

# CONGRESS AND THE INSPECTORS GENERAL

by

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## **I. EVOLUTION OF THE INSPECTOR GENERAL ROLE**

When the Inspector General Act (IGA) was first proposed in the late 1970's, skeptics abounded. The novel concept, of having an independent, nonpartisan voice within an agency reporting to both its head and to Congress, would never work. It would infringe on traditional Presidential prerogatives, undermine the authority of Cabinet Secretaries, and balkanize criminal investigations. Further, we were told, it would be impossible for an Inspector General to be responsive to 535 different Members of Congress. Fortunately, experience has proven otherwise.

As we enter the third decade following passage of the IGA (Public Law No. 95- 452), Inspectors General have become an integral component in efforts to improve government efficiency and integrity. [We are no longer best identified by the moniker of a certain Danny Kaye movie.] With a new Administration and Congress settling in, we are in a good position to make high impact contributions by focusing attention on federal management challenges and recommending constructive solutions. By virtue of our independent and nonpartisan status, we provide a measure of continuity and offer a wealth of institutional knowledge and expertise. We note that key Members of Congress urged President Bush to recognize this vital role by adhering to established practice in retaining the services of Presidentially- appointed Inspectors General at the start of his Administration. We appreciate knowing their trust and support, as well as that of the President's.

The fruits of our work will not blossom, however, unless we, as a community, actively reach out to help new officials understand how we may assist them in confronting the management problems landing on their desks. Indeed, there are some 3,000 political appointment slots to fill in the Executive Branch, and many of these officials may be unfamiliar with the statutory duties of an Inspector General. Moreover, those Members of Congress instrumental in passing the IGA and overseeing its implementation -- such as John Glenn, Bill Roth, Jack Brooks, Frank Horton, and Bill Clinger -- have left its hallowed halls. Out of the 535 Members of the 107<sup>th</sup> Congress, over one-third of each body have been in office

less than five years. These new Members may have had only infrequent or inconsequential dealings with Inspectors General.

## II. THE IG ACT IN REAL LIFE

There is an inherent tension embodied in the Act due to its dual reporting responsibilities. The Inspector General must keep the agency head and Congress "fully and currently" informed about program or operational deficiencies, make recommendations to promote the "economy, efficiency, and effectiveness in the administration" of such activities, and to "prevent and detect fraud and abuse in, such programs and operations." Consequently, Inspectors General have one foot in the Administration, one in Congress, yet are not wholly part of either Branch. Admittedly, there is a fine line to walk in balancing the needs and requests of a Cabinet Secretary, on one hand, and a Committee Chairman, on the other. But that is precisely the beauty of the Act itself, and why it has served Congress, the Administration, and the public so well.

The Act also provides that an Inspector General is under the "general supervision" of the agency head and deputy but, significantly, does not define those parameters. It does make clear, however, that an agency head cannot prevent an IG from "initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation." Further, the Act authorizes the Inspector General to immediately report "particularly serious or flagrant problems, abuses, or deficiencies" to the agency head, who then must transmit the report and any comments to Congress within seven days, the "7-day letter" provision. Finally, Inspectors General have a statutory right to "review and comment on existing and proposed legislation and regulations," a duty that should be exercised vigilantly and robustly.

Given these elements, the foundation for success depends more upon the relationships we forge between the parties than on the plain words of the Act itself. It certainly helps to have a mutual understanding of the role played by an Inspector General, with a commitment to always be fair, but firm, in speaking "truth to power," as Paul C. Light is wont to say. While there are bound to be occasional disagreements, they will be handled professionally and respectfully, not personally. Indeed, Inspectors General know that credibility is derived from the accuracy and objectivity of our reports.

