

The IG Reform Act and the New IG Council: Dawn of a New Era

Over the 30 year period the OIGs have been formally established by law, the community has evolved

BY INSPECTOR GENERAL
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With the passage of the Inspector General Reform Act of 2008¹, the inspector general community entered a new era in its 30-year existence. The new law has brought increased independence and concomitant levels of responsibility to the IGs, both individually and as a community. Since its birth in 1978, the community has evolved from an informal group of entities with similar missions into a formally-established organization with a mission that extends beyond the individual activities of its more than 67 Inspector General members. As a result of the Reform Act, the community is entering a period of organizational growth and maturity, with new opportunities to improve the effectiveness of federal programs.

This article will provide an overview of the Reform Act (legislative history and key provisions) and the creation of the new Council of Inspectors General on Integrity and Efficiency. As Chair of the Legislation Committee while the Reform Act was moving through Congress, and as the first elected Chairperson of CIGIE, I have had the privilege of working with the many people named in this article who have played a key role in bringing these efforts to fruition.

LEGISLATIVE HISTORY

Until 2008, Congress had not made any significant revisions to the original Inspector General Act of 1978 since the 1988 Amendments were passed 20 years



ago. IG Act reform initiatives, however, had been a matter of discussion and consideration since the mid-1990s, when Senator Susan Collins served as Chair of the Senate Governmental Affairs Committee (precursor to the current Homeland Security and Government Affairs Committee). During that time, Senator Collins introduced at least two bills to strengthen IG independence and authorities, but while these measures received some legislative attention they were never enacted. During that period, the IG community was organized to carry out its collective responsibilities through the two IG councils established by Executive Order, the President's Council on Integrity and Efficiency (composed of Presidentially Apointed, Senate confirmed IGs) and the Executive Council on Integrity and Efficiency (composed of

Designated Federal Entity IGs).

The IG community recognized the need to participate actively and constructively in any efforts to amend and update the IG Act. The IG Reform Act of 2008 is the culmination of over seven years of effort by the IG community. Ken Mead (former Department of Transportation IG), during his tenure as PCIE Legislation Committee chair, started the process by surveying the community in 2000/2001 to determine the issues of highest concern/priority. Based on the survey results, the committee developed a package of proposals in anticipation of congressional interest in introducing legislation to mark the 25th anniversary of the original IG Act in 2003. During Russell George's (Treasury Inspector General for Tax Administration IG) tenure as chair of the Legislation Com-

1 P.L. 110-409, October 14, 2008.

mittee, Congress held hearings on IG community activities and actively considered some of the legislative proposals that had been developed, particularly by Rep. Jim Cooper. In subsequent years, Nikki Tinsley (former Environmental Protection Agency IG), while chair of the PCIE Human Resources Committee, took the lead in developing a strategy to address IG salary and bonus issues.

This preparatory work came to fruition when the 110th Congress convened in 2007. Changes in congressional leadership brought an increased emphasis on oversight and accountability, with more focus given to the activities of IGs individually and as a community.

Building on the work that had been done since 2000, Rep. Jim Cooper, Sen. Collins, and Sen. Claire McCaskill each introduced bills that addressed or included proposals developed by the IG community.

These members, working closely with Chairmen Henry Waxman (House Oversight and Government Reform Committee), Joe Lieberman (Senate HSGAC), and Edolphus Towns (House Government Management, Organization, and Procurement Subcommittee), championed the Reform Act proposals through the legislative process.

Hearings were held in both Houses, Administration concerns were addressed, and ultimately H.R. 928 was enacted by the Congress with no opposing votes in September 2008.² President Bush signed the Inspector General Reform Act of 2008 into law on October 14, 2008. (Public Law 110-409)

2 H.R. 928, Improving Government Accountability Act, originally passed the House on Oct. 3, 2007, by a vote of 404-11. S. 2324, Inspector General Reform Act of 2007, passed the Senate on April 23, 2008 by unanimous consent. Both Houses of Congress worked together to reconcile the two bills into a final version of H.R. 928, renamed the Inspector General Reform Act of 2008. Final approval occurred in the Senate on September 24, 2008, by unanimous consent. This was followed by House action on September 27, 2008, by a vote of 414-0.

