among other findings, this audit concluded that DS had incurred an impairment loss of \$24.9 million for 259 armored vehicles that were unused for more than one year, and, to reduce inventory, DS transferred 200 unused armored vehicles, valued at \$26.4 million, to other U.S. government agencies without cost reimbursement. OIG questioned a total of \$51.3 million and made 38 recommendations to three department bureaus and three overseas posts to address the deficiencies.⁸⁶
- In May 2013, the Department of Justice OIG issued an interim report during an ongoing audit of the U.S. Marshals Service’s Witness Security Program; this interim report revealed that known or suspected terrorists who were participating in the federal witness protection program could not be identified. Moreover, the DOJ OIG interim report found that program officials had provided approval for some witness protection participants who were on the federal No Fly list to fly on commercial flights and that these individuals

could have flown on their own accord (i.e., without the officials' knowledge and specific approval).⁸⁷

- The SBA OIG evaluated SBA's grant programs for fiscal years 2014 through 2018; it issued nine audit and evaluation reports reviewing SBA's management of its grant programs and grant recipients' compliance with grant requirements. These nine reviews covered \$63.4 million of grant awards to support entrepreneurial development programs. SBA OIG identified systemic issues with SBA's financial and performance oversight across multiple grant programs, including ineffective grant monitoring and financial reporting requirements. As a result, OIG determined that SBA's grant programs are at risk of funds not being used for their intended purpose and of not achieving program goals and objectives.⁸⁸
- A Department of the Interior (DOI) OIG evaluation determined that the DOI did not deploy and operate a secure wireless network infrastructure, as required by National Institute of Standards and Technology (NIST) guidance and industry best practices. The OIG conducted reconnaissance and penetration testing of wireless networks representing each bureau and office and stimulated attack techniques of malicious actors attempting to break into departmental wireless networks. The report concluded that the identified deficiencies occurred because the Office of the Chief Information Officer (OCIO) did not provide effective leadership and guidance to the department and failed to establish and enforce best practices. The OIG made 14 recommendations to strengthen the department's wireless network security to prevent potential security breaches.⁸⁹
- DOT OIG assessed the effectiveness of the Federal Aviation Administration's inspection program—the Drug Abatement Program (DAP). The DAP is responsible for the development, implementation, administration, and compliance monitoring of the aviation industry drug and alcohol testing programs. OIG found that the system FAA uses to develop inspection schedules does not assign risk levels to companies or prioritize inspections based on risk, an approach that is contrary to FAA's Safety Risk Management Policy, which was implemented to identify hazards, analyze and assess safety risk, and develop controls. OIG made two recommendations to improve the effectiveness of the DPA.⁹⁰
- On April 20, 2010, BP's Deepwater Horizon Mobile Offshore Drilling Unit exploded in the Gulf of Mexico, claiming 11 lives and discharging an estimated 4.9 million barrels of oil in the largest environmental disaster in U.S. history. Between June 2010 and February 2016, the DOI OIG led the investigative efforts of the Deepwater Horizon Task Force and played a critical role in the success of this historic investigation. As a result of this investigation, multiple companies pleaded guilty to federal offenses and paid more than \$6 billion in criminal fines and penalties. Halliburton Energy Services,

Inc. pleaded guilty to destroying evidence and agreed to pay \$55 million to the National Fish and Wildlife Foundation.⁹¹

- In 2018, VA OIG substantiated that the VA Secretary misused VA funds by taking an official July 2017 trip to Europe for personal activities. The 11-day trip included two extensive travel days and three-and-half days of official events costing the VA at least \$122,334. OIG determined that the Chief of Staff made misrepresentations to ethics officials and that the Secretary improperly accepted a gift (Wimbledon tickets); the report also identified misuse of employees' time and inadequate documentation of the trip's full cost. The investigation resulted in leadership changes, employee retraining, and recovery of taxpayer dollars.⁹²
- GSA OIG found that many of the expenditures at the GSA Western Regions Conference were excessive and wasteful and that, in many instances, GSA followed neither federal procurement laws nor its own policy on conference spending. Conference costs included eight off-site planning meetings and significant food and beverage costs. Specifically, GSA incurred excessive and impermissible costs for food totaling \$146,427.05 that included \$5,600 for three semi-private catered in-room parties and \$44 per person daily breakfasts. Additionally, GSA incurred impermissible expenses, including mementos for attendees and clothing purchases by employees. The total cost of the conference was more than \$820,000 for approximately 300 attendees.⁹³
- An Amtrak OIG investigation uncovered a complex fraud scheme involving the purchase and sale of more than \$540,000 in fraudulent Amtrak tickets and e-vouchers using stolen information from more than 1,100 credit cards. Review of seized digital evidence revealed that the perpetrator had memorialized intentions to kill police officers. Additionally, the search revealed two loaded assault rifles, 11 improvised explosive devices, two pipe bombs, other forms of contraband, and other deadly weapons. The seizure and other key evidence led to an indictment and guilty plea.⁹⁴

When engaging in these three primary categories of oversight activities, OIGs have powerful tools at their disposal. Given that gathering evidence is crucial to effectively performing any of these functions, some of the OIGs' broadest statutory powers are related to the manner in which they can acquire information. The first of these information-gathering powers pertains to the records of the agency in which an OIG is located. Section 6(a)(1) of the IG Act provides that each IG is authorized to have access to "all records" available to the agency that relate to the programs and operations the IG oversees.⁹⁵ If an agency employee refuses or fails to provide records that an IG has requested pursuant to this authority, the IG must report the circumstances to agency management without delay and include the incident in the OIG's semiannual report.⁹⁶

In addition to the authority IGs have under section 6(a)(1) to access internal agency records, OIGs can obtain information from external sources in two ways. First, IGs have the authority provided under the IG Act to request information or assistance from federal agencies other than their own.⁹⁷ Agency heads must comply with such requests for information or assistance “insofar as is practicable” and to the extent that the request would not violate some other statute or regulation applicable to the agency.⁹⁸ As with requests for internal agency information, an IG who requests information or assistance from another federal agency must report any “unreasonabl[e]” refusal of such a request to the head of the agency involved “without delay” and may include the incident in its semiannual report.⁹⁹

Second, IGs have broad authority to subpoena any information—whether in the form of documents, reports, answers, records, accounts, papers, data in any medium (including electronically stored information), or a tangible thing—that is necessary to the performance of their responsibilities under the IG Act.¹⁰⁰ Subpoenas, which are enforceable in federal district court, enable IGs to compel the production of evidence from sources outside the federal government.

