



# WALKING THE LINE

Inspectors General Balancing Independence and Impact

SEPTEMBER 2016



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# INTRODUCTION

In June of 2015, the Office of Personnel Management experienced one of the largest breaches of government data in the history of the United States. Social Security numbers, fingerprints, birth dates and other information on more than 21 million individuals were stolen, and the massive cyber intrusion led to the OPM director's resignation.

The breach itself may have come as a shock, but the agency's vulnerability to such an attack was no surprise. Between 2007 and 2014, OPM's inspector general had issued three reports on the agency's lack of information technology security policies and procedures—calling that a “material weakness”—and recommending a centralized security management structure to enforce IT security policies. According to the 2014 report, more than half of the agency's 21 IT systems were operating with outdated security assessments and authorizations.

Federal offices of inspectors general can be the canary in the coal mine, warning leaders of critical agency risks and vulnerabilities. Most IGs have a long-term perspective on what has gone on in their agencies because they typically remain in place through presidential transitions and changes in agency leadership. It's up to executive branch leaders to work with IGs and use them as assets, carefully considering their advice and findings, and making appropriate adjustments in the management of their agencies.

Inspectors general, agency leaders and Congress each want to improve the reliability, economy, efficiency, integrity and effectiveness of agency programs. Understanding what each side can bring to the table is key to the effective operation of the government.

IGs have a duty to conduct thorough audits and investigations, and let the chips fall where they may. Agency leaders certainly want to stop improper activity and substandard practices at their agencies, and are understandably concerned when there are negative findings. But they also must worry about political fallout, the effect that inquiries have on the workforce and their stewardship of the organization.

IGs can help improve agency operations through effective oversight, and leaders can benefit from impartial scrutiny. Some leaders even would like the IGs to proactively help them spot and address problems rather than waiting until they get out of hand and then criticizing them for mismanagement. Many IGs, however, do not see their role in this way and believe that close collaboration will jeopardize their independence and impartiality.

Striking the right balance between meeting the needs and concerns of agency leaders and maintaining impartiality and independence can be difficult. Trust can sometimes break down and relationships between the IGs and agency leaders can become adversarial instead of constructive in terms of resolving problems and reaching the mutual goal. That goal should be the improvement of government operations and performance to best meet public needs.

Come January 2017 with a new administration in office, there will be an opportunity for the incoming political leadership and the incumbent IGs to develop productive working relationships. The IGs can alert new political appointees to the key risks and challenges facing their agencies, and both parties can establish a mutual understanding of each other's roles and responsibilities.

## METHODOLOGY

With this report, the Partnership for Public Service and Grant Thornton Public Sector sought to understand the roles that inspectors general, agency leaders and Congress can play in helping agencies operate most efficiently and effectively.

The findings are based on interviews with the 15 IGs from Cabinet-level departments; the IGs from the Small Business Administration and the Environmental Protection Agency; and IGs from four offices of inspectors general in designated federal entities of varying size: the National Science Foundation, representing a large office of the inspector general; the Smithsonian Institution, representing a mid-size operation; and the Federal Trade Commission and the Pension Benefit Guarantee Corporation, representing smaller offices.

We also sought outside perspectives on the relationship between inspectors general and agency leaders, and interviewed current and former federal agency executives, former inspectors general, congressional staff members and other key stakeholders with knowledge and insight relevant to this report. To verify our findings, we convened many of the interviewees for a group discussion on the findings and themes the interviews produced. We also conducted an extensive review of the literature on the history and work of the IGs. Some of the participants agreed to be quoted on the record, and others asked that their names not be used.

## BRIEF HISTORY OF THE INSPECTORS GENERAL



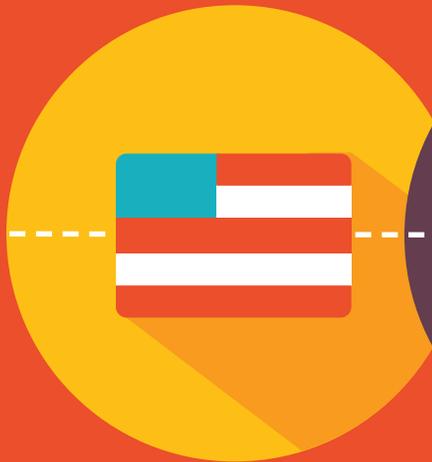
The Inspector General Act of **1978**, one of the most significant post-Watergate reforms, and subsequent amendments to the law, established nonpartisan, independent offices in 72 departments, large agencies, numerous boards and commissions, and other federal entities to combat waste, fraud and abuse. The law gave the president has authority to appoint 30 IGs at the large departments, agencies and other federal organizations. These appointees must be confirmed by the Senate. The rest of the IGs are appointed by the leaders of small agencies or the governing body of boards or commissions.



