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WHERE ARE ALL THE WATCHDOGS? ADDRESSING INSPECTOR GENERAL VACANCIES

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

MAY 10, 2012

Serial No. 112–144

Printed for the use of the Committee on Oversight and Government Reform

Available via the World Wide Web: http://www.fdsys.gov
http://www.house.gov/reform

U.S. GOVERNMENT PRINTING OFFICE

74–454 PDF WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
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CONTENTS

	Page
Hearing held on May 10, 2012	1

WITNESSES

The Honorable Phyllis K. Fong, Inspector General, U