While all OIGs operating under the provisions of the IG Act have broad powers to further their oversight activities, certain IGs are permitted to exercise law enforcement authority as well. Thirty-nine OIGs are authorized to employ special agents who can (1) carry a firearm, (2) make an arrest without a warrant for any federal offense committed in their presence or which they have reasonable grounds to believe was committed, and (3) seek and execute warrants for arrest, search of a premises, or seizure of evidence under the authority of the United States.¹⁰¹ Those OIGs that are permitted to exercise law enforcement authority must do so in accordance with guidelines promulgated by the attorney general.¹⁰²

Notwithstanding the OIGs’ significant powers and broad mandate, the OIGs’ ability to fulfill their missions free of interference has become an occasional flashpoint in recent years. In August 2014, 47 inspectors general signed a letter to congressional oversight committees expressing concerns that leadership at three federal agencies (the Department of Justice, the Peace Corps, and the Chemical Safety and Hazard Investigation Board) had impeded the work of their respective OIGs by limiting or delaying their access to agency records.¹⁰³ In each case, agency lawyers had construed statutes other than the IG Act or attorney-client privilege as overriding section 6(a)(1)’s broad information-gathering authority.¹⁰⁴

Following the IGs’ letter and related congressional hearings, Members of Congress introduced legislation that would have expanded IGs’ authority significantly.¹⁰⁵ For instance, the proposals provided clear language in support of OIG access to all agency materials and would have expanded IGs’ authority to authorize testimonial subpoenas, which would have empowered IGs to require testimony from former federal employees as well as contractors (albeit not current or former employees of contractors). Although Congress ultimately did not authorize this testimonial subpoena power for OIGs, the reform efforts did result in the enactment of the Inspector General Empowerment Act (IGEAct) in December 2016, discussed in more detail next.

THE INSPECTOR GENERAL EMPOWERMENT ACT OF 2016 AND OTHER PROPOSALS FOR CHANGE

The IGEA expanded IGs' authority in various ways, including by partially addressing the disputes over agency limitations to OIG access.¹⁰⁶ In particular, the IGEA amended the IG Act to “guarantee[] that federal IGs have access to agency records . . . and allow IGs to match data across agencies to help uncover wasteful spending.”¹⁰⁷ The act did so through provisions authorizing IGs to access all records (i.e., agency materials) and exempting them from procedural requirements and information privacy protections under certain legislation (namely, the Computer Matching and Privacy Protection Act of 1988 and the Paperwork Reduction Act).¹⁰⁸ The exemption from the Computer Matching and Privacy Protection Act streamlined the IGs' ability to analyze multiple sets of data in furtherance of their oversight mission.¹⁰⁹ The IGEA also exempted OIGs from the Paperwork Reduction Act, which requires that a government agency receive approval from the Office of Management and Budget (OMB) before requesting certain information from the public.¹¹⁰ These statutory changes permit OIGs to conduct investigations without the need to obtain approvals from other agencies, a potentially time-consuming process.¹¹¹

The IGEA also imposed additional reporting and internal oversight requirements. Some of these requirements pertained specifically to CIGIE. For example, after passage of the IGEA, CIGIE was required to submit annual reports to Congress (which were previously only submitted to the President), and it clarified CIGIE's duty to report to Congress any “critical issues that involve the jurisdiction of more than one IG.”¹¹² In addition, some provisions were intended to promote accountability and fairness in CIGIE investigations.¹¹³

Other reporting requirements apply directly to individual IGs, including a number of provisions pertaining to the semiannual report to Congress.¹¹⁴ For example, IGs were required to include additional information on the number and nature of investigations relating to senior government officials, instances of whistleblower retaliation, information on efforts to constrain the office's ability to perform its work, and “closed” audits, evaluations, and inspections that were not disclosed to the public.¹¹⁵ The IGEA also included additional public reporting requirements.¹¹⁶ In particular, IGs must generally submit any documents containing “recommendation[s] for corrective action” to agency heads and congressional committees of jurisdiction as well as to any Member of Congress or other individuals upon request.¹¹⁷

The IGEA also attempted to address the concern over IG vacancies. To examine this issue, the act required the GAO to perform a onetime study to evaluate the vacancies and determine the best course of action in addressing them.¹¹⁸ In 2018, GAO completed this report.¹¹⁹ Since this report was issued the concern over vacancies has grown,¹²⁰ and potential reforms are discussed here.

In the years since the enactment of the IGEA, new issues have emerged regarding the IG community, prompting calls for further reform efforts. As noted briefly earlier, President Trump's removal of two IGs in 2020 led to proposals that would affect a president's ability to take similar actions in the future. For instance, one proposal would require that the president or agency head provide Congress with a substantive rationale—as opposed to mere notice—when an IG is removed, transferred, or placed under nonduty status under sections 3(b) and 8G(e) of the IG Act.

An emerging issue related to the removal of IGs is the temporary appointment of officials currently serving in the presidential administration to vacant IG positions. The appointment or publicly contemplated appointment of administration officials into vacant IG positions, including officials who maintain their existing positions at the same time, raised concerns among some stakeholders about potential conflicts of interest. In particular, these appointments and potential appointments raised questions regarding whether an official serving in a managerial or political role and simultaneously as acting IG would inherently face a real or apparent conflict that would compromise the ability to exercise independent and objective oversight.¹²¹ With those concerns in mind, several stakeholders, including some Members of Congress, have explored limitations on a president's ability to appoint officials to vacant IG positions.¹²² For instance, one proposal would amend the Federal Vacancies Reform Act (FVRA) to require the president to choose acting IGs from the ranks of senior officials then serving in an OIG.¹²³