In **2008**, Congress approved the Inspector General Reform Act, which established the Council of the Inspectors General for Integrity and Efficiency, an independent entity within the executive branch to address integrity, economy and effectiveness issues affecting the Offices of Inspectors General. This law also amended requirements on how to remove an IG and added budget protections.



In June **2016**, the House passed the Inspector General Empowerment Act (H.R. 2395). This legislation would expand the investigative powers of the inspectors general, including the subpoena power over current and former agency officials and contractors, under certain conditions where access to agency documents is currently blocked due to privacy considerations. The bill also would require the Government Accountability Office to study prolonged vacancies in IG offices. Similar legislation (S. 579) is pending in the Senate.



# New agency leaders and the incoming White House can use the inspectors general to improve government management

Based on their many years of experience, the inspectors general we interviewed shared what new agency leaders and the incoming White House can do to leverage the expertise of IG offices to improve agency management. Agency leaders and the White House need to:

- Understand the mission and role of the inspector general
- Rely on the IG for insights into major agency risks, opportunities and threats
- Provide IGs with information they need to do a fair and honest review
- Understand each IG's "line in the sand"
- Fill vacant IG positions with top talent as quickly as possible

### **Understand the mission and role of the inspector general**

Inspectors general can help agencies better serve the public, ensure high-quality performance, and minimize or eliminate fraud, waste, abuse and mismanagement. Although every inspector general office has unique priorities related to its agency, there are common functions intended to improve agency performance:

- Conduct audits and investigations
- Provide recommendations to agencies on how to improve operations
- Prevent and detect fraud and abuse in programs and operations
- Provide a means for keeping the head of the agency and Congress fully informed about problems and deficiencies related to program administration and operations, and the need for corrective action and progress achieved on making those corrections<sup>1</sup>

By design, Congress created inspectors general as independent oversight entities within federal agencies. IGs have several “bosses”—the agency leader, Congress, the president and the American public. New agency political appointees may not realize the full obligations of the IGs, perhaps thinking they operate like private-sector internal auditors who report directly and are accountable solely to the top executive.

This reporting structure is not easy. One former agency leader, for example, cited this structure as a “huge problem.” He explained that the reporting relationship between the IG and Congress makes it hard to engage in a “team-oriented, let’s

figure out where the problems are and fix them approach because the department secretary has to respect the direct reporting obligation that the IG has to congressional committees.”

Many of the IGs we interviewed, however, said that congressional reporting requirements are critical to ensuring their independence and sometimes provide a necessary incentive for agencies to act on their findings and recommendations.

One IG said it is “crucial” to have a strong relationship with Congress, noting that “congressional interest can motivate agencies to be attentive to IG requests.”

While IGs and agency leaders often have different perspectives, one former agency executive said both sides must recognize that “there’s supposed to be a healthy tension.”

“You must have a mutual understanding and recognition that, fundamentally, you both want what’s best for the agency; how they each define the best interest of the agency may differ,” said one current agency chief executive.

David Montoya, the IG for the Department of Housing and Urban Development, said it is critical for leaders to understand that they share similar goals as their inspector general, which is to ensure the integrity and efficiency of agency operations.

“The IGs are also leaders within the agency and it is important for an agency to keep in mind that IGs are not the enemy,” said Montoya.

### **Rely on the IGs for insights into major agency risks and opportunities**

An inspector general can be an ideal data source for agency leaders as they undertake enterprise risk management. One former agency leader said that “IGs have a view of the department and its programs that no secretary will ever possess.”

To gain a level of trust, the relationship may need to overcome misperceptions of IGs being antagonistic to the agency’s leadership. This may be difficult, but if they can together anticipate vulnerabilities and opportunities, they can minimize unexpected problems.

The IGs and agency leaders have a shared interest in serving the public, ensuring high-quality government performance and curtailing waste, fraud and abuse. If they do not perceive they are working toward common goals, neither side is as effective as it can be and the relationship between them is weakened.

Several IGs said it is important for them to convey the agency’s management challenges to new leaders. “It’s the role of the IG to inform agency leadership of potential problems and risks facing the de-

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AGENCY CHIEF EXECUTIVE

<sup>1</sup> Council of the Inspectors General on Integrity and Efficiency, “The Inspectors General” <http://bit.ly/2bB6CkI>

partment,” said Eric Thorson, IG at the Department of the Treasury.

Some IGs also said leaders in new administrations should turn to them as a resource for navigating the agency.

“We know the department very well, including where the bones are buried and where the traps lie,” said Mary Kendall, the acting IG at the Department of the Interior. She said the institutional knowledge and awareness of nuances that might not be found anywhere on paper will amplify the IG’s value.