## III. IG CONTRIBUTIONS AND AUTHORITY

*"The greatest reward for doing is the opportunity to do more".* Jonas Salk

As Offices of Inspector General have become established fixtures within the

federal government, it is significant to note that our mission can no longer be defined solely by the Act itself. Rather, Congress has sought to expand and enhance the duties of Inspectors General by assigning us new responsibilities through general management laws. Congress has also provided individual Inspectors General with additional authority through agency- specific statutes. Moreover, for a number of other high visibility issues, Congress has often asked Inspectors General to perform comprehensive assessments, such as the Top 10 Management Challenges series. This years' reports were utilized extensively by agency transition teams, have already been the subject of Congressional oversight hearings, and were covered extensively in the media.

#### **A. Amendments to the IGA and other General Management Laws**

##### ***1988 Inspector General Act Amendments***

In 1988, Congress made the first substantial modification to the IGA by passing the Inspector General Act Amendments (Public Law No. 100- 504). It created OIGs within the Departments of Justice and Treasury, the only two Cabinet agencies then without statutorily established, Presidentially- appointed Inspectors General, and also within the Federal Emergency Management Agency (FEMA). Additionally, the 1988 amendments established OIGs within "Designated Federal Entities" (DFEs), primarily federal regulatory bodies or agencies receiving over \$100 million annually in federal funds. The head of each DFE would appoint the Inspector General and notify Congress upon removal of the Inspector General. Finally, the amendments also required each agency head to report to Congress on the implementation of management decisions on OIG audit findings and recommendations.

##### ***Chief Financial Managers Officers Act***

To improve federal financial management, Congress passed the Chief Financial Officers (CFO) Act of 1990 (Public Law No. 101- 576) which, in part, required over 20 agencies to produce financial statements. Under the CFO Act, these annual agency financial statements are audited by Inspectors General. At first, only revolving, trust fund, or substantially commercial accounts were covered, though a pilot program was established for certain agencies to prepare financial statements for all accounts. The Government Management Reform Act (GMRA) of 1994 (Public Law No. 103-356) extended the requirement for audited financial statements covering all accounts to include all 24 CFO agencies. It also required the preparation of a governmentwide consolidated financial statement.

##### ***Federal Financial Improvement Act***

The Federal Financial Improvement Act (FFMIA) of 1996 (Public Law No. 104-134) mandated that the CFO Act agencies implement and maintain financial management systems that substantially comply with applicable federal requirements and accounting standards. If agency financial management systems or components thereof are not in compliance, the agency head and the Director of OMB must establish a three-year corrective action plan. FFMIA also requires Inspectors General to report to Congress when agency remediation plan target dates are not met, including items such as the nature, extent, and reasons for non-compliance, and actions necessary to achieve compliance.

### ***Government Information Security Reform Act***

On October 30, 2000, the Government Information Security Reform Act was signed into law as part of the FY 2001 Defense Authorization Act (Public Law No. 106-398). Designed to enhance the effectiveness of federal agency information security systems, the law, in part, provides for Inspectors General to conduct an annual evaluation of the agency's security program and practices. This includes testing the effectiveness of security controls for agency information systems and making an assessment of their compliance with applicable policies, procedures, and guidelines. Under the Act, agencies must establish procedures for detecting, reporting, and responding to security incidents. In recognition of the vital role Inspectors General will play in this framework, guidance issued by the Office of Management and Budget (OMB) specifically highlights the need for IGs to be included as an "integral part" of the agency's reporting process for security incidents.

#### **B. Types of Projects Initiated by the IG Community**

In addition to new duties authorized by law, Inspectors General also initiate their own reviews of specific management issues facing a number of agencies governmentwide. Some of these cross-cutting audits are in response to requests from Congress, particularly our oversight Committees, and Inspectors General provide them with individual reports. Other audits may be requested by the Administration, and such reviews often are conducted under the auspices of the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE). Established by Executive Order, these Councils:

"continually identify, review, and discuss areas of weakness and vulnerability in federal programs and operations to fraud, waste, and abuse, and. . . develop plans for coordinated, Governmentwide activities that address these problems and promote economy and efficiency in federal programs and operations."

