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An Introduction to Oversight of Offices of Inspector General

“Who watches the watchers?” is a question that is frequently posed when people consider the role of oversight bodies, including offices of inspector general (OIGs). However, the organization of OIGs may pose unique challenges that make it more difficult to conduct oversight of their activities. In particular, the level of independence from agency leaders that allows inspectors general (IGs) to conduct their audits and investigations with less risk of actual or perceived interference also makes it more difficult to identify and remedy issues that arise within an OIG by limiting their supervision by senior agency officials.

While oversight of OIGs may create specific challenges for Congress and other stakeholders, the efficient and effective operation of OIGs, like the agencies and officials they oversee, is important to the successful operation of the government.

Congress has grappled with the organizational challenge of IG oversight through the Inspector General Act (IG Act) of 1978 (5 U.S.C. App.). While Section 3(a) of the act states that each IG “shall report to and be under the general supervision of the establishment” in which they serve, it also states that agency leadership may not “prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation.” In practice, these provisions mean that OIGs typically operate with less supervision from agency leaders than other officials do.

While the overall focus of the IG Act is oriented toward independence for IGs, particularly from those officials who they oversee, it does contain several discrete provisions, which are discussed throughout this In Focus, that facilitate or require specific forms of oversight of OIGs.

This In Focus details how the IG Act addresses oversight of OIGs and provides information on government organizations that have formal and informal oversight roles with regard to the IG community, including the IG community itself, other oversight offices, the President, agency leaders, and Congress.

The Inspector General Community

A consistent form of oversight of OIGs comes from the inspector general community itself. The Council of Inspectors General on Integrity and Efficiency (CIGIE) is composed of inspectors general and certain other oversight officials who are tasked with, among other things, increasing the “professionalism and effectiveness” of OIGs. CIGIE conducts oversight of particular OIG through two principle mechanisms: its Integrity Committee and OIG peer reviews.

The Integrity Committee is a body within CIGIE created under Section 11(d) of the IG Act and tasked with receiving and reviewing allegations of wrongdoing against IGs and OIG staff. Investigative reports of the Integrity Committee are provided to both the appropriate congressional committees and the President (or agency head if that official appoints the agency’s IG).

The IG community also conducts regular peer reviews in which OIGs evaluate each other’s procedures and recent work to determine compliance with government audit, investigation, and inspection standards. These reviews provide regular opportunities for OIGs to receive expert evaluations of their activities.

Other Oversight Offices

In addition to reviews within the IG community, other federal entities may also oversee OIGs in some circumstances. The Government Accountability Office (GAO), in particular, has the authority to investigate the operations of OIGs and to improve their effectiveness and compliance with laws, regulations, and best practices for audits and investigations. For instance, in April 2021, GAO published a preliminary report on its review of the Department of Homeland Security OIG at the request of the House Committee on Homeland Security and appeared at a hearing on the subject before the committee (GAO-21-452T).

Under Section 4(b) of the IG Act, OIGs are also required to comply with GAO auditing standards. GAO may conduct compliance reviews to ensure that each OIG is adhering to those standards and make recommendations related to the operations of OIGs.

In addition, officials within OIGs may be subject to the jurisdiction of the Office of Government Ethics and the Office of Special Counsel in some circumstances. Potential violations of federal criminal law may be reviewed by the Department of Justice.

The President

One of Congress’s principal design decisions in the creation of OIGs has been to provide a relatively high degree of independence from the President and agency leaders. When Presidents have been perceived to act against that expectation of independence, even when they are acting in a manner allowed under the IG Act, they have typically been met with bipartisan criticism in Congress. For more information, see CRS In Focus IF11546, *Removal of Inspectors General: Rules, Practice, and Considerations for Congress*, by Ben Wilhelm.

Nonetheless, regardless of past practice and stakeholder expectations, the President does have authority to remove presidentially appointed IGs so long as he or she provides written notice, including reasons for acting, to Congress 30 days before the removal of the IG (IG Act § 3(b)).