One current agency leader said IGs not only have a duty to point out faults, but to “provide steps the agency can take to correct issues.” The executive said in some previous government positions, the IG would informally work with the target of the audit and incorporate management’s response to the findings and recommendations when appropriate.

“The IGs have to be business partners and collaborators, notwithstanding their independent role,” he said.

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MARY KENDALL, ACTING INSPECTOR GENERAL, DEPARTMENT OF THE INTERIOR

### **Provide IGs with information they need to do a fair and honest review**

Agency leaders need to help IGs get information, both from written records and by talking with employees. Despite a requirement that agencies provide access to all documents relating to programs and operations for which the IGs have responsibility, many IGs told us they do not always get their hands on the materials they need, and that this presents a major hurdle.

As recently as May 2016, the Council of the Inspectors General on Integrity and Efficiency wrote a letter to the majority and minority leadership of the Senate complaining that IGs across the government have been running into roadblocks when seeking information they need for their inquiries.<sup>2</sup>

The letter said that since 2010, a number of federal agencies, including the Department of Justice, the Peace Corps, the Department of Commerce, the Environmental Protection Agency and the Chemical Safety and Hazard Investigation Board, have challenged the IGs’ access to pertinent agency information.

The battle escalated when the Department of Justice’s Office of Legal Counsel issued an opinion in July 2015 denying IGs access to matters involving grand jury testimony, national security wiretaps and credit information.<sup>3</sup> The IGs said in their letter to Congress that this opinion “seriously impaired our ability to perform this watchdog role by restricting our independent access

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2 Council of the Inspectors General on Integrity and Efficiency, “Letter from CIGIE Chair Michael Horowitz to Majority Leader McConnell and Democratic Leader Reid,” U.S. Senate, May 12, 2016 <http://bit.ly/2bYJ0Kh>

3 Department of Justice, “The Department of Justice Inspector General’s Access to Information Protected by the Federal Wiretap Act, Rule 6(e) of the Federal Rules of Criminal Procedure, and Section 626 of the Fair Credit Reporting Act” (July 20, 2015) <http://bit.ly/2b50I95>

to agency records and hampering whistleblowers’ ability to bring us evidence of waste and misconduct.”

Congress responded by attaching language to the fiscal 2016 Commerce, Justice, Science, and Related Agencies Appropriations bill that specifically sought to overturn the Department of Justice opinion as it related to six inspector general offices funded by that measure. The Department of Justice in the spring modified its guidelines for those agencies through the remainder of the current fiscal year which ends September 30.

The IGs are pushing for permanent legislation to prevent the restrictions they have encountered, but the issue remains unresolved and a source of tension.

There also have been instances where ill will between the IG and agency leaders has led to a lack of cooperation.

One federal executive, for example, said he experienced situations where a series of IG audits produced negative findings, but were perceived by the agency as having serious flaws. He said this ended up discouraging cooperation and improvements in agency operations.

“A poorly conducted audit can discourage agencies from proactively participating in audits, leading to more poor results due to lack of transparency and quality information,” the agency executive said. “IGs and agency leaders need to be honest about whether they are in a vicious cycle and improve communication and information exchanges.”

### **Understand each IG’s “line in the sand”**

By law, inspectors general are to be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability. Because inspectors general are independent, neither the agency head nor the deputy can prevent an IG from conducting an audit or inves-

tigation, or stop one that is ongoing. Agency leaders also cannot order an IG to conduct an audit or investigation. The reports are supposed to be unbiased and apolitical. This independence is central to the IG's role.

IGs do not always walk the same line when it comes to how closely they work with their agency's leadership. For example, some IGs said they never attend senior staff meetings because they want to maintain the appearance of independence, while others noted the importance of using the meetings to keep themselves informed about agency activities.

While taking different approaches, most of the IGs we interviewed stressed the importance of maintaining a productive relationship with agency leaders, while not compromising their independence.

Peggy Gustafson, the IG from the Small Business Administration, said she maintains "close relations and an open-door policy with the general counsel and the deputy administrator." By refraining from participating in program policy or issues, she said, her independent role is clear to all parties.

Montoya, the HUD IG, said he meets with the secretary every month and the deputy secretary every other week. "The relationship is getting better as communication with senior leadership is improved," he said.

Daniel Levinson, the IG for the Department of Health and Human Services, said he meets with the deputy secretary and secretary once every few weeks. He said meetings often include senior agency and IG office staff so he can "update them on important information from my office that the agency should know."

While recognizing the need for IGs to maintain a healthy distance, one former agency leader said "personal relationships can form based on mutual respect."

"It takes both parties to figure

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AGENCY INSPECTOR GENERAL

out the rules of engagement, a rough sense of prioritization and working boundaries," he said.

A former Cabinet secretary agreed, noting that despite experiencing some tensions, "we were all in this together" and "the mechanisms are there. It's getting them to work well."