The PCIE consists of Presidentially- appointed Inspectors General, along with representatives from the Offices of Management and Budget, Personnel Management, Government Ethics, Special Counsel, and the Federal Bureau of Investigation. The ECIE is comprised of Inspectors General at DFE agencies appointed by their agency head. Both Councils are chaired by the OMB Deputy Director for Management, with an Inspector General selected from each Council to serve as the Vice Chair. Following are examples of some recent PCIE/ECIE and OIG initiatives.

### ***Screening of Federal Grant Applicants***

Under the direction of the Inspections and Evaluations Committee, OIGs examined successful agency "best" practices to better screen applicants seeking government funds (discretionary grants, loans, loan guarantees, and cooperative agreements) so that potential problems can be identified before new or additional financial assistance is awarded.

### ***Federal Non-Tax Delinquent Debt***

Led by the Treasury OIG, conducted a PCIE/ECIE review on non-tax delinquent debt and agency implementation of the Debt Collection Improvement Act of 1996. That law was intended to address the estimated \$50 billion in non-tax delinquent debt owed to the Federal Government by maximizing collections through new systems and tools, and reducing losses incurred from inadequate debt management activities.

### ***Top 10 Agency Management Challenges***

At the request of Congress, OIGs have been preparing annual reports of the Top 10 agency management challenges. Congress and the Administration have found this to be an extremely useful report that spotlights attention on critical, systemic issues in government requiring sustained commitment by senior leaders. Because Congress has come to rely on these reports in conducting their legislative oversight, they were incorporated for agencies having Accountability Reports as part of the Reports Consolidation Act of 2000.

### ***Agency Implementation of the Results Act***

Pursuant to requests from Congress, the 24 CFO Act IGs have been evaluating agency implementation of the Government Performance and Results Act (GPRA). Much of this work has centered on verifying data and validating underlying performance measurement reporting systems for accuracy and reliability. In addition, Congress has also asked Inspectors General to assess agency

Performance Reports and Plans to determine whether: (a) they sufficiently address the IG's Top 10 priority management challenges; and, (b) the Department is making appropriate progress in these issue areas.

### **C. Multi Agency Efforts to Improve Program Integrity**

The work performed by every Inspector General varies since it is based largely on the programs, operations, and priorities of each agency. However, it can be generally grouped into four different themes: Disbursement of federal funds; Financial Management and Information Technology; Public Health, Safety, and the Environment; and, Employee Misconduct and Program Integrity. Moreover, particularly in the investigative realm, Inspectors General serve on many federal interagency law enforcement task forces to combat fraud and crime. A few examples suffice.

#### ***Child Support Enforcement***

HHS OIG is part of a federal and state team that, with the assistance of local law enforcement agencies, tracks down and prosecutes chronic delinquent parents owing large sums of child support.

#### ***Operation "Safe Home"***

In conjunction with other federal, state, and local authorities, HUD OIG launched "Operation Safe Home" to identify and combat violent crime and drug trafficking in public and assisted housing, fraud in the administration of public housing authorities, and equity skimming by owners and managers of FHA insured multifamily housing.

#### ***Food Stamp Felons***

The USDA OIG has spearheaded "Operation Talon", in conjunction with other federal and state authorities, to identify, locate, and apprehend dangerous and violent felons who may also be illegally receiving benefits through the Food Stamp Program.

#### ***Highway and Airport Construction Fraud***

DOT OIG has designated a national contract and grant fraud coordinator to help direct fraud prevention, detection, and investigation efforts within DOT. The coordinator also works closely with state Department of Transportations and grantees managing billions of dollars in highway, airport, and transit projects. Last year, OIG sponsored a major conference on construction fraud attended by

federal and state auditors, criminal investigators, and state highway agencies and inspectors general offices nationwide.