DUTIES OF THE COUNCIL



- Reviewing areas of vulnerability to fraud, waste, and abuse in federal programs
- Developing coordinated government-wide activities to address these problems and promote effectiveness, including interagency projects to deal with problems that exceed the jurisdiction or capability of an individual agency
- Developing policies to maintain well-trained, highly skilled OIG staff
- Maintaining an internet website and other electronic systems to benefit all IGs
- Maintaining one or more professional training academies for IG personnel
- Submitting recommendations of individuals for vacant IG positions to the appointing authorities
- Making reports to Congress as necessary or appropriate
- Performing other duties within the Council's authority and jurisdiction

KEY PROVISIONS OF THE LAW

The IG Reform Act contains a variety of provisions designed to enhance IG independence and accountability. Some highlights of H.R. 928 are:

IG Appointment and Qualifications requires that DFE IGs be appointed without regard to political affiliation, based on integrity and demonstrated professional ability.

Removal of IGs requires the President (for PAS IGs) or agency head (for DFE IGs) to give Congress 30 days advance notice before removing or transferring an IG. Notice must include the reason for the action.

IG Pay sets pay for PAS IGs (and SIGAR, SIGIR, CNCS, and CIA) at level three of the executive schedule, plus three percent. Requires that DFE IGs be classified at or above the majority of the DFE's senior level executives and their pay be not less than the average total compensation (including bonuses) of DFE senior level executives calculated on an annual basis.

Cash Bonus or Awards prohibits IGs from receiving cash awards or cash bonuses.

Separate Legal Counsel provides that each PAS IG shall obtain legal advice from a counsel reporting directly to an IG. Each DFE IG shall appoint a counsel, or obtain advice from a counsel reporting directly to an IG or from CIGIE staff.

Council of the Inspectors General on Integrity and Efficiency establishes a unified council of IGs, merging the two councils (PCIE and ECIE) previously established by executive order. CIGIE's mission is to address integrity, economy, and effectiveness issues that transcend individual government agencies; and to increase the professionalism and effectiveness of OIG personnel by developing approaches to establish a well-trained and highly skilled workforce. Membership includes PAS, DFE, and Legislative Branch IGs, as well as other officials.

The OMB Deputy Director for Management serves as Executive Chairperson, with a Chairperson elected from the IG members and an appointed Vice Chairperson.

Various funding mechanisms are au-

thorized for council activities, including interagency funding and use of a revolving fund. The Integrity Committee is now established by statute; its membership and jurisdiction are expanded to include being responsible for receiving, reviewing and reserving for investigation, allegations of wrongdoing against an IG and certain staff. It also must adopt new procedures and provide expanded information and reports to Congress.

UNDER THE ACT

Changes to the IG budget request process under the Act:

- Each IG shall transmit a budget request to his/her agency head that specifies funds needed to operate, to meet all training needs (including IG certification that the request satisfies all training requirements), and to support CIGIE (these resources must be specifically identified and justified).
- Each agency head shall transmit a proposed budget to the President that includes an aggregate amount for the IG, amounts for IG training, amounts to support CIGIE, and any IG comments on the proposal.
- The President shall include in his budget request a separate statement of the budget estimate for each IG, the amount requested for each IG, the amount requested for training for IGs, the amount requested to support CIGIE, and any comments from an IG who believes that the president's request would substantially inhibit him/her from performing IG duties.

Subpoena Power clarifies that IG subpoena power extends to electronically stored information.

Program Fraud Civil Remedies Act adds DFE IGs to the list of entities that are covered by the PFCRA.

Law Enforcement Authority allows DFE IGs to apply for statutory law enforcement authority.

Semiannual Reporting Requirements makes IG inspection and evaluation reports subject to the requirements.

OIG Web sites requires that each agency homepage contain a direct link to the OIG Web site; each IG must post on its Web site, within three days, each publicly available report or audit; and each IG must maintain a direct link on its web site for individuals to report fraud, waste, and abuse.