Department of Transportation IG, Calvin Scovel III said he believes it is "fairly easy to thread the needle because all of us know that independence will take priority."

Another IG said success occurs when her office has full and open communications with every level of the department. The relationship should not be "us versus them" and it never has to be a "gotcha" type of relationship, the IG said.

But this relationship is not always easy, particularly when the IG needs to report negative findings. Linda Halliday, who served as acting IG at the Department of Veterans Affairs and is now deputy IG, said, "While having a positive relationship with the agency can make it easier to do business, it is easy for the relationship to become strained when the IG releases negative findings and difficult recommendations."

Agency leaders and inspectors general said that it is important not to blindside management regarding the recommendations and findings of audits and investigations. Both also agreed that changes will not be

easily adopted if an IG does not discuss issues and recommendations in advance before providing potentially embarrassing reports to the media.

"The department should not find any surprises in the media or from its IG," one IG said. "The reason I like to limit surprises is because I need the agency to make the changes that need to be made."

One former agency leader said being given advance notice is an important way to build and foster mutual respect. He suggested that the IG should commit to avoiding a late Friday afternoon notification to the agency leader for a report that will be released on Monday morning. By agreeing to give the leader time to prepare a response, he said, the agency head can commit to providing timely responses to IG reports.

In the end, all IGs draw their line in their own way depending on their circumstances.

As one departmental IG said, "All of the IGs would say independence and objectivity are important. In terms of how they exercise their authority, everyone does it a little differently."

#### **Fill vacant IG positions with top talent as quickly as possible**

According a report by the nonprofit Project on Government Oversight, the Obama administration's average time for filling IG vacancies from January 2009 through June 2015

was 613 days, twice that of some past administrations.<sup>4</sup>

Under President Reagan, the average time was 224 days, while under President George H.W. Bush, it was 337 days. It took President Clinton 453 days and President George W. Bush 280 days to get IG vacancies filled.

According to the organization's analysis, most of the lag time during the Obama administration has been the result of delays by the White House in making the nominations, not in the slowness of the Senate confirmation process. There have been some instances, however, where the Senate has been a bottleneck.

As of August 2016, the Project on Government Oversight identified 11 open inspector general positions, 10 of which are among the 30 presidentially appointed and Senate confirmed posts.<sup>5</sup>

The longest vacancy has been at the Department of the Interior, where there has been no permanent IG since Feb. 23, 2009. In this case, Earl E. Devaney left his role as Interior IG to serve as the chair of the Recovery Accountability and Transparency Board that oversaw billions of dollars in economic stimulus spending. The Obama administration did not have the power to fill this position until Devaney retired from federal service in 2011, but the White House did not submit a nomination for this job until June 8, 2015, and no permanent nominee has been confirmed by the Senate. The IG post for the Federal Deposit Insurance Corp. has had a vacancy since Sept. 25, 2013, and an administration nominee has been awaiting confirmation

in the Senate since Nov. 12, 2014.

When vacancies occur, career staff carry on the work of their offices. Some members of Congress have questioned whether the sustained absence of permanent leadership undermines the ability of IGs to do their jobs, an issue that has drawn mixed views by the IGs who were interviewed.

Some of the IGs said those serving in an acting capacity faced the same challenges, especially around independence, as their permanent counterparts. They said they have been able to carry out their work without any greater difficulty than those who have been confirmed.

Others, however, said being an acting IG places individuals in a challenging situation, one in which they either feel pressure to please the agency and the administration to secure a permanent appointment, or they are disregarded and unable to accomplish work that could have an impact.

Rickey Hass, the acting inspector general at the Department of Energy, and Kathleen Tighe, the IG at the Department of Education, both said acting IGs can be just as decisive and effective as their permanent counterparts.

But David Williams, who was once the acting IG at the Department of Housing Urban Development and later served at the U.S. Postal Service, said being in a temporary post can be the "kiss of death."

