ASSOCIATION OF INSPECTORS GENERAL

Advancing Professionalism, Accountability & Integrity

POSITION PAPER:
INDEPENDENCE OF THE INSPECTOR GENERAL --
MANAGEMENT'S OVERSIGHT ROLE OF AN OFFICE OF INSPECTOR GENERAL

This position paper is offered by the Association of Inspectors General (AIG) on the Independence of the Inspector General and management's role in an Office of Inspector General.

AIG POSITION

To guarantee/ensure independence, any management or Inspector General (IG) Committee oversight of an IG must be limited to "general supervision" and should not be exercised in a way that would inhibit IGs' discretion to perform their mission, to undertake or conduct audits, investigations, reviews, issue subpoenas, conduct interviews, or to see these matters through to conclusion.

BACKGROUND

Inspectors general have existed in our nation's military since the beginning of our republic. The modern concept of the inspector general was broadly introduced to the civilian side of the Federal government by the Inspector General Act of 1978 (IG Act). The stated purpose for Inspectors General is to create independent and objective offices to prevent fraud and detect fraud and abuse in government programs and operations.[1] Over time, the IG concept has spread to state and local governments many of which have adopted specific legislation relating to IGs.

The essence of the IG concept is to provide independent and objective oversight to promote accountability, transparency, and integrity in government. To this end, IGs conduct audits, investigations, and/or reviews, and provide recommendations for the purpose of promoting economy, efficiency, and effectiveness and preventing and detecting fraud and abuse. Independence is foundational to the IG concept. It supports oversight beyond that which can be achieved by an organization's management, internal inspectors, administrative investigators, or internal auditors.

ANALYSIS

The IG Act states, "Each Inspector General shall report to and be under the general supervision of the head of the 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."[2]

---

[1] 5a U.S. Code Compiled Act 95-452 - INSPECTOR GENERAL ACT OF 1978, § 2.
[2] 5a U.S. Code Compiled Act 95-452 - INSPECTOR GENERAL ACT OF 1978, § 3.

Although a few court decisions have analyzed the "general supervision" language of the IG Act, one case in particular, *United States Nuclear Regulatory Commission v. Federal Labor Relations Authority*, 25 F.3d 229, 235 (4th Cir. 1994), reviewed the legislative history of the "general supervision" language and described the agency head's supervisory authority over the IG as "nominal." The AIG shares the position.

The concept of "general supervision" should not be construed to impair independence. It should in no way delve into the operations of the OIG. The AIG's *Statement of Principles for Offices of Inspectors General* (Green Book), Legal Authority, recommends that IGs be placed in a governmental structure to exercise independence in fact and appearance from operations, programs, policies, and procedures over which the IG has authority.[3] Further, The AIG's Green Book states, "The inspector general and OIG staff involved in performing or supervising any assignment should be free from personal or external impairments to independence" to ensure "OIG opinions, conclusions, judgments, and recommendations will be impartial and viewed by others as impartial."[4] Management or IG Committee undue interference with OIG operations would include "Interference or undue influence in the OIGs selection of what is to be examined, determination of scope and timing of work or approach to be used, the appropriate content of any resulting report, or resolution of audit findings."[5] Management's demand for information or giving direction regarding on-going audits, investigations, and/or reviews would be considered interference hindering IG independence and could result in the public's loss of confidence in an independent and impartial IG.

Nominal supervision of the IG could include such things as requiring the OIG to use the organization's administrative procedure for human resources, administration, budgeting, and logistics. Management or IG Committees should reasonably expect the IG to report on significant abuses and deficiencies relating to the administration of programs and operations disclosed by investigations, audits, and reviews during established reporting periods; description of the recommendations for corrective action with respect to significant problems, abuses, or deficiencies identified; corrective actions that have not been completed by the agency; and a summary of each audit, investigation, and/or review completed during the reporting period. Nominal supervision by management or IG Committees could include comments and suggestions to enhance operations but not specific direction.[6]

This essential independence of IGs raises the fair question of, "Who provides professional oversight of the IG?" In addition to the "general supervision" previously discussed, the OIG should be subject to external peer review or accreditation for compliance with Government Auditing Standards, AIG standards, or other professional standards at least once every three

---

[3] AIG's Standards *Principles and Standards for Offices of Inspector General* (Green Book), p. 4.
[4] AIG's Green Book, p. 8.
[5] AIG's Green Book, p. 9.
[6] The Palm Beach County, Florida IG Ordinance (Article XII) is one model that describes this IG/IG Committee relationship (http://pbcgov.com/OIG/docs/ordinances/4_C_ORD_2011-009_0517.pdf).

years. The peer review/accreditation report can be provided to management or the IG Committee and to the public. All OIG reports can be published on the particular OIG's website and are open to public scrutiny. Moreover, when an allegation of wrongdoing is lodged against an IG, management, the appointing authority, or the IG Committee should have the authority to remove the IG for cause based upon specified charges (e.g., neglect of duty, abuse of power or authority, discrimination, or ethical misconduct).[7]

[7] The Jacksonville, Florida Ordinance Code – 1990 ed. § 6 provides an example of such procedures.)Chapter 602 - JACKSONVILLE ETHICS CODE | Code of Ordinances | Jacksonville, FL | Municode Library).