Other Administrative Authorities provides IGs with additional expanded personnel authorities. Generally, each OIG is considered a separate agency and each IG is considered an agency head or appointing authority with respect to the following administrative authorities:

- *Voluntary Separation Incentive Payments:* IGs can now apply directly to OPM for the authority to offer voluntary separation incentive payments or "buyouts" within their own OIG.
- *Voluntary Early Retirement Authority:* IGs can now request directly from OPM the authority to offer early retirement to their employees.
- *Mandatory Retirement for Law Enforcement Officers:* Each IG now has authority to exempt a law enforcement officer from mandatory retirement up to the age of 60, if in his or her judgment the public interest so requires.
- *Reemployed Annuitants:* IGs can now go directly to OPM to request a waiver of the provision requiring that a retiree's pay be reduced by the amount of his/her annuity upon rehire by the government (for employees in positions for which there is exceptional difficulty in recruiting or retaining a qualified employee); and request authority to waive the pay reduction provisions for employees/retirees serving on a temporary basis (during the time an emergency involving a direct threat to life or property or other unusual circumstances exist).
- *SES Provisions.* Generally, IGs are considered to be agency heads and OIGs are considered to be agencies for purposes of applying the various provisions of Title 5 pertaining to

SES employees. This will have wide-ranging implications for many IGs, authorizing them to deal directly with OPM, rather than through their agencies, on such issues as requests for SES positions, establishing SES appraisal systems, and setting SES pay and performance awards.

- *SES Rank Awards.* CIGIE is now considered to be an agency head for purposes of making recommendations to OPM for OIG SES employees to receive rank awards.

Taken as a whole, the Reform Act successfully addresses many issues of importance to the IG community and lays a solid foundation for the future.³ The community owes a debt of gratitude to all who worked so hard and persevered over the many years that this legislation was in the making.

TRANSITION TO THE COUNCIL OF INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

One of the most significant changes brought about by the IG Reform Act is the creation of a unified council of federal inspectors general. This seemingly simple measure has profoundly affected the way the community addresses issues, makes decisions, and, ultimately, is perceived by external parties.

Over the 30-year period that OIGs have been formally established by law, the community has evolved from a loose confederation of offices with common interests, to two separate councils established by presidential executive order, to a single unified body established by statute responsible to both Congress and the president.

³ Several issues were considered by one or both Houses but were not enacted in the final bill, due to the need for more time to thoroughly consider the proposal or member concerns. Examples include enhanced computer matching authority for OIGs, new authority for compelled interviews, expanded contracting authority, exemption of OIG activities from Paperwork Reduction Act requirements, and specific provisions affecting individual OIGs. To the extent that the IG community sees a continuing need for these measures, the opportunity exists to work productively with the Congress.

Leaders in the community recognized early on that significant advance planning would be necessary to ensure a smooth transition to a unified council should the reform legislation be enacted by Congress. The PCIE Executive Council appointed a Transition Planning Committee composed of four PCIE and four ECIE members and co-chaired by Earl Devaney and myself.⁴ This committee began its work in January 2008 when it appeared that passage of some form of IG Act legislation would be likely during the 110th Congress.

Working through the spring and summer of 2008, the committee developed recommendations on such matters as elections, committee structure, voting, funding, and transition process. Members prepared a draft charter and organization chart, recognizing that revisions would be necessary to reflect the final version of enacted legislation. Throughout this process, the committee met frequently and considered a variety of perspectives on each issue before coming to consensus on its recommendations. A number of guiding principles were key to the committee's approach to its work:

- One IG, one vote – each IG would have an equal vote on CIGIE matters.
- The current PCIE/ECIE Executive Council would serve as the CIGIE governing body for 6 months after the law was enacted.
- The current committee chairs and committee structure would remain in place for six months after the law was enacted.
- CIGIE's first year budget and staff levels would remain consistent with the cost estimates developed by the Congressional Budget Office.