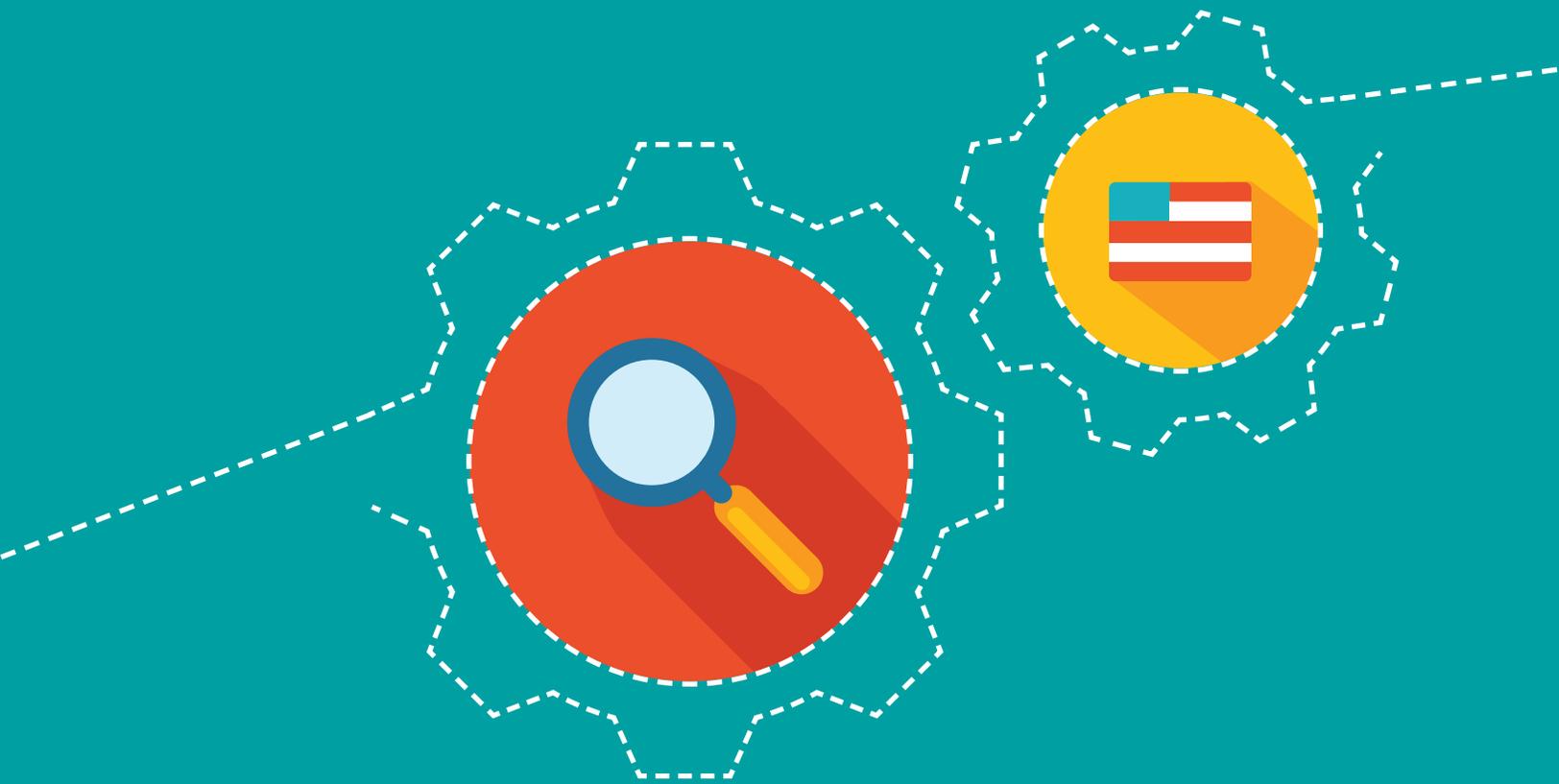
"If you don't act aggressively enough in the position, you run the risk of being considered too tame for the job. If you act aggressively and decisively, you are considered too divisive to be hired," Williams said. "This dynamic results in an acting IG being unable to function effectively, without jeopardizing selection of the candidate or later Senate confirmation."

To help fill vacant IG positions, a committee from the Council of the Inspectors General on Integrity and

Efficiency submits the names of interested and qualified candidates to the White House. In the next administration, it would be helpful if the Presidential Personnel Office makes full use of the council's list of qualified candidates for open IG positions, stays updated on new IG vacancies and sets a process in motion to fill IG positions as quickly as possible.

4 Project on Government Oversight, testimony of Danielle Brian on "Watchdogs Needed: Top Government Investigator Positions Left Unfilled for Years" <http://bit.ly/2b7zdNE>

5 Project on Government Oversight, "Where Are All the Watchdogs?" <http://bit.ly/1PPRDRP>



# How inspectors general can support and work with incoming agency leaders

Inspectors general can be an important resource for agency leaders, but there are practices that the IGs can use to make the relationship easier.

As one former agency leader said, “This does not imply that the IGs become an appendage of the departments, but they can use their ability to step back and look at the issues and relevant factors impacting a department’s objectives, which can be a service to both the department and the congressional committees.”

Based on our interviews. We identified several helpful IG practices:

- Provide constructive oversight for the agency
- Produce practical, actionable recommendations and highlight best practices
- Promote and support strategic innovation

### **Provide constructive oversight for the agency**

In 2014, the IG's office at the Veterans Health Administration audited the agency's National Call Center for Homeless Veterans. The audit found that in fiscal 2013, about 27 percent of the nearly 80,000 homeless veterans who called in had to leave a message on an answering machine because no counselor was available to take calls.