The issue of filling IG vacancies has itself been a focal point for reform efforts. Vacancies have been widespread and persistent in the IG community throughout multiple presidential administrations, with some positions going unfilled for several years. Causes include the failure of numerous administrations to nominate candidates, the Senate's failure to confirm nominees, and, for DFE IGs, inaction by agency heads. There has been recent progress in filling vacancies, and as of March 29, 2022, there were eight vacant IG positions.¹²⁴ The lack of permanent IGs has been more pronounced in the "establishment" agencies, where there have been more vacancies that have extended for longer periods.¹²⁵ Out of the eight vacancies existing in March 2022, seven are establishment IGs, and three of those are from Cabinet-level executive agencies.¹²⁶ Several stakeholders and Members of Congress have suggested potential reforms, such as requiring the president to submit a report on vacancies that last longer than 210 days¹²⁷ and encouraging the White House Office of Presidential Personnel and agency leaders to request from CIGIE lists of qualified potential candidates to expedite filling vacant IG positions.¹²⁸

Finally, the IG community has a strong interest in several other legislative proposals that could further IG independence and the ability to exercise effective oversight. These proposals include expanding the authorization to use testimonial subpoena authority throughout the IG community, reformation of the Program Fraud Civil Remedies Act, improving cybersecurity protections of vulnerable information, and implementing protections against reprisal for federal subgrantee employees.¹²⁹

SUMMARY OF KEY POINTS

- The IG Act established Inspectors General to promote economy, efficiency, and effectiveness and to prevent and detect fraud, waste, and waste in their agencies' programs; today there are 75 statutorily created OIGs.
- IGs must be selected on the basis of integrity and professional ability, without regard to political affiliation.
- The independence safeguards of Inspectors General include dual reporting requirements to the IG's agency head and Congress.
- The responsibilities of IGs include audits, inspections and evaluations, and investigations.
- OIGs have powerful tools including the right to access all agency records, subpoena power, and law enforcement authority.
- IGs have amassed an impressive record of accomplishments, including—in Fiscal Year 2021 alone—nearly \$62.7 billion in potential savings from audit recommendations;
 - \$12 billion in investigative recoveries;
 - 4,297 indictments and criminal informations;
 - 1,058 successful civil actions; and
 - 2,436 suspensions and debarments.¹³⁰
- Members of Congress have recently proposed legislation to strengthen the independence and powers of Inspectors General.

NOTES

1. The author is the Inspector General for the U.S. Department of the Interior and the Vice Chair for the Council of the Inspectors General on Integrity and Efficiency (CIGIE). He has been in the federal oversight community since 2003 and served with CIGIE as its Executive Director; the U.S. Department of Commerce Office of Inspector General as the Assistant Inspector General for Investigations, Deputy Assistant Inspector General for Compliance & Ethics, and Director of Special Investigations; U.S. Department of Justice Office of Inspector General as an Investigative Counsel in the special investigations unit; and the U.S. Senate Permanent Subcommittee on Investigations as Minority Staff Director and Chief Counsel, Deputy Chief Counsel, and Investigative Counsel. The author thanks L. Browning VanMeter Jr., Michael Thomas Wasenius, Sidrah Mirraaj-Raza, Lorraine A. Luciano, and Jill Baisinger for their contributions to this chapter, including conducting research and drafting text. *Any reference to any organization, products, or services does not constitute or imply the endorsement, recommendation, or favoring by the U.S. government, CIGIE, or the DOI OIG.* This chapter is available to the public at <https://www.doioig.gov/> and <https://www.ignet.gov/content/aba-law-journal-chapter-ethical-standards-public-sector-3rd-edition>.

2. COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY, PROGRESS REPORT TO THE PRESIDENT AND CONGRESS, FISCAL YEAR 2021, 1 (2021), <https://www.ignet.gov/sites/default/files/files/992-011CIGIEAnnualReport-Full508.pdf> (hereinafter 2021 CIGIE REPORT).

3. *E.g., id.* at 24–26.

4. This chapter describes Inspectors General in our federal system. Many states and some municipal governments also have Inspectors General that perform similar oversight functions. To learn more about IGs on the state and local level, *see* Frank Anechiarico &

Rose Gill Hearn, *Who Is the Inspector General?* HAMILTON DIGITAL COMMONS (Fall 2010), <https://digitalcommons.hamilton.edu/articles/147>; Phillip Zisman, *The People's Watchdog: Inspectors General Foster Accountability, Transparency*, CAPITOL IDEAS (2017), <https://issuu.com/csg-publications/docs/marapril2013>; Brian Peteritas, *States and Localities Realize the Importance of Inspectors General*, GOVERNING (June 27, 2013), <https://www.governing.com/archive/col-states-localities-realize-importance-of-inspectors-general.html>.

5. COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY, *THE INSPECTORS GENERAL 1* (2014), https://www.ignet.gov/sites/default/files/files/IG_Authorities_Paper_-_Final_6-11-14.pdf [hereinafter CIGIE IG Summary]. Before CIGIE was established as a stand-alone federal agency, two previous commissions performed similar functions. In 1981, The President's Council on Integrity and Efficiency (PCIE) was created by Executive Order (EO) 12301, to coordinate and enhance governmental efforts to promote integrity and efficiency and to detect and prevent fraud, waste, and abuse in federal programs. In 1992, EO 12805, created the Council on Integrity and Efficiency (ECIE) to perform this same mission among the agency-head appointed IGs. This 1992 Executive Order also updated the responsibilities of the PCIE. Subsequently, in 1996, EO 12993 instituted a special Integrity Committee to independently investigate allegations of wrongdoing by individual inspectors general. In 2008, the IG Reform Act consolidated the PCIE and ECIE into CIGIE as a unified council of all statutory Federal IGs. Exec. Order No. 12301, (46 Fed. Reg. 19211, March 30, 1981); Exec. Order No. 12805 (57 Fed. Reg. 20627, May 14, 1992); Exec. Order No. 12993 (61 FR 13043, Mar. 21, 1996). *See generally* AN INTRODUCTION TO THE INSPECTOR GENERAL COMMUNITY, (last accessed Feb. 19, 2021), <https://www.ignet.gov/sites/default/files/files/igbrochure04.pdf>; *see also* OFFICE OF THE INSPECTOR GENERAL U.S. DEPARTMENT OF TRANSPORTATION, *OIG HISTORY*, <https://www.oig.dot.gov/about-oig/oig-history> (last accessed Feb. 19, 2021).