As a result of this Committee's work, the IG community was well prepared to handle the transition to a unified council upon enactment of the reform legislation in October 2008. Within a matter of

4 Committee members are Jack Callendar (PRC), Carl Clinefelter (FCA), Claude Kicklighter (succeeded by Gordon Heddell) (DOD), Lynne McFarland (FEC), Richard Moore (TVA), and David Williams (USPS).

weeks, an election (fittingly overseen by Lynne McFarland, FEC IG) was held for the first CIGIE chairperson and the results were announced in mid-November. In November and December, the PCIE and ECIE held their last meetings as separate councils, recognized the leadership of their outgoing Chair and Vice-chairs, and briefed incoming CIGIE leaders and staff on continuing matters of interest.⁵

CIGIE TODAY

January 2009 represented the start of a new era in the life of the IG community. It is a time of change in many arenas – a new Congress, a new presidential administration, a new council. Building on the successes and lessons learned over 30 years, the new council is moving forward rapidly.

The first CIGIE meeting was held in January 2009 under my leadership and that of Vice-Chairperson Carl Clinefelter (FCA).⁶ The Executive Council presented the proposed Charter, the draft Strategic Business Plan, and the Transition Planning Committee's recommendations (many of which had already been addressed in the Charter and Business Plan); after discussion and comment, the Charter and Business Plan were formally adopted at CIGIE's February meeting.⁷

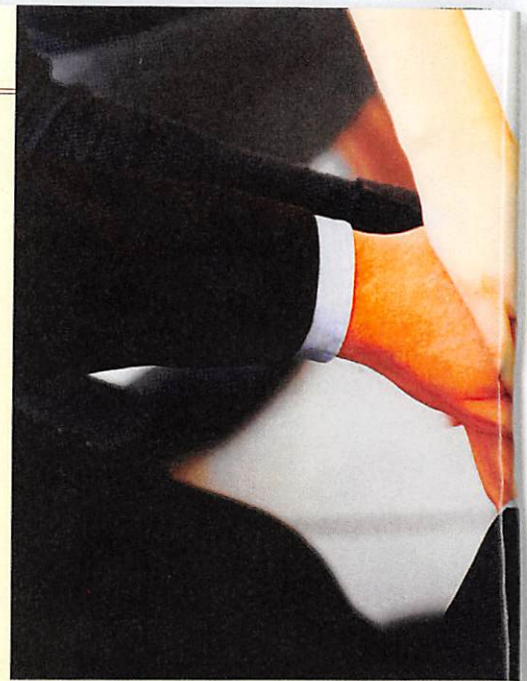
The Executive Council continues to work hard to implement the IG Reform Act's provisions and CIGIE's implementing initiatives. Executive Council members represent a broad spectrum of CIGIE's membership and include PAS IGs, DFE IGs, and a Legislative Branch IG.⁸

5 The Councils have been well-served by the many contributions of their outgoing leaders: Clay Johnson, former OMB DDM and Chair of both the PCIE and ECIE; Gregory Friedman (DOE), PCIE Vice-Chair; and Tina Boesz (former NSF IG), ECIE Vice-Chair.

6 By statute, OMB's DDM serves as Executive Chairperson of CIGIE. The Council looks forward to working closely with a new DDM upon his/her appointment and confirmation.

7 Both of these documents are available on IGMET, the IG community's website.

8 Executive Council members currently are Earl Devaney (DOI), Gregory Friedman (DOE), Gordon Heddell (DoD), Dan Levinson (HHS), Lynne McFarland (FEC), Patrick O'Carroll (SSA), Tony Ogden (GPO), and Jon Rymer



This is critical to ensuring that a variety of perspectives are considered whenever issues involving the community must be addressed.

The charter adopted by CIGIE addresses governance matters - how CIGIE will do its business. It incorporates provisions of the IG Reform Act and adds policies and procedures where necessary to enable CIGIE to carry out its activities. Key provisions address:

- Conduct of elections
- Preparation of strategic and business plans
- Developing meeting agendas and obtaining quorums
- Voting procedures
- Funding mechanisms
- Budget preparation and execution
- Committee structure, leadership, and membership
- Procedures to amend the charter

The strategic business plan sets forth the council's business goals, supporting objectives, and performance measures for the first two years of its operation. It builds on the strategic mission set forth in "A Strategic Framework 2005-2010," adopted by the IG community in 2004, as well as the more recent mission statement contained in the IG Reform Act. The plan established three goals aimed towards establishing CIGIE as a major contributor to government-wide integrity and efficiency.