This was not the only issue the audit addressed. The IG's office identified more than 40,000 missed opportunities to help homeless veterans. In response, the VHA made several changes to the IG's recommendations, including replacing the answering machine with an interactive voice response system. This system sends calls elsewhere—including in some cases to a crisis line—so the person with an issue could talk to an individual right away. In tackling the problems through an audit, the IG office provided specific information that helped the National Call Center improve how it delivers vital health services to homeless veterans.

Since the IG position was created, there has been a natural tension between those who believe IGs should emphasize uncovering waste, fraud, abuse and mismanagement, and others who suggest that IGs take a more active role in preventing it. IGs have demonstrated they can play multiple roles, including identifying systemic issues, improving agency operations, uncovering past wrongdoing and pre-empting potential missteps.

The IGs' work on the Recovery Accountability and Transparency Board provides a model for how an IG can help organizations prevent fraud, waste, abuse and mismanagement before it happens.

In 2009, Congress approved billions of dollars in stimulus spending and established a board to oversee the massive economic recovery plan. The board coordinated with individ-

ual department IGs overseeing stimulus spending in their own agencies. Earl Devaney, the chairman of the board, testified before Congress that his most important job was to prevent fraud and waste from occurring.

The recovery board was comprised of an independent director and 12 agency IGs, and a separate implementation office that reported to the vice president. Federal agencies disbursed funds quickly under legislation that set high expectations for accountability and transparency. The IGs, agencies, special counsels and others in the oversight community adopted a fast and flexible approach for conducting and reporting on their audits and reviews so their findings could be used to correct program spending before all of the funds were spent.

Devaney told Congress that the economic stimulus had historically low levels of waste, fraud and abuse. He called the enhanced transparency a "force-multiplier that drives accountability." Referring to the website that tracked the disbursement of the stimulus funds and the progress of different projects, Vice President Joe Biden said, "I expect it to be a template from this point on for how the federal government deals with taxpayers' money."<sup>6</sup>

### **Produce practical, actionable recommendations and highlight best practices**

IGs can play a powerful and constructive role in making recommendations that lead to agency operational improvements and the adoption of best practices.

The accuracy of the reports and the feasibility of the recommendations also can play a large role in the

level of respect agency officials have for the IG. When doing their work, a number of IGs said it is important to focus on the issues that can have the most meaningful impact rather than how many recommendations or reports are produced.

An IG at a major department said the key is not to issue contentious reports and get a contentious response, but to get people in a room together to discuss recommendations that will achieve positive outcomes. By finding a middle ground, the IG said his office's independence is not compromised, but the recommendations are more effective.

"The tone has changed, and our recommendations are much more productive and solution oriented," the IG said.

Roslyn Mazer, the IG at the FTC, agreed. "It's futile to recommend activities that are not actionable and do not recognize resource constraints," Mazer said.

A former executive at a major department emphasized that IGs not only have a responsibility to highlight problems, but to also "properly define success for the agency." He said failure to provide insights into how to correct problems is an important element that is often missing in IG reports, and causes some consternation among agency executives.

HUD IG David Montoya said that one way to provide valuable assistance is by highlighting best practices in programs that are found to be working at other agencies and that can be replicated. This can not only help agencies see what works, but it provides a path to implementing the recommendations, he said.

At the Pension Benefit Guaranty Corporation, the IG found ways to alert the organization to problems without launching an audit or investigation. IG Robert Westbrook said he has used advisories and, in at least one case, a white paper to point out issues the organization needed to fix or improve.

<sup>6</sup> Testimony of Earl E. Devaney, Chairman, Recovery Accountability and Transparency Board, before the Senate Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, Aug. 3, 2010 <http://bit.ly/2bOYZdC>

Early in his term, Westbrook prodded the PBGC to meet a requirement of having a risk-management officer. Instead of issuing a traditional report saying the organization was out of compliance with requirements, he looked at why the organization did not have such an officer in place. His analysis found there was concern about creating the position because the PBGC lacked good examples of risk-management officers elsewhere.

Westbrook developed a white paper with helpful information about risk-management officers at the departments of Education and Treasury, and at the Small Business Administration. He also highlighted the California Public Employees' Retirement system, whose situation was comparable to PBGC's, even though it is a much larger, non-federal, organization. Within two weeks of the white paper's publication, leadership appointed an acting chief risk officer.

Westbrook said he could have fired off a letter to leaders and publicized the fact that the organization was not in compliance, but he didn't think it would be helpful. The advisory was "a gentle way of pointing out that it hadn't been done yet," he said. The risk advisories he sends contain narrowly focused suggestions for action, but are not binding. They are posted on the organization's website and reported to Congress, as required. In general, he said, the advisories are "extraordinarily well-received by management."