6. *Id.*

7. *Id.* This expansion of OIGs is attributable to two legislative developments since 1978. First, amendments to the original IG Act—particularly those made in 1988—broadened the IG concept beyond the original 12 agencies, creating OIGs in most executive branch agencies. *See* 2021 CIGIE Report at 1. Second, several subsequent pieces of legislation, distinct from the IG Act, have instituted inspectors general in the legislative branch and intelligence agencies and established a number of temporary inspectors general to oversee specific federal government initiatives. *See* CIGIE IG Summary at 14. Currently, 65 OIGs were created by, derive their authority from, and operate pursuant to the provisions of the IG Act. *See id.* at 13 and CONGRESSIONAL RESEARCH SERVICE, *STATUTORY INSPECTORS GENERAL IN THE FEDERAL GOVERNMENT: A PRIMER 4* (2019), <https://fas.org/sgp/crs/misc/R45450.pdf>. The remaining nine are governed by the statutes establishing those offices; however, most are subject to various provisions of the IG Act as well. *Id.* at 14. These statutorily created OIGs are discussed in greater detail later.

8. Inspector General Act (IG Act) Section 3 “Appointment of Inspector General...” 5 U.S.C. App. 3 § 3(a) and Section 8 “Additional provisions... to the Inspector General of the Department of Defense” 5 U.S.C. App. 3 § 8G(c).

9. WENDY GINSBERG & MICHAEL GREENE, CONGRESSIONAL RESEARCH SERVICE, *FEDERAL INSPECTORS GENERAL: HISTORY, CHARACTERISTICS, AND RECENT CONGRESSIONAL ACTIONS* (2016), <http://www.fas.org/sgp/crs/misc/R43814.pdf> [hereinafter CRS Report 2016].

10. *See* CIGIE IG Summary at 2.

11. *See* CRS Report 2016 at 3; *see also* U.S. GOV'T ACCOUNTABILITY OFFICE, *GAO-09-270, SURVEY OF GOVERNANCE PRACTICES AND THE INSPECTORS GENERAL ROLE 40-41* (April 2009), <https://www.gao.gov/new.items/d09270.pdf>.

12. *See* CIGIE IG Summary at 2.

13. Pub. L. 110-181.

14. Pub. L. 108-375.

15. National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 378-85; Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343; CRS Report at 4. Kathy A. Buller, *Overseeing the Overseers: THE COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY*

AND EFFICIENCY (last accessed Sept. 18, 2019), https://www.ignet.gov/sites/default/files/files/Buller_Peace_Corps_OIG_Testimony_Sep_18_2019_for%20web.pdf.

16. IG Act Section 8 “Additional provisions . . . to the Inspector General of the Department of Defense” 5 U.S.C. App. 3 § 8L (2014).

17. *Id.*

18. Section 8L was put to use for the first time in December 2014 when the CIGIE Chair named Jon T. Rymer, Inspector General for the Department of Defense as the Lead Inspector General for Operation Inherent Resolve, the United States military’s official designation for ongoing operations against the Islamic State of Iraq and Syria. Press Release, Council of the Inspectors General on Integrity and Efficiency, Designation of Lead Inspector General for Overseas Contingency Operation, Operation Inherent Resolve (Dec. 19, 2014), <https://www.ignet.gov/sites/default/files/files/CIGIE%20Press%20Release%20-%202012-19-14.pdf>. It obviated the need for future legislation outside of the IG Act to establish special inspectors general, at least with respect to certain specified overseas contingency operations. Since the amendment passed, there have been more than five Lead IG Appointments for Military Overseas Operations. *See* DEPARTMENT OF DEFENSE OFFICE OF INSPECTOR GENERAL, LEAD INSPECTOR GENERAL REPORTS (last accessed Oct. 26, 2020), <https://www.dodig.mil/Reports/Lead-Inspector-General-Reports/>.

19. The Recovery Accountability and Transparency (RAT) Board was established as an independent Federal Board that had mandates similar to those of the PRAC. Pub. L. No. 111-5, 123 Stat. 115 (2009). *See also* COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY, IG ACT HISTORY, <https://www.ignet.gov/content/ig-act-history> (last accessed Oct. 26, 2020); Michael Wood, RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD (Oct. 14, 2011), https://www.nsf.gov/oig/_pdf/presentations/SD2011/5.pdf.

20. PANDEMIC RESPONSE ACCOUNTABILITY COMMITTEE, Top Challenges Facing Federal Agencies: COVID-19 Emergency Relief and Response Efforts (June 2020), https://www.oversight.gov/sites/default/files/oig-reports/Top%20Challenges%20Facing%20Federal%20Agencies%20-%20COVID-19%20Emergency%20Relief%20and%20Response%20Efforts_1.pdf.

21. PANDEMIC OVERSIGHT, ABOUT THIS WEBSITE, <https://www.pandemicoversight.gov/our-mission/about-this-website> (last accessed Oct. 26, 2020); PANDEMIC OVERSIGHT, PRAC MEMBERS, <https://www.pandemicoversight.gov/our-mission/prac-members> (last accessed Oct. 26, 2020).

22. SPECIAL INSPECTOR GENERAL FOR PANDEMIC RECOVERY, ABOUT SIGPR, <https://www.sigpr.gov/about-sigpr/sigpr-overview>.

23. IG Act Section 3 “Appointment of Inspector General...” 5 U.S.C. App. 3 § 3(b) and Section 8 “Additional provisions . . . to the Inspector General of the Department of Defense” 5 U.S.C. App. 3 § 8G(e) (2016). DFEs may have an additional requirement when a “board, chairman of a committee, or commission is the head of the designated Federal entity, as a removal under this subsection may only be made upon the written concurrence of a two-thirds majority of the board, committee, or commission”; the agency head must then provide 30 days’ written notice to both Houses of Congress. *Id.* § 8G(e)(1) (2016).