The plan includes objectives and time-frames designed to enable the community to accomplish these goals by December 2010. These three goals are:

1. Contribute to government-wide improvements in program integrity, efficiency, and cost-effectiveness by providing cross-agency analysis of OIG findings and recommendations in areas of vulnerability confronting multiple government programs.
2. Increase the professionalism and effectiveness of the IG community workforce.
3. Create an effectively functioning council able to meet its vision, mission, and goals.

The first goal recognizes that the council's success will be judged by administration and congressional stakeholders largely on the council's ability to contribute to improvements in federal operations. To accomplish this, the council will annually identify and perform at least two cross-cutting studies or combined meta analyses of work performed by OIGs in their individual agencies.

The second goal focuses on the continuing need to provide excellent professional development and training to OIG employees. To achieve this goal, the council will establish a community-wide academy(ies) to present high quality and cost-efficient training to audit, investigative, inspection/evaluation, management, and other professional staff.

Finally, and equally as important as the first two goals, the third goal recognizes the need to permanently establish an effective organization to enable CIGIE to carry out its statutory responsibilities. Activities under this goal include administrative operations (developing staffing, funding, and accountability plans; obtaining space, facilities, and equipment; and setting up a revolving fund and accounting procedures) and planning and organization activities (updating committee structure, membership, and charters; and revising strategic and planning documents).

In addition to these three overarching goals, CIGIE leaders and staff deal on a daily basis with the ongoing business of any federal entity: responding to congressional, media, and public requests; handling member IG inquiries; and coordinating council activities with other federal entities such as GAO, OMB, and OPM.

In this last arena, particularly noteworthy is the work being done by the IG Candidate Recommendation Panel, co-chaired by Glenn Fine (DOJ) and Lynne McFarland (FEC), to fulfill CIGIE's statutory responsibility to identify and provide qualified candidates for vacant IG positions.

CONCLUSION

As this article goes to press, the IG community has had three months of active operation under the umbrella of a unified council. The transition has been smooth, due in large part to the vision and care of many dedicated IGs and the professionalism and expertise of leaders from the ranks of the career OIG staff.⁹

Perhaps the most noteworthy aspect of this transition has been the apparent

ease with which the community has begun to see itself as one entity, with a focus on the common challenges and types of work each individual IG experiences. We are a stronger community, close-knit and better situated to face the challenges ahead. It has become clear that we as IGs have much more in common with each other than we have differences.

Although we cannot predict the challenges to come, history tells us that there will indeed be opportunities for the IG community to play a key role in assuring government effectiveness. The current economic crisis has led to enactment of historic legislation intended to spur recovery in key sectors of the American economy.

The IG community's current challenge, then, is to oversee the stimulus spending provided under the American Recovery and Reinvestment Act of 2009.¹⁰

OIGs have been given a very visible role in providing oversight of funds under ARRA, both in terms of membership on the newly-created Recovery and Accountability Transparency Board,¹¹ and in terms of the funding given to 23 specified IGs to provide oversight in their own agencies. ARRA has brought new visibility and recognition to the IG community; it also shines a spotlight on our ability to devise proactive and effective ways to ensure that funds are spent well.

I am confident that, working together, the IG community will continue to do an outstanding job to better the delivery of government programs and improve the lives of our citizens. ✎

⁹ The accomplishments discussed in this article would not have been possible without the professional expertise and assistance of so many dedicated OIG career employees. I regret that it is not possible to name them all here. I am personally indebted to USDA OIG's outstanding staff, particularly David Gray, Mark Jones, Kathleen Tighe, and Cheryl Viani, who have directly managed PCIE Legislation Committee and CIGIE activities.

¹⁰ P.L. 111-5, signed by President Obama on February 17, 2009.

¹¹ The Board is chaired by Earl Devaney (former DOI IG) and is composed of 10 IGs named in the ARRA: Agriculture, Commerce, Justice, Energy, Homeland Security, Health and Human Services, Education, Transportation, Treasury, and Treasury IG for Tax Administration.