IGs also told us that it is essential for them to conduct internal evaluations to measure their own effectiveness.

The IG office at the Department of Homeland Security, seeking to assess its own work, recently instituted a process to review previous audit reports and identify which recommendations the agency followed through on, according to IG John Roth.

He said this is a check on both the IG office and the agency, and helps determine whether a report's recommendations were useful and, if the agency implemented them, whether they had an effect.

Michael Horowitz, the IG at the Department of Justice, said his office has undertaken an effort to follow up with the department and work to close a high number of recommendations that remain open.

To draw attention to the issue, his office began sending the attorney general and deputy attorney general monthly reports on these open recommendations. While the agency is responsible for taking steps to address pending recommendations, it became the responsibility of auditors in the IG office to review their recommendations and follow up on their status. Horowitz said the process has taught teams to avoid making recommendations that are repetitive or are otherwise unnecessary, and to realize they need to track whatever recommendations they make.

#### **Promote and support strategic innovation**

When David Williams was the IG at the U.S. Postal Service, he employed researchers in addition to the audit and investigation staff. They came up with innovative ideas for the future of mail service, realizing the risks technology presents to the viability of paper mail and the existence of post offices. For example, he proposed that the Postal Service start offering paid advertisement space on the side of postal trucks as a way to increase revenue to compensate for the decline in mail volume.

Agency leaders and employees, however, often hesitate to test new ideas in the pursuit of strategic innovation out of fear their IG will be right behind them to bring attention to their failures.

A former agency leader said that "IGs need to exercise judgment

when people have made an honest mistake by trying to do something differently." He suggested that in some situations, IGs can ask managers to make a declaration before they start an initiative that they plan to try a new approach that may yield benefits, but may not succeed.

In some cases, IGs have developed new criteria to help them draw valid and appropriate conclusions for innovative work that may end up being unsuccessful.

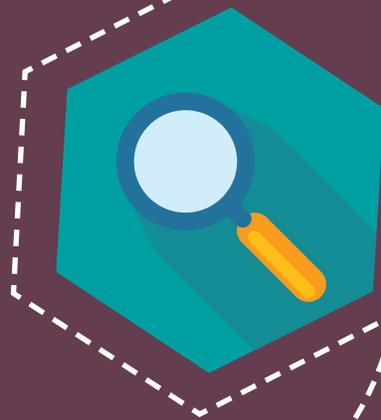
IGs at government organizations typically rely on The Generally Accepted Government Auditing Standards, or the Yellow Book for conducting audits. According to those standards, auditors should use the planning stage to identify the criteria they will use to evaluate matters they audit. These criteria help the IG office draw conclusions about program performance, so they need to be credible. The planning stage would be the time for IGs to take innovation and risk-taking into account instead of relying solely on existing criteria.

When an agency program covers new territory or uses new methods, existing criteria may not work well for capturing what the auditor is trying to evaluate. Auditors instead should go in with a "real-world perspective," said Richard Spires, former Department of Homeland Security chief information officer. The auditing process does not need to be adversarial, he added.

A few of the IGs said they were trying to support the ability of agencies to make improvements by doing their work in new ways.

"To be innovative you need time and space to learn lessons," said Arthur Elkins Jr., the IG at the Environmental Protection Agency. "Innovation tends to come in areas you least expect it, and mistakes are a major source of epiphanies." He said IGs have the opportunity to structure audits to provide that space to their agencies.

# What Congress can do to support the role of the inspector general



Recognizing ways agency leaders and IGs can work together is crucial, but a large piece is missing if the role of Congress is not taken into consideration. For the IGs and agencies to reduce fraud, waste, abuse and mismanagement in government, the Congress must be a partner in the process. This includes giving IGs the room to operate effectively and supporting the president in filling vacancies quickly.

Another critical area involves reducing the burden of legislative mandates that can divert the IGs' resources from addressing critical and often pressing issues for their agencies.

Congressional mandates require IG offices to conduct certain reviews, and the increasing number of mandates is a concern for IGs. A number of IGs said they were troubled because as these mandatory examinations and reporting requirements have increased, while agency staffing levels and budgets have remained flat or decreased, according to a 2015 survey by the AGA's Corporate Partner Advisory Group<sup>7,8</sup>

In 2015, for example, requirements were added for employee conference spending reviews, purchase and travel card audits and improper payment audits. The IGs said they worried that devoting more resources to mandatory audits without a corresponding increase in funding means they have fewer resources for focusing on high-risk areas in their agencies.

"Mandated activities take resources that could be better used on discretionary work, which serve as the real sizzle and value that we as IGs bring to rooting out fraud, waste and abuse," EPA's IG Arthur Elkins

said. He added that it's worth figuring out if mandated activities make it difficult for IGs to foresee or respond to crises.