24. After the first presidential transition following the enactment of the 1978 IG Act, President Ronald Reagan removed all of the 15 IGs in office early in his first term but faced a bipartisan backlash in Congress and ultimately rehired several of those IGs. CONGRESSIONAL RESEARCH SERVICE, REMOVAL OF INSPECTORS GENERAL: RULES, PRACTICE, AND CONSIDERATION FOR CONGRESS (2020), <https://crsreports.congress.gov/product/pdf/IF/IF11546>. Since then, no president has entered office and attempted to remove large numbers of IGs appointed by his predecessors.

25. Todd Garvey, CONGRESSIONAL RESEARCH SERVICE, PRESIDENTIAL REMOVAL OF IGs UNDER THE INSPECTOR GENERAL ACT (May 22, 2020), <https://crsreports.congress.gov/product/pdf/LSB/LSB10476>.

26. *See also* U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-11-770, INSPECTORS GENERAL: REPORTING ON INDEPENDENCE, EFFECTIVENESS, AND EXPERTISE 8-9 (Sept. 2011), <http://www.gao.gov/assets/330/323642.pdf>.

27. IG Act Section 4 “Duties and Responsibilities...” 5 U.S.C. App. 3 § 4(a)(5).

28. *Id.*

29. See CONGRESSIONAL RESEARCH SERVICE, STATUTORY INSPECTORS GENERAL IN THE FEDERAL GOVERNMENT: A PRIMER 22 (2019), <https://fas.org/sgp/crs/misc/R45450.pdf>. See also PARTNERSHIP FOR PUBLIC SERVICE, WALKING THE LINE, INSPECTORS GENERAL BALANCING INDEPENDENCE AND IMPACT (Sept. 2016), <https://www.ourpublicservice.org/wp-content/uploads/2016/09/0bd2a00052bc1e7c216c5ee89fc4b457-1491000841.pdf> (Partnership for Public Service is a nonprofit and nonpartisan organization).

30. See IG Act Section 5 “Semiannual Reports . . .” 5 U.S.C. App. 3 § 5(a).

31. *Id.*; see also CIGIE IG Summary at 5.

32. See IG Act Section 5 “Semiannual Reports...” 5 U.S.C. App. 3 § 5(d).

33. *Id.*

34. U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-11-770, INSPECTORS GENERAL: REPORTING ON INDEPENDENCE, EFFECTIVENESS, AND EXPERTISE 8–9 (2011), <http://www.gao.gov/assets/330/323642.pdf> (explaining that, during fiscal years 2008, 2009, and 2010, only one out of 62 IGs surveyed had issued a seven-day letter) (“GAO-11-770”).

35. Kevin Bogardus, *Watchdogs Reluctant to Use “Nuclear Weapon,” an Alert to Congress*, GREENWIRE (Sept. 24, 2014), <http://www.eenews.net/greenwire/stories/1060006382> (quoting Earl Devaney, former Inspector General for the Department of the Interior).

36. See GAO-11-770.

37. *Id.* at 8.

38. ENVIRONMENTAL PROTECTION AGENCY, SEVEN DAY LETTER REFUSALS TO FULLY COOPERATE AND PROVIDE INFORMATION FOR AUDIT AND INVESTIGATION (Oct. 29, 2019), https://www.epa.gov/sites/production/files/2019-11/documents/_epaog_7dayletter_11-6-19.pdf.

39. Bogardus, *supra* note 35 (quoting Earl Devaney, former Inspector General for the Department of the Interior).

40. See CIGIE IG Summary at 5.

41. *Id.*

42. COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY, PRESIDENTIAL TRANSITION HANDBOOK: THE ROLE OF INSPECTORS GENERAL AND THE TRANSITION TO A NEW ADMINISTRATION 3 (Dec. 2020), <https://ignet.gov/sites/default/files/files/CIGIE-Presidential-Transition-Handbook.pdf> (“CIGIE Transitional Handbook”).

43. *Id.*

44. *Id.*

45. IG Act Section 3 “Appointment of Inspector General...” 5 U.S.C. App. 3 § 3(g) and IG Act Section 8 “Additional provisions... to the Inspector General of the Department of Defense” 5 U.S.C. App. § 8G(g)(4). Pursuant to 8G(g)(4)(C), the services obtained from another IG or CIGIE are reimbursable.

46. IG Act Section 5 “Semiannual Reports...” 5 U.S.C. App. 3 § 5(a)(21)(B).

47. IG Act Section 6 “Authority of Inspector General...” 5 U.S.C. App. 3 § 6(a)(2). See also *U.S. Nuclear Regulatory Comm’n, Wash., D.C. v. Fed. Labor Relations Auth.*, 25 F.3d 229, 235 (4th Cir. 1994) (referring to the supervisory authority exercised by agency heads over IGs as “nominal”).

48. IG Act Section 3 “Appointment of Inspector General...” 5 U.S.C. App. 3 § 3(a) and IG Act Section 8 “Additional provisions... to the Inspector General of the Department of Defense” 5 U.S.C. App. § 8G(d).

49. IG Act Section 3 “Appointment of Inspector General...” 5 U.S.C. App. 3 § 3(a) and IG Act Section 8 “Additional provisions... to the Inspector General of the Department of Defense” 5 U.S.C. App. 3 §§ 8, 8A, 8D, 8E, 8G(d). This prohibition is subject to one narrow exception: the heads of seven agencies—the Department of Defense, Department of Homeland Security, Department of Justice, Treasury Department, Federal Reserve Board, Consumer Financial Protection Bureau, and Postal Service—may prevent their IGs from engaging in these activities but only on the basis of a permissible reason specified under the IG Act. See CIGIE IG Summary at 4. Although the permissible reasons vary for each agency, they might include, among others, the preservation of national security, protecting ongoing criminal prosecutions, or that the information would significantly influence the economy or market behavior. *Id.* In order to promote accountability in the use of this power, an agency head invoking it must

send an explanatory note to the relevant IG, identifying the reason for its exercise, and within 30 days, the IG must transmit the note to the appropriate congressional committees. *Id.* at 5.

50. IG Act Section 3 “Appointment of Inspector General...” 5 U.S.C. App. 3 § 3(b) and IG Act Section 8 “Additional provisions... to the Inspector General of the Department of Defense” 5 U.S.C. App. 3 § 8G(e); *See also infra* section 5.

