

PAYMENT AUTHORITY SUBJECT TO APPROPRIATIONS

Pub. L. 100-504, title I, §112, Oct. 18, 1988, 102 Stat. 2530, provided that: "Any authority to make payments under this title [see Short Title of 1988 Amendment note above] shall be effective only to such extent as provided in appropriations Acts."

§ 2. Purpose and establishment of Offices of Inspector General; departments and agencies involved

In order to create independent and objective units—

(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 12(2);

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

there is established—

(A) in each of such establishments an office of Inspector General, subject to subparagraph (B); and

(B) in the establishment of the Department of the Treasury—

(i) an Office of Inspector General of the Department of the Treasury; and

(ii) an Office of Treasury Inspector General for Tax Administration.

(Pub. L. 95-452, §2, Oct. 12, 1978, 92 Stat. 1101; Pub. L. 96-88, title V, §508(n)(1), Oct. 17, 1979, 93 Stat. 694; Pub. L. 97-113, title VII, §705(a)(1), Dec. 29, 1981, 95 Stat. 1544; Pub. L. 97-252, title XI, §1117(a)(1), Sept. 8, 1982, 96 Stat. 750; Pub. L. 99-93, title I, §150(a)(1), Aug. 16, 1985, 99 Stat. 427; Pub. L. 99-399, title IV, §412(a)(1), Aug. 27, 1986, 100 Stat. 867; Pub. L. 100-504, title I, §102(a), (b), Oct. 18, 1988, 102 Stat. 2515; Pub. L. 100-527, §13(h)(1), Oct. 25, 1988, 102 Stat. 2643; Pub. L. 105-206, title I, §1103(a), July 22, 1998, 112 Stat. 705; Pub. L. 110-409, §7(d)(1)(A), Oct. 14, 2008, 122 Stat. 4313.)

CODIFICATION

Amendment by Pub. L. 100-527 amended section as it existed prior to amendment by Pub. L. 100-504, see Effective Date of 1988 Amendments note below.

AMENDMENTS

2008—Par. (1). Pub. L. 110-409 substituted "section 12(2)" for "section 11(2)".

1998—Pub. L. 105-206, in concluding provisions, substituted "there is established—" and subpars. (A) and (B) for "there is hereby established in each of such establishments an office of Inspector General."

1988—Pub. L. 100-504 substituted "there" for "thereby" in concluding provisions and amended par. (1) generally. Prior to amendment, par. (1), as amended by Pub. L. 100-527, read as follows: "to conduct and supervise audits and investigations relating to programs and operations of the Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Education, the Department of Housing

and Urban Development, the Department of the Interior, the Department of Labor, the Department of Transportation, the Department of Veterans Affairs, the Agency for International Development, the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, the United States Information Agency, and the Department of State;".

Par. (1). Pub. L. 100-527 inserted "the Department of Veterans Affairs," and struck out "the Veterans' Administration," after "United States Information Agency,". See Codification note above.

1986—Par. (1). Pub. L. 99-399 inserted "the United States Information Agency,".

1985—Par. (1). Pub. L. 99-93 inserted reference to the Department of State.

1982—Par. (1). Pub. L. 97-252, §1117(a)(1), inserted "the Department of Defense,".

1981—Par. (1). Pub. L. 97-113 inserted "the Agency for International Development,".

1979—Par. (1). Pub. L. 96-88 inserted "the Department of Education,".

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100-527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

Amendment by Pub. L. 100-504 effective 180 days after Oct. 18, 1988, see section 113 of Pub. L. 100-504, set out as a note under section 5 of Pub. L. 95-452 in this Appendix.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of Title 20, Education.

§ 3. Appointment of Inspector General; supervision; removal; political activities; appointment of Assistant Inspector General for Auditing and Assistant Inspector General for Investigations

(a) There shall be at the head of each Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Each Inspector General shall report to and be under the general supervision of the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not report to, or be subject to supervision by, any other officer of such establishment. Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

(b) An Inspector General may be removed from office by the President. If an Inspector General is removed from office or is transferred to another position or location within an establishment, the President shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. Nothing in

this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.

(c) For the purposes of section 7324 of title 5, United States Code, no Inspector General shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

(d)(1) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(A) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the establishment;

(B) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations; and

(C) designate a Whistleblower Protection Ombudsman who shall educate agency employees—

(i) about prohibitions on retaliation for protected disclosures; and

(ii) who have made or are contemplating making a protected disclosure about the rights and remedies against retaliation for protected disclosures.

(2) The Whistleblower Protection Ombudsman shall not act as a legal representative, agent, or advocate of the employee or former employee.