Thus, while a President can remove an IG that he or she believes is not performing to the standards of the IG community or the IG Act, such an action could risk pulling attention away from the justifications for the removal and placing focus on the broader issue of IG independence. Nonetheless, there may be circumstances in which the presidential removal of an IG would be considered justified by other IG community stakeholders.

For instance, one possible example of such a situation is illustrated by an April 14, 2021, letter from the CIGIE Integrity Committee to President Joe Biden recommending that he consider “substantial disciplinary action, up to and including removal” for Federal Housing Finance Authority IG Laura Wertheimer. This recommendation was based on allegations of official misconduct reported to and investigated by the Integrity Committee. IG Wertheimer announced on June 29, 2021, that she would resign from her position on July 30, 2021.

Agency Leadership

While OIGs are under the “general supervision” of their agency leadership, agency officials are not supposed to play a role in OIG decisions about investigations and audits, except that they are to be kept informed of the findings and recommendations arising from the work of their agency’s OIG (IG Act § 4(a)(5)). As a practical matter, the relationship between agency and OIG leaders might be complex, but OIGs typically operate without direct interference. This arrangement is supported by the ability of an OIG to report to Congress on any agency leadership attempt to interfere with its work.

Despite this general limit on agency capacity to oversee OIGs, there are two notable exceptions.

First, IGs who serve in a Designated Federal Entity (DFE) as defined in Section 8G of the IG Act are appointed by and can be removed by the leadership of the agency they oversee rather than by the President. Removal of an IG by the head of a DFE is subject to the same notice requirement as removal by the President, and a removal action might lead to the same concerns as removal by the President.

Second, while the issue of IG jurisdiction is separate from oversight of OIGs, it should be noted that some agency heads (including, for example, the Secretary of Defense and the director of the Central Intelligence Agency) have the authority, with notification to Congress, to prevent OIGs from looking at specific issues related to national security and other matters that might require secrecy.

Congress

While each of the entities discussed above plays a role in the oversight of OIGs, it may be the case that the primary

responsibility for overseeing OIGs and ensuring that they are accountable ultimately falls upon Congress.

Congress does not have a direct role in the selection or removal of IGs aside from the exercise of the Senate’s Advice and Consent authority for presidentially appointed IGs and the establishment of general qualification criteria for IG nominees through the legislative process.

Nonetheless, Congress can directly impact OIGs through the appropriations process and its authority to amend statutes to alter the organization and authority of OIGs. Further, Congress’s ability to conduct hearings, request investigations, and publicly comment on the activities of OIGs can be another important tool for ensuring that OIGs operate in an effective manner that is consistent with the expectations of policymakers.

In addition, Congress is a principal stakeholder for the IG community and regularly relies upon OIGs to identify compliance issues in agencies; conduct independent, expert reviews of complex or controversial topics; and issue recommendations that can help Congress and agencies resolve identified problems.

Congress, therefore, occupies an unusual position as both a regular user of OIG work products and a body that can oversee OIG performance. This combination may mean that Congress brings its own perspective on the effectiveness of OIGs that not only includes compliance with legal and professional standards but also extends to broader questions about OIG priorities and the value of their work. Of course, agencies and Presidents might also have their own views on the performance of OIGs, but they have fewer tools at their disposal than Congress does to make changes to the operations and authority of OIGs.

Finally, Congress may also be the best positioned stakeholder to take a long-term, institutional view of the IG community, because a robust and effective IG community can enhance the effectiveness of Congress as it performs both its legislative and oversight functions.

Further Reading

Charles A. Johnson and Kathryn E. Newcomer, *U.S. Inspectors General: Truth Tellers in Turbulent Times* (Washington, DC: Brookings Institution Press, 2020), pp. 121-162.

CRS Report R45450, *Statutory Inspectors General in the Federal Government: A Primer*, by Ben Wilhelm.

CRS Legal Sidebar LSB10476, *Presidential Removal of IGs Under the Inspector General Act*, by Todd Garvey.

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