51. IG Act Section 8 “Additional provisions... to the Inspector General of the Department of Defense” 5 U.S.C. App. 3 § 8G(b) and IG Act Section 9 “Transfer of Functions” 5 U.S.C. App. 3 § 9(a)(2) (2016). *See also* Burlington Northern R. Co. v. Office of Inspector Gen. R.R. Retirement Bd., 983 F.2d 631, 635 (5th Cir. 1993) (explaining that Congress expressed an intent that Inspectors General not be allowed to conduct an agency’s program operating responsibilities).

52. *See* CIGIE IG Summary at 11.

53. IG Act Section 4 “Duties and Responsibilities...” 5 U.S.C. App. 3 §§ 4(a)(1), (a)(3) (2016).

54. JONATHAN D. SHAFFER & NORA BRENT, FEDERAL GRANT PRACTICE § 6:18 (2020 ed.) [hereinafter FEDERAL GRANT PRACTICE].

55. *Id.* § 6:18.

56. Federal Aviation Administration Reauthorization Act of 2018 [P.L. 115-254]. The act requires the Inspector General of each covered agency (or the senior ethics official of a covered agency without an Inspector General) to submit to Congress an audit not less than once every two years of the collection, production, acquisition, maintenance, distribution, use, and preservation of geospatial data by the covered agency.

57. Pub. L. No. 113-101, 128 Stat. 1146 (2014). *See also* U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-20-540, DATA ACT OIGs REPORTED THAT QUALITY OF AGENCY SUBMITTED DATA VARIED, AND MOST RECOMMENDED IMPROVEMENTS (July 2020), <https://www.gao.gov/assets/gao-20-540.pdf>. The act requires each Office of Inspector General (OIG) to issue reports on the quality of agency spending data. The OIGs determine quality based on the rate of data errors. In FY 2019, the Government Accounting Office issued a report concluding that out of 51 federal agencies, 37 OIGs reported that agency data submissions for the first quarter of FY 2019 had an error rate of less than 20%, but 10 of those submissions were missing data; 37 OIGs reported that agencies correctly used data standards; and 44 OIGs made recommendations to improve data quality at the agencies.

58. 2021 CIGIE Report at 11; U.S. GOVERNMENT ACCOUNTABILITY OFFICE, THE YELLOW BOOK, <https://www.gao.gov/yellowbook/overview#t=0> (last accessed Nov. 24, 2020) [hereinafter YELLOW BOOK].

59. COMPTROLLER GENERAL OF THE U.S., GOVERNMENT AUDITING STANDARDS 124, 141, 207 (2018). *See also* FEDERAL GRANT PRACTICE at § 48:18.

60. *E.g.*, FEDERAL GRANT PRACTICE at § 6:18; OFFICE OF INSPECTOR GENERAL, SMITHSONIAN INSTITUTION, UNDERSTANDING THE OIG AUDIT PROCESS, <http://www.si.edu/Content/OIG/Misc/UnderstandingAudits.pdf>.

61. FEDERAL GRANT PRACTICE at § 6:18.

62. OFFICE OF MANAGEMENT AND BUDGET, CIRCULAR No. A-50 REVISED, Sept. 29, 1982, https://www.whitehouse.gov/omb/circulars_a050 (last accessed Oct. 13, 2020) [hereinafter CIRCULAR No. A-50 REVISED].

63. *See* CIRCULAR No. A-50 REVISED.

64. *See* CIGIE IG Summary at 9, COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY, QUALITY STANDARDS FOR INSPECTION AND EVALUATION at 1 (2020), <https://www.ignet.gov/sites/default/files/files/QualityStandardsforInspectionandEvaluation-2020.pdf> [hereinafter BLUE BOOK].

65. *Id.* at 1.

66. COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY, GROWTH AND DEVELOPMENT OF THE INSPECTION AND EVALUATION COMMUNITY: 2010 SURVEY RESULTS at 6 (2011), <https://www.ignet.gov/sites/default/files/files/ie2011survey.pdf> [hereinafter CIGIE I & E Community].