#### **D. Agency-Specific Priorities**

Finally, in addition to the IGA and other general management laws, there is another source by which some Inspectors General may exercise their authority. That is, through legislation such as an authorization or an appropriation measure specific to the agency itself. For instance:

- ◆ The Health Insurance Portability and Accountability Act (HIPAA) of 1996 (Public Law No. 104- 191) established a national program whereby the HHS OIG, the Secretary of HHS, and the Attorney General coordinate federal, state and local law enforcement activities with respect to health care fraud and abuse. This effort provides authority to fight fraud committed against all health plans, private and public, such as Medicare and Medicaid.
- ◆ To address the threat posed to the traveling public by motor carriers and their drivers who falsify log books to circumvent federal regulations governing the number of hours they can be on the road without rest, Congress passed the Motor Carrier Safety Improvement Act of 1999 (Public Law No. 106- 159). That law, in part, recognized the efforts of the DOT OIG and clarified their authority, working with other federal, state, and local officials, to conduct investigations for violations of federal criminal law and help keep unsafe and fatigued drivers off the road.

### **IV. RECENT LEGISLATION AND OUTLOOK**

#### **A. The 106<sup>th</sup> Congress**

There were some significant Congressional activities involving the Inspector General community during the last session of Congress.

##### ***Elevation of TVA OIG, Criminal Investigator Academy and Forensics Lab***

Legislation (Public Law No. 106- 422) was enacted to elevate the Office of Inspector General at the Tennessee Valley Authority from a DFE position to one appointed by the President and confirmed by the Senate. As part of that law, Congress also authorized the Inspector General Criminal Investigator Academy, which provides training and development for OIG special agents, and the Inspector General Forensic Laboratory, to perform forensic services for the community.

### ***Oversight Hearing on Law Enforcement Authority and IG Act Amendments***

The Senate Committee on Governmental Affairs held an oversight hearing on issues facing Inspectors General, focusing primarily on the question of statutory law enforcement authority and the provisions of S. 870, the Inspector General Act Amendments, introduced by Senator Collins. That bill would have required management reviews of OIG operations, changed current reporting requirements, and mandated a study by the General Accounting Office (GAO) of options for potential consolidation of DFE Offices of Inspector General.

### ***Fraud Recovery Audit Legislation***

The OIG community provided extensive input during House consideration and passage of the Government Waste Corrections Act of 2000, sponsored by Representative Dan Burton, Chairman of the House Committee on Government Reform. This legislation would require federal agencies to conduct audits on major program activities to recover any erroneous payments made to contractors.

### **B. Legislative Issues Affecting Inspectors General**

Although it is hard to predict exactly what types of Inspector General issues may come before Congress during the 107<sup>th</sup> Session, our experience over the years shows that they would generally fall into one of several broad categories: Organization, Mission; Authority; Accountability; and Independence. Indeed, if the past is prologue, we can identify some possibilities.

### ***Fixed Terms of Office***

Some Members believe that Inspectors General should have a fixed statutory term of office, as have several other nonpartisan offices (FBI Director, 10 years; Comptroller General, 15 years) within government. The rationale is to provide continuity and enhanced security for Inspectors General, especially during changes in Administration. The tenure of office for Inspectors General has ranged from just a few months to over 13 years, with an average of 4.2 years. Proponents see fixed terms as a means to increase that tenure and provide greater stability within the IG community through longer tenure. Others, however, have expressed concerns over whether fixed terms could result in IGs being ignored as "lame ducks" at the end of their terms. Or conversely, whether IGs would be tempted to compromise their aggressiveness in hopes of securing possible reappointment.

A corollary issue pertains to the removal of Inspectors General by the President. Inspectors General serve, in effect, at the "pleasure" of the President and can be

removed at will, like other political appointees, with one very notable proviso. That is, under the IGA, a President must inform Congress as to the reasons for an IG's removal. One option discussed in the debate over terms of office is whether to couple it with a removal "for cause" provision, such as malfeasance in office, as is traditional with most other term appointments.

### ***External Management Reviews***

Members of Congress, such as Senator Collins, have proposed that there be periodic, independent reviews of OIG management and operations, especially in the areas of contracts, appropriated funds, and personnel actions. Any such new requirements must be done carefully with the aim to complement, not duplicate, the scrutiny IGs are now under. This would include the current three-year Peer Reviews, performed in accordance with applicable Government Auditing Standards, and agency-wide reviews -- such as personnel practices by OPM, ethics requirements by OGE, and travel voucher audits performed by agency CFOs -- that already scrutinize OIG operations.