According to the AGA survey, 52 percent of the IGs reported that their offices devoted at least 20 percent of their audit resources to mandatory audits. Among the smaller IG offices, it was more than 25 percent.<sup>9</sup> "Mandated reports place a huge burden on the small and midsize OIGs," said Federal Trade Commission's Roslyn Mazer. "Discretionary audits and evaluations are a precious resource."

IGs also are required to issue semiannual reports summarizing the results of their work. They must submit the report to the agency head, who transmits it with management's response to the appropriate congressional committees or subcommittees. The semiannual reports are intended to keep agency leaders and Congress informed of the IG office's significant findings and recommendations. These reports are required to contain information such as prior recommendations that have not been implemented, and a list of audit reports showing the number of recommendations and dollar value of costs that they are questioning.

A number of IGs said they thought the reports could be annual rather than semiannual without losing any value. Several said these reports contained more detail than substance on what was uncovered.

"Part of the problem is that many of the congressionally mandated metrics focus the IGs on meaningless, time-consuming tasks, some of which prove counterproductive to longer-term goals," said Danielle Brian from the Project on Government Oversight. She cited metrics that encourage increasing the number of reports done. "Metrics focusing on increasing audit numbers often encourage IGs to produce easy,

unhelpful audits."

The Inspector General Mandates Reporting Act (S 2128), pending in the Senate, would require that IGs create a list of the reports that must be submitted to Congress, along with recommendations for eliminating or modifying what they must report. The bill also would require the Council of Inspectors General on Integrity and Efficiency to review the lists of reports, and provide recommendations to Congress on eliminating or modifying some mandatory reports.

Some IGs would like the legislation to go further, including repealing outdated requirements and consulting with IG office affected by future mandates to identify resource constraints and opportunities for collaboration across the IG community.

While members of Congress often urge IGs to conduct audits and investigations on particular issues to highlight mistakes or wrongdoing, they infrequently use their leverage to urge IGs to prevent problems from occurring. Lawmakers also seldom place an emphasis on the need for IGs to identify best practices that can address some of the problems that have been found.

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## **"Mandated reports place a huge burden on the small and midsize OIGs."**

ROSLYN MAZER, INSPECTOR GENERAL, FEDERAL TRADE COMMISSION

7 The AGA is a membership organization for financial professionals in the government.

8 AGA Corporate Partner Advisory Group Survey Series, "Accelerating Change: The 2015 Inspector General Series," September 2015. Retrieved from <http://bit.ly/aga-ig>

9 Ibid.

# CONCLUSION AND RECOMMENDATIONS

The nation's 72 federal inspectors general provide critical oversight of government agencies, helping uncover waste, fraud and abuse, saving taxpayers billions of dollars each year, and pinpointing areas for improvement, all so agencies can better serve the needs of Americans.

With a new presidential administration set to take office in January 2017, newly appointed leaders will be getting ready to manage large and complex agencies. The IGs can be a tremendous resource for these leaders if each party is able to find a way to walk the line between improving agency programs and operations, and respecting each other's needs and concerns.

There are a number of steps that agency leaders, inspectors general, Congress and the White House can take to maximize the positive impact of the IGs on the federal government. We recommend:

## AGENCY LEADERS

Understand and respect the independent role of the IG, and seek to foster productive relationships that ultimately benefit the work and the mission of the agency.

Ensure that inspectors general have the information that they need to do fair and honest reviews.

Make full use of the information gathered through audits, inspections and investigations to correct deficiencies, improve agency performance and proactively address emerging risks and problems.

## INSPECTORS GENERAL

Issue recommendations that are constructive and actionable, not only identifying problems, but providing insights into how to correct them.

Look for leading practices being used in the government that can be adopted by their agencies. Additionally, given its enterprise-wide responsibilities, the Council of the Inspectors General for Integrity and Efficiency should highlight and promote these best practices among its members.

In conducting inquiries, be cognizant of situations when employees have made good faith efforts to innovate by incorporating new and potentially risky ideas into the development of programs and policies.

## CONGRESS

Lessen the burden of mandated activities to give the IGs flexibility to pursue issues of greatest urgency to their agencies.

Act quickly on presidential nominations to fill IG vacancies.

Encourage IGs to focus on preventing problems as opposed to simply finding past mistakes.

Reinforce the need for IGs to identify best practice solutions that can address the issues that have been found.

## WHITE HOUSE

Assign an individual at the Office of Presidential Personnel to write and publicize position descriptions for IG openings, and work with the Council of the Inspectors General for Integrity and Efficiency to develop a list of qualified candidates.

Avoid delays in nominating candidates for open IG positions, and work with congressional committees to expedite the confirmation process.

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