67. CIGIE IG Summary at 7. *See also* Inspector General Act of 1978, 5 U.S.C. App. 3 § 11(c)(2)(A) (2014).

68. BLUE BOOK; YELLOW BOOK.

69. See BLUE BOOK at 8-18.
70. U.S. DEP'T OF STATE OFFICE OF THE INSPECTOR GENERAL, <https://www.stateoig.gov/about> (last accessed Dec. 4, 2020).
71. INSPECTOR GENERAL, U.S. DEP'T OF DEFENSE, *Semiannual Report to Congress* 43 (Sept. 30, 2020), <https://media.defense.gov/2020/Nov/30/2002542685/-1/-1/1/DOD%20OIG%20SEMIANNUAL%20REPORT%20TO%20THE%20CONGRESS%20APRIL%201,%202020%20TO%20SEPTEMBER%2030,%202020.PDF>.
72. CIGIE IG Summary at 9.
73. CIGIE I & E Community at 30.
74. E.g., OFFICE OF INSPECTOR GENERAL, FED. HOUSING FINANCE AGENCY, *What We Do* (last accessed Oct. 19, 2020), <https://www.fhfaig.gov/About/WhatWeDo>.
75. *Id.*
76. FEDERAL GRANT PRACTICE at § 6:19; OFFICE OF INSPECTOR GENERAL, U.S. DEP'T OF LABOR, *Office of Inspector General*, <https://www.oig.dol.gov/about.htm> (last accessed Oct. 19, 2020); OFFICE OF INSPECTOR GENERAL, SOCIAL SECURITY ADMINISTRATION, *What Do We Investigate?* (last accessed Oct. 13, 2020), <https://oig.ssa.gov/fraud-reporting/what-can-oig-investigate/>; OFFICE OF INSPECTOR GENERAL, U.S. DEP'T OF HEALTH & HUMAN SERVICES, *Fraud*, <http://oig.hhs.gov/fraud/> (last accessed Oct. 13, 2020).
77. See generally COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY, QUALITY STANDARDS FOR INVESTIGATIONS (2011), <https://www.ignet.gov/sites/default/files/files/committees/investigation/invprg1211appi.pdf> [hereinafter CIGIE Investigative Standards].
78. See CIGIE Investigative Standards at 10.
79. CIGIE Investigative Standards at 12.
80. OFFICE OF INSPECTOR GENERAL, U.S. DEP'T OF THE INTERIOR, OFFICE OF INVESTIGATIONS, <https://www.doiig.gov/about/oig-offices/office-investigations> (last accessed Oct. 16, 2020).
81. COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY, LOOKING INSIDE THE ACCOUNTABILITY TOOLBOX: AN UPDATE FROM THE CIGIE SUSPENSION AND DEBARMENT WORKING GROUP 1 (2013), <https://www.ignet.gov/sites/default/files/files/Suspension%20and%20Debarment%20Working%20Group%20Report%20-%202011-19-13.pdf>.
82. *Id.* at 7. Since the PFCRA allows agencies to pursue claims based on false statements that did not result in the payment of any funds by the agency, it provides agencies with an administrative avenue for taking action against those who unsuccessfully attempt to obtain federal grant funds under false pretenses. *Id.*
83. 5 C.F.R. § 734.102. The United States Office of Special Counsel has exclusive authority to investigate allegations of political activity prohibited by the Hatch Act Reform Amendments of 1993.
84. IG Act Section 4 “Duties and Responsibilities...” 5 U.S.C. App. 3 § 4(d) (2016).
85. E.g., OFFICE OF INSPECTOR GENERAL, U.S. DEP'T OF THE INTERIOR, *Complaint Hotline—Additional Information* (last accessed Mar. 29, 2022), <https://www.doiig.gov/complaints-requests/complaint-hotline/complaint-hotline-additional-information>.
86. OFFICE OF THE INSPECTOR GENERAL, U.S. DEP'T OF STATE, *Semiannual Report to Congress* (Mar. 31, 2017), https://www.stateoig.gov/system/files/oig_spring_2017_sar_508_0.pdf.
87. U.S. DEP'T OF JUSTICE OFFICE OF THE INSPECTOR GENERAL, *Interim Report on the Department of Justice's Handling of Known or Suspected Terrorists Admitted into the Federal Witness Security Program*, May 2013, <http://www.justice.gov/oig/reports/2013/a1323.pdf>.
88. SMALL BUSINESS ADMINISTRATION OFFICE OF INSPECTOR GENERAL, *Consolidated Findings of the Office of Inspector General Reports on SBA's Grant Programs, Fiscal Years 2014–2018*, Report No. 19-02, Nov. 8, 2018, <https://www.oversight.gov/report/sba/consolidated-findings-oig-reports-sbas-grant-programs-fys-2014-2018>.
89. U.S. DEP'T OF THE INTERIOR OFFICE OF THE INSPECTOR GENERAL, *Evil Twins, Eavesdropping & Password Cracking: How OIG Successfully Attacked DOI's Wireless Networks* (Sept. 16, 2020), <https://www.doiig.gov/reports/audit/evil-twins-eavesdropping-password-cracking-how-oig-successfully-attacked-fois>.

90. U.S. DEP'T OF TRANSPORTATION OFFICE OF THE INSPECTOR GENERAL, *Semiannual Report to Congress* at 31 (Sept. 30, 2019), <https://www.oig.dot.gov/sites/default/files/DOT%20OIG%20Semiannual%20Report%20to%20Congress%5EApril%202019%20-%20September%202019.pdf>.

91. U.S. DEP'T OF THE INTERIOR OFFICE OF THE INSPECTOR GENERAL, *Semiannual Report to Congress* at 14, April 2014, <https://www.doioig.gov/reports/semiannual-report/april-2014-semiannual-report-congress>.

92. U.S. DEP'T OF VETERANS AFFAIRS OFFICE OF THE INSPECTOR GENERAL, *Semiannual Report to Congress* at 53, Sept. 30, 2018, <https://www.va.gov/oig/pubs/sars/vaoig-sar-2018-2.pdf>.

93. OFFICE OF THE INSPECTOR GENERAL U.S. GENERAL SERVICES ADMINISTRATION, *Management Deficiency Report*, Apr. 2, 2012, https://www.gsaig.gov/sites/default/files/news/Final%20Management%20Deficiency%20Report_WRC_2012%20April%202%20%28508%20compliant%29.pdf.

94. COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY at 15, *Annual Report to the President and Congress*, 2019, https://www.ignet.gov/sites/default/files/files/FY19_Annual_Report_to_the_President_and_Congress.pdf.

95. IG Act Section 6 “Authority of Inspector General...” 5 U.S.C. App. 3 § 6(a)(1) (2016).

96. IG Act Section 6 “Authority of Inspector General...” 5 U.S.C. App. 3 § 6(c)(2) and IG Act Section 5 “Semiannual Reports...” 5 U.S.C. App. 3 § 5(a)(5) (2016).

97. IG Act Section 6 “Authority of Inspector General...” 5 U.S.C. App. 3 § 6(a)(3).

98. IG Act Section 6 “Authority of Inspector General...” 5 U.S.C. App. 3 § 6(c)(1).

99. IG Act Section 6 “Authority of Inspector General...” 5 U.S.C. App. 3 § 6(c)(2).

100. IG Act Section 6 “Authority of Inspector General...” 5 U.S.C. App. 3 § 6(a)(4). *See also Report to Congress on the Use of Administrative Subpoena Authorities by Executive Branch Agencies and Entities*, U.S. Dep't of Justice Office of Legal Policy (Dec. 2002), http://www.justice.gov/archive/olp/rpt_to_congress.htm#2b.

101. IG Act Section 6 “Authority of Inspector General...” 5 U.S.C. App. 3 § 6(f)(1). Twenty-five of these IGs are authorized law enforcement authority by § 6(f)(3). Others have either been conferred such authority by the Attorney General in accordance with § 6(f)(2) or derive their law enforcement authority from legislation other than the IG Act.