(3) For the purposes of this section, the requirement of the designation of a Whistleblower Protection Ombudsman under paragraph (1)(C) shall not apply to—

(A) any agency that is an element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) [50 U.S.C. 3003(4)]); or

(B) as determined by the President, any executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counter intelligence activities.

(e) The annual rate of basic pay for an Inspector General (as defined under section 12(3)) shall be the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, plus 3 percent.

(f) An Inspector General (as defined under section 8G(a)(6) or 12(3)) may not receive any cash award or cash bonus, including any cash award under chapter 45 of title 5, United States Code.

(g) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service, obtain legal advice from a counsel either reporting directly to the Inspector General or another Inspector General.

(Pub. L. 95-452, § 3, Oct. 12, 1978, 92 Stat. 1101; Pub. L. 110-409, §§ 3(a), 4(a)(1), 5, 6(a), Oct. 14, 2008, 122 Stat. 4302, 4305; Pub. L. 112-199, title I, § 117(a), Nov. 27, 2012, 126 Stat. 1474.)

AMENDMENT OF SECTION

For termination of amendment by section 117(c) of Pub. L. 112-199, see Effective and Termination Dates of 2012 Amendment note below.

AMENDMENTS

2012—Subsec. (d). Pub. L. 112-199, § 117(a), (c), temporarily added subsec. (d) and struck out former subsec.

(d) which read as follows: “Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

“(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the establishment, and

“(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.”

See Effective and Termination Dates of 2012 Amendment note below.

2008—Subsec. (b). Pub. L. 110-409, § 3(a), substituted “If an Inspector General is removed from office or is transferred to another position or location within an establishment, the President shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.” for “The President shall communicate the reasons for any such removal to both Houses of Congress.”

Subsec. (e). Pub. L. 110-409, § 4(a)(1), added subsec. (e).

Subsec. (f). Pub. L. 110-409, § 5, added subsec. (f).

Subsec. (g). Pub. L. 110-409, § 6(a), added subsec. (g).

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Pub. L. 112-199, title I, § 117(c), Nov. 27, 2012, 126 Stat. 1475, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 8D of Pub. L. 95-452, set out in this Appendix] shall cease to have effect on the date that is 5 years after the date of enactment of this Act [Nov. 27, 2012].

“(2) RETURN TO PRIOR AUTHORITY.—Upon the date described in paragraph (1), section 3(d) and section 8D(j) of the Inspector General Act of 1978 (5 U.S.C. App.) shall read as such sections read on the day before the date of enactment of this Act.”

Amendment by Pub. L. 112-199 effective 30 days after Nov. 27, 2012, see section 202 of Pub. L. 112-199, set out as an Effective Date of 2012 Amendment note under section 1204 of this title.

CONSTRUCTION

Pub. L. 110-409, § 6(c), Oct. 14, 2008, 122 Stat. 4305, provided that: “Nothing in the amendments made by this section [amending this section and section 8G of Pub. L. 95-452, set out in this Appendix] shall be construed to alter the duties and responsibilities of the counsel for any establishment or designated Federal entity, except for the availability of counsel as provided under sections 3(g) and 8G(g) of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by this section). The Counsel to the Inspector General shall perform such functions as the Inspector General may prescribe.”

PAY OF INSPECTORS GENERAL

Pub. L. 110-409, § 4(a)(3), Oct. 14, 2008, 122 Stat. 4303, as amended by Pub. L. 111-259, title IV, § 405(b), Oct. 7, 2010, 124 Stat. 2719, provided that:

“(A) IN GENERAL.—Notwithstanding any other provision of law, the annual rate of basic pay of the Inspector General of the Intelligence Community, the Inspector General of the Central Intelligence Agency, the Special Inspector General for Iraq Reconstruction, and the Special Inspector General for Afghanistan Reconstruction shall be that of an Inspector General as defined under section 12(3) of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by section 7(a) of this Act).

“(B) PROHIBITION OF CASH BONUS OR AWARDS.—Section 3(f) of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by section 5 of this Act) shall apply to the Inspectors General described under subparagraph (A).”

Pub. L. 110-409, § 4(b)-(d), Oct. 14, 2008, 122 Stat. 4304, provided that:

“(b) INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Inspector General of each designated Federal entity (as those terms are defined under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)) shall, for pay and all other purposes, be classified at a grade, level, or rank designation, as the case may be, at or above those of a majority of the senior level executives of that designated Federal entity (such as a General Counsel, Chief Information Officer, Chief Financial Officer, Chief Human Capital Officer, or Chief Acquisition Officer). The pay of an Inspector General of a designated Federal entity (as those terms are defined under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)) shall be not less than the average total compensation (including bonuses) of the senior level executives of that designated Federal entity calculated on an annual basis.