### ***Revising the Frequency and Content of Semi-Annual Reports***

One concern often raised by Members and staff of Congress is the usefulness of OIG Semi-Annual Reports (SARs). A recent GAO study found that, while most Hill readers appreciated receiving them, the current form, content, and statistical emphasis of the SAR was of limited value in assessing both an IG's performance and that of the agency.

This may be due to the statutorily-mandated categories of information we must provide. It also is a question of timeliness. The SAR is retrospective, covering activities concluded in the prior six months, and for many readers, that may well be "old" news. One approach would be to include a prospective summary of work planned or in progress in each SAR.

Congress has also considered streamlining the current SAR reporting categories and converting it to an Annual Report. Most IGs would support such an effort, providing there is flexibility for submitting similar reports on a more frequent basis. Indeed, several IGs believe it imperative to establish more regular and periodic lines of communication with the Hill, not less.

### ***Creation of an Independent IG Oversight Council***

Prior Congresses have considered creating an entity to review OIG activities, including allegations of misconduct. As envisioned, such a Council might include Members of Congress or their appointees, as well as representatives from the IG

community. This concept resulted, in part, from Congressional concerns about the manner in which complaints against OIGs were once handled. The PCIE Integrity Committee has subsequently addressed those concerns and revised its process to ensure that all allegations are promptly and thoroughly investigated.

### ***Consolidating or Restructuring DFE OIGs***

There have been proposals to transfer the functions of certain smaller OIGs to an OIG headed by a Presidentially- appointed IG in an agency with related duties. Another option discussed is whether to combine the functions of some, or all, DFE OIGs into one consolidated Office under an IG who would be appointed by the President. Advocates contend this would make smaller DFE Offices more cost- efficient and enhance their independence. Should Congress consider this issue, it must determine the importance of having an IG presence (both physical and office location) in the agency's building. It also will have to closely examine the criteria and standards used for any consolidations.

### ***Inspector General Pay and Compensation***

Some Members want to codify guidance issued by the Clinton Administration that requested PAS IGs, drawn from the ranks of the Senior Executive Service (SES), to voluntarily waive their right to receive cash awards and bonuses from their agency head. Proponents believe any possibility that an IG could receive a cash award from an agency head poses an inherent conflict of interest. In return for foregoing such incentive awards, the salary of PAS IGs would be raised from Executive Level IV to Executive Level III.

The IG community strongly supports efforts to avoid even the appearance of a conflict of interest. However, should Congress deliberate this issue, it must do so with some caution and some equity. We must continue to attract a high caliber of personnel to our career senior ranks, not only to carry on the mission, but also to serve as a pool of qualified candidates for future Inspector General vacancies.

### ***Statutory Budget and Personnel Authority***

Some Members of Congress have sought to enhance the independence of Inspectors General by clarifying their authority over budget and personnel management matters. One budgetary option is to include the level of funding originally requested by the OIG and the amount proposed by the agency in its submission to OMB as part of the President's annual budget request to Congress. Still others have urged that IGs be given authority to submit their budget requests directly to Congress. The underlying rationale is that since Inspectors General report directly to Congress, in addition to the agency head, Congress should have

access to such information as it determines an appropriate level of funding commensurate with the performance of an Inspector General.

The IGA provides that Inspectors General serve under the general supervision of the agency head and deputy. By tradition and practice, OIGs make their own decisions with respect to personnel matters. In response, some have proposed to clarify by law that Inspectors General, with respect to all personnel actions, do not fall under the "general supervision" of the agency head.

### **C. Legislative Items of Interest to the IG Community**

While the following items do not represent an exhaustive list, they are items of interest to many members of the IG community. Any effort to amend the IGA in a comprehensive fashion should entail a discussion of these issues.

#### ***Statutory Law Enforcement Authority***

Following a hearing last year, Senator Fred Thompson, Chairman of the Senate Committee on Governmental Affairs, introduced legislation to provide permanent law enforcement authority to 23 Offices with Presidentially- appointed, Senate- confirmed Inspectors General. These Offices currently exercise such powers -- seek and execute search warrants, make warrantless arrests, and carry firearms in the course of their official duties -- through special deputation agreements from the Department of Justice (DoJ) and the Federal Bureau of Investigation (FBI).<sup>2</sup> Significantly, the legislation had the support of both OMB and DoJ. Although it was unanimously reported out of Committee, the Senate did not take action prior to adjournment.

Historically, OIG criminal investigators exercised this authority for many years, originally on a case-by-case basis. As OIGs earned their stripes working closely with other federal, state, and local law enforcement agencies, and becoming active participants in inter- agency crime task forces, the need for such appointments became great and the volume of requests so large that the concept of "blanket" deputation for OIG agents evolved, beginning with a pilot program. That proved successful and in 1996, OIG criminal investigators began exercising law enforcement authority under office- wide deputations, renewable on a biennial basis.

Now over 2,500 OIG agents exercise this authority in a wide variety of law enforcement activities: health care fraud; contractor kickbacks; embezzlement of federal funds; bribery of public officials; crimes in subsidized housing; violations of motor carrier safety laws; diversion of federal grants; and many others. During FY 1999, for example, PCIE OIG investigations resulted in over 3,700 successful

criminal prosecutions, 798 personnel actions, 6,660 suspensions and debarments, and \$1.7 billion in recoveries.

OIG agents have earned the trust and respect of law enforcement colleagues in all levels of government. We certainly will do our part to support Chairman Thompson's efforts, work with other Members, and the Administration to make statutory law enforcement a reality.

### *Clarifying the Scope of IG Authority*

The IGA provides very broad authority, imposing a duty to conduct "audits and investigations relating to the programs and operations" of agencies, and "to make such investigations and reports relating to the administration of the programs and operations . . . as are in the judgement of the IG, necessary or desirable." Congress explicitly granted IGs the authority to issue subpoenas for the production of records and empowered IGs to take sworn testimony. Finally, Congress mandated that IGs are to expeditiously report to "the Attorney General whenever the IG has reasonable grounds to believe there has been a violation of federal criminal law."

Despite what appears to be a rather unambiguous grant of Congressional authority, decades-old Justice Department Office of Legal Counsel Opinions<sup>3</sup> and certain decisions of federal courts,<sup>4</sup> construe the IGA in ways narrowing this authority. Courts are divided on the question of whether IGs can investigate false statements made to federal agencies by third parties that do not receive direct federal funds but nonetheless are subject to agency regulation.

Some courts have construed the IG Act's grant of authority to allow investigations of a regulated entity only when they are direct recipients of federal funds, such as contractors or grantees. Under this view, IGs may not investigate criminal conduct of regulated entities even if the subject has engaged in criminal conduct to intentionally deceive the agency. This could arise in situations where entities have received certificates or permits to operate -- but no direct agency funds -- in return for agreeing to abide by and periodically report on compliance with law and agency regulations.

At DOT, we have been challenged extensively on this particular issue. Courts are split as to whether we have authority under the IGA to conduct criminal investigations of motor carriers subject to DOT regulations and registration requirements, including the number of hours they are permitted to be on the road each day. Fortunately, with bipartisan support of Congress and the Administration, Congress clarified that we had such authority as part of the Motor Carrier Safety Improvement Act of 1999 (Public Law No. 106-159).

Other Inspectors General, particularly those whose agencies regulate financial institutions or engage in protecting public health, safety, and the environment, have indicated an interest in having Congress clarify this discrepancy. We note that the Senate Committee on Governmental Affairs favorably reported such legislation several years ago. If the community believes it is time to revisit this matter in earnest, we must first work to lay a sound foundation with specific case examples.

### ***Paperwork Reduction Act Requirement and OIG Audits***

Many IGs believe that being subject to the review process requirements of the Paperwork Reduction Act (PRA) conflicts with their statutory mission to be independent and nonpartisan. They assert that these requirements affect our ability to carry out audits and evaluations required by Members of Congress, through law or by requests, in a timely and effective manner.

While agency heads may generally supervise Inspectors General, they are not "prevent or prohibit the IG from initiating, carrying out, or completing any audit or investigation." Yet the PRA requires that information collections, such as OIG surveys, be subject to approval from a "senior official" of the agency and then from OMB. While the 1995 PRA Amendments specifically exempted independent regulatory agencies from these requirements, and continues to exempt our colleagues at GAO, they were silent on the question of application to Inspectors General.

We recognize OMB's wealth of knowledge in the formulation and conduct of surveys. Indeed, our community may wish to informally seek its advice in the areas of survey formats, techniques, and methodologies. However, application of the PRA to OIGs has both process and substance implications.

Congress increasingly requires IGs, through law or by formal request, to conduct specific audits of agency programs in a very short timeframe. Part of the audit process may involve gathering information or other data from surveys of agency contractors, grantees, those entities subject to agency regulation, or the public. Subjecting such surveys to the review and approval process could impact our ability to provide an accurate and professional produce under the tight deadlines required by Congress.

The substantive issue is whether Congress intended that either departmental officials or OMB have authority over OIG information collection efforts that are key to the performance of a successful audit. Questions will arise should an agency head or OMB withhold approval of, or order modifications to, a proposed OIG survey. Again, it will be up to the community to present its case for

clarification of this potential conflict between the IGA and the PRA.

### *Codification of Integrity and Efficiency Councils*

Congress may also wish to consider whether PCIE and ECIE should be put on a par with our affinity Councils, the Chief Financial Officers (CFO) and Chief Information Officers (CIO), through statutory codification. The mission of the PCIE/ECIE Councils is to promote collaboration on integrity and efficiency issues that transcend individual governmental agencies and to increase the professionalism and effectiveness of IG personnel throughout government.

The IG community appreciates the support given by the Deputy Director of OMB for Management, as Chair of each Council, and OMB staff assistance in recent years. However, codification would provide the Councils with a permanent, institutional footing. One that allows the Councils to reach their full potential and better serve the needs of the Administration and Congress.

Congress could, for example, require the Councils by law to produce annual reports summarizing the major cross-cutting issues identified in the Top 10 series, including recommendations on how best to address them and progress made to date. Besides specifying the types of governmentwide issues where IGs can play a key role, codification also would serve as a mechanism to assign the Councils responsibility for professional development opportunities, such as establishing a first rate, multi-disciplinary training program for both auditors and investigators. Finally, to help carry out these statutorily-enhanced responsibilities, codification could allow us access to limited federal funds, through rebates from the use of government credit cards, a source which our fellow CFO and CIO Councils already can draw from.

### EPILOGUE

*"From principles is derived probability, but truth or certainty is obtained only from facts". Nathaniel Hawthorne*

The Inspector General community can rightly be proud of our contributions in service to the nation and its taxpayers. Our very mission is a public trust. That is, to provide independent, nonpartisan, and objective advice to Congress and the Administration. We stand ready to work with Congress, OMB, and the Administration on legislative matters affecting the IG community.

Brian A. Dettelbach, Senior Counsel for Legislative and External Affairs, and Paul M. Feeney, Legislative Counsel, contributed greatly to the writing of and research for this article. Disclaimer: The views of the authors are their own. They do not reflect the views of the PCIE or its Legislation Committee.

- 1 Three OIGs, Agriculture, Defense, and Tax Administration, have law enforcement authority granted through agency-specific authorization.
- 2 The so-called *Kmiec* and *Barr* Opinions. March 9, 1998 opinion of Douglas Kmiec, Deputy Attorney General, 13 U.S.Op. O.L.C. 54; July 17, 1990 opinion of William P. Barr, Acting Deputy Attorney General.
- 3 Notably the Fifth Circuit's decision in Burlington Northern Railroad Co. v. Office of Inspector General, Railroad Retirement Board, 983 F.2d 631 (5<sup>th</sup> Cir. 1993).