102. IG Act Section 6 “Authority of Inspector General...” 5 U.S.C. App. 3 § 6(f)(4); Office of the Attorney General, Attorney General Guidelines for Offices of Inspector General with Statutory Law Enforcement Authority (2003), <https://www.ignet.gov/sites/default/files/files/agleguidelines.pdf>.

103. Letter from Forty-Seven Inspectors General to Hon. Darrell Issa, Chairman, House Committee on Oversight and Government Reform, et al. (Aug. 5, 2014), <https://www.govinfo.gov/content/pkg/CHRG-113hhrg91650/pdf/CHRG-113hhrg91650.pdf>, at 61.

104. *Id.*

105. *E.g.*, Inspector General Empowerment Act of 2014 (HR 5492); Inspector General Empowerment Act of 2015 (S. 579, 114th Cong., 1st Sess.).

106. Inspector General Empowerment Act of 2016, Pub. L. No. 114-317, 130 Stat. 1595 (2016) (IGEA).

107. U.S. DEP'T OF JUSTICE OFFICE OF THE INSPECTOR GENERAL, *House Passes IG Empowerment Act* (June 21, 2016), <https://oig.justice.gov/news/house-passes-ig-empowerment-act>.

108. Privacy Protection Act, 5 U.S.C. § 552a; Computer Matching and Privacy Protection Act of 1988, Pub. L. No. 100-503. The Computer Matching and Privacy Protection Act allows for improved identification of improper and duplicative government expenditures, in part by requiring Federal agencies to enter into written agreements with other agencies or non-federal entities before disclosing records for use in computer matching programs.

109. IGEA, § 2 (amending Inspector General Act of 1978, 5 USCA App. 3 § 6, to expressly exempt Inspectors General from the information sharing and matching requirements of the Privacy Protection Act and expressly exempting Inspectors General from the Paperwork Reduction Act).

110. Paperwork Reduction Act, PL 104-13, 109 Stat. 163 (1995).

111. IGEA § 2.

112. Pub. L. No. 114-317; *see also* IGEA § 4(b).

113. IGEA §§ 4, 11. Section 11 is intended to improve the Integrity Committee, which is responsible for receiving, reviewing, and referring investigations, if deemed appropriate, regarding allegations of wrongdoing made against senior IG employees. Before implementation of the IGEA, this process was managed by the FBI. The Integrity Committee is now managed by CIGIE. CIGIE also launched Oversight.gov following enactment of the IGEA to enhance the public's access to information. This is a website that enables the public to follow the oversight work of all federal IGs that release public reports. *See* U.S. DEP'T OF JUSTICE OFFICE OF THE INSPECTOR GENERAL, *Statement of Michael E. Horowitz Chair* (Sept. 18, 2019), https://oig.justice.gov/sites/default/files/2019-12/t190918_0.pdf. *See also* COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY, *Annual Report to the President and Congress*, 2017, https://www.ignet.gov/sites/default/files/files/FY17_Annual_Report_to_the_President_and_Congress.pdf.

114. *Id.*

115. IGEA § 5(a)(19)-(22).

116. *Id.* IG Act Section 4 “Duties and Responsibilities...” 5 U.S.C. App. 3 § 4(e)(1)(C) (requiring certain recommendations be made public and setting out procedures for certain public disclosures not later than three days after the recommendation for corrective action is submitted in final form to the head of the establishment).

117. CONGRESSIONAL RESEARCH SERVICE, STATUTORY INSPECTORS GENERAL IN THE FEDERAL GOVERNMENT: A PRIMER 4 (Jan. 3, 2019), <https://fas.org/sgp/crs/misc/R45450.pdf>.

118. IGEA § 4. *See also* U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-18-270, INSPECTORS GENERAL: INFORMATION ON VACANCIES AND IG COMMUNITY VIEWS ON THEIR IMPACT (2018), <http://www.gao.gov/assets/700/690561.pdf>.

119. *Id.* at 32. The report surveyed nine acting IGs and a random sample of OIG employees working under the acting IGs. GAO concluded that, overall, the vacant IG positions did not impact the “OIGs’ ability to carry out their duties and responsibilities.” However, most OIG employees who were polled expressed the opinion that an acting IG may *appear* to have less independence.

120. COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY (Oct. 8, 2020), https://www.ignet.gov/sites/default/files/files/CIGIE-Views-Letter-House-NDAA-HR-6395-Sec1115_10082020.pdf.

121. *E.g.*, COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY (July 8, 2020), https://www.ignet.gov/sites/default/files/files/S3994_CIGIE_Views_letter_07082020.pdf [hereinafter CIGIE Views Letter].

122. *See id.*

123. COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY, *supra* note 120.

124. *See* CIGIE Transition Handbook, 17; *see also* ALL FEDERAL INSPECTORS GENERAL REPORTS IN ONE PLACE, INSPECTOR GENERAL VACANCIES, <https://www.oversight.gov/ig-vacancies> (last accessed Nov. 12, 2020).

125. COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY, *Inspectors General Directory*, <https://ignet.gov/content/inspectors-general-directory> (last visited Oct. 26, 2020).

126. THE WHITE HOUSE, *The Cabinet*, <https://www.whitehouse.gov/administration/cabinet/> (last accessed Mar. 29, 2022). In order of the number of days vacant, these vacancies are Department of Defense, Department of the Treasury, and Department of State, <https://www.oversight.gov/ig-vacancies>.

127. Courtney Buble, *Inspector General Vacancies Continue to Jeopardize Oversight and Investigations*, GOV'T EXECUTIVE (Sept. 18, 2019), <https://www.govexec.com/oversight/2019/09/inspector-general-vacancies-continue-jeopardize-oversight-and-investigations/159978/>.

128. BIPARTISAN POLICY CENTER, OVERSIGHT MATTERS: WHAT'S NEXT FOR INSPECTORS GENERAL (July 2018), <https://bipartisanpolicy.org/wp-content/uploads/2019/03/Oversight-Matters-Whats-Next-for-Inspectors-General.pdf>.

129. COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY (Jan. 28, 2021), https://www.ignet.gov/sites/default/files/untracked/CIGIE_Legislative_Priorities_117th_Congress.pdf.

130. 2021 CIGIE Report, 1.