“(2) LIMITATION ON ADJUSTMENT.—

“(A) IN GENERAL.—In the case of an Inspector General of a designated Federal entity whose pay is adjusted under paragraph (1), the total increase in pay in any fiscal year resulting from that adjustment may not exceed 25 percent of the average total compensation (including bonuses) of the Inspector General of that entity for the preceding 3 fiscal years.

“(B) SUNSET OF LIMITATION.—The limitation under subparagraph (A) shall not apply to any adjustment made in fiscal year 2013 or each fiscal year thereafter.

“(c) SAVINGS PROVISION FOR NEWLY APPOINTED INSPECTORS GENERAL.—

“(1) IN GENERAL.—The provisions of section 3392 of title 5, United States Code, other than the terms ‘performance awards’ and ‘awarding of ranks’ in subsection (c)(1) of such section, shall apply to career appointees of the Senior Executive Service who are appointed to the position of Inspector General.

“(2) NONREDUCTION IN PAY.—Notwithstanding any other provision of law, career Federal employees serving on an appointment made pursuant to statutory authority found other than in section 3392 of title 5, United States Code, shall not suffer a reduction in pay, not including any bonus or performance award, as a result of being appointed to the position of Inspector General.

“(d) SAVINGS PROVISION.—Nothing in this section [amending this section, section 5315 of Title 5, Government Organization and Employees, and section 12651e of Title 42, The Public Health and Welfare, and enacting provisions set out as a note under this section] shall have the effect of reducing the rate of pay of any individual serving on the date of enactment of this section [Oct. 14, 2008] as an Inspector General of—

“(1) an establishment as defined under section 12(2) of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by section 7(a) of this Act);

“(2) a designated Federal entity as defined under section 8G(2) of the Inspector General Act of 1978 (5 U.S.C. App.);

“(3) a legislative agency for which the position of Inspector General is established by statute; or

“(4) any other entity of the Government for which the position of Inspector General is established by statute.”

ACTING TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

Pub. L. 105-277, div. C, title I, §101, Oct. 21, 1998, 112 Stat. 2681-584, as amended by Pub. L. 106-113, div. B, §1000(a)(5) [title II, §239(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A-302, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of law, the President may appoint an acting Treasury Inspector General for Tax Administration to serve during the period—

“(1) beginning on the date of the enactment of this section [Oct. 21, 1998] (or, if later, the date of the appointment), and

“(2) ending on the earlier of—

“(A) April 30, 1999, or

“(B) the date on which the first Treasury Inspector General for Tax Administration takes office (other than pursuant to this section).

“(b) DUTIES BEFORE JANUARY 18, 1999.—The acting Treasury Inspector General for Tax Administration appointed under subsection (a) shall, before January 18, 1999, take only such actions as are necessary to begin operation of the Office of Treasury Inspector General for Tax Administration, including—

“(1) making interim arrangements for administrative support for the Office,

“(2) establishing interim positions in the Office into which personnel will be transferred upon the transfer of functions and duties to the Office on January 18, 1999,

“(3) appointing such acting personnel on an interim basis as may be necessary upon the transfer of functions and duties to the Office on January 18, 1999, and

“(4) providing guidance and input for the fiscal year 2000 budget process for the Office.

“(c) ACTIONS NOT TO LIMIT AUTHORITY OF IG.—None of the actions taken by an individual appointed under subsection (a) shall affect the future authority of any Treasury Inspector General for Tax Administration not appointed under subsection (a).

“(d) LIMITATIONS.—

“(1) NOMINATION.—No individual appointed under subsection (a) may serve on or after January 19, 1999, unless on or before such date the President has submitted to the Senate his nomination of an individual to serve as the first Treasury Inspector General for Tax Administration.

“(2) TREASURY INSPECTOR GENERAL MAY NOT SERVE.—No individual appointed under subsection (a) may serve during any period such individual is serving as the Inspector General of the Treasury of the United States or the acting Inspector General of the Treasury of the United States.

“(3) EMPLOYMENT RESTRICTIONS.—The provisions of section 8D(j) of the Inspector General Act of 1978 (5 U.S.C. App.) shall not apply to any individual appointed under subsection (a).”

[Pub. L. 106-113, div. B, §1000(a)(5) [title II, §239(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-302, provided that: “The amendment made by subsection (a) [amending section 101 of Pub. L. 105-277, set out above] shall be effective as if included in the enactment of section 101 of title I of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 [Pub. L. 105-277].”]

TRANSITIONAL PROVISIONS RELATING TO APPOINTMENT OF INSPECTOR GENERAL OF FEDERAL DEPOSIT INSURANCE CORPORATION

Pub. L. 103-204, §23(c), Dec. 17, 1993, 107 Stat. 2408, provided that:

“(1) CURRENT SERVICE.—Except as otherwise provided by law, the individual serving as the Inspector General of the Federal Deposit Insurance Corporation before the date of enactment of this Act [Dec. 17, 1993] may continue to serve in such position until the earlier of—

“(A) the date on which the President appoints a successor under section 3(a) of the Inspector General Act of 1978 [subsec. (a) of this section]; or

“(B) the date which is 6 months after the date of enactment of this Act.

“(2) DEFINITION.—For purposes of paragraph (1), the term ‘successor’ may include the individual holding the position of Inspector General of the Federal Deposit Insurance Corporation on or after the date of enactment of this Act.”

EXECUTIVE ORDER NO. 12993

Ex. Ord. No. 12993, Mar. 21, 1996, 61 F.R. 13043, which related to administrative allegations against Inspectors General, was omitted from the Code pursuant to Pub. L. 110-409, §7(c)(2), Oct. 14, 2008, 122 Stat. 4313,

which provided that Ex. Ord. No. 12933 (probably meaning Ex. Ord. No. 12993), as in effect before Oct. 14, 2008, was to have no force or effect on and after the earlier of either the date on which the Council of the Inspectors General on Integrity and Efficiency becomes effective and operational or the last day of the 180-day period beginning on Oct. 14, 2008. See section 7(c)(2) of Pub. L. 110-409, set out as an Effective Date; Existing Executive Orders note under section 11 of this Appendix.

§ 4. Duties and responsibilities; report of criminal violations to Attorney General

(a) It shall be the duty and responsibility of each Inspector General, with respect to the establishment within which his Office is established—

(1) to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of such establishment;

(2) to review existing and proposed legislation and regulations relating to programs and operations of such establishment and to make recommendations in the semiannual reports required by section 5(a) concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by such establishment or the prevention and detection of fraud and abuse in such programs and operations;

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

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

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

(b)(1) In carrying out the responsibilities specified in subsection (a)(1), each Inspector General shall—

(A) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

(B) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

(C) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

(2) For purposes of determining compliance with paragraph (1)(A) with respect to whether internal quality controls are in place and operating and whether established audit standards, policies, and procedures are being followed by Offices of Inspector General of establishments defined under section 12(2), Offices of Inspector General of designated Federal entities defined under section 8F(a)(2),¹ and any audit office established within a Federal entity defined under section 8F(a)(1),¹ reviews shall be performed exclusively by an audit entity in the Federal Government, including the Government Accountability Office or the Office of Inspector General of each establishment defined under section 12(2), or the Office of Inspector General of each designated Federal entity defined under section 8F(a)(2).¹

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

(d) In carrying out the duties and responsibilities established under this Act, each Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

(Pub. L. 95-452, § 4, Oct. 12, 1978, 92 Stat. 1102; Pub. L. 100-504, title I, § 109, Oct. 18, 1988, 102 Stat. 2529; Pub. L. 103-82, title II, § 202(g)(5)(A), Sept. 21, 1993, 107 Stat. 890; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110-409, § 7(d)(1)(A), Oct. 14, 2008, 122 Stat. 4313.)

REFERENCES IN TEXT

Section 8F, referred to in subsec. (b)(2), which related to requirements for Federal entities and designated Federal entities, was renumbered section 8G by Pub. L. 103-204, § 23(a)(3), Dec. 17, 1993, 107 Stat. 2408.

AMENDMENTS

2008—Subsec. (b)(2). Pub. L. 110-409 substituted “section 12(2)” for “section 11(2)” in two places.

2004—Subsec. (b)(2). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

1993—Subsec. (b)(2). Pub. L. 103-82 substituted “section 8F(a)(2), and any” for “section 8E(a)(2), and any”, “section 8F(a)(1)” for “section 8E(a)(1)”, and “section 8F(a)(2)” for “section 8E(a)(2).”

1988—Subsec. (b). Pub. L. 100-504 designated existing provisions as par. (1), redesignated pars. (1) to (3) as subpars. (A) to (C), respectively, and added par. (2).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 202(i) of Pub. L. 103-82, set out as an Effective Date note under section 12651 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-504 effective 180 days after Oct. 18, 1988, see section 113 of Pub. L. 100-504, set out

¹ See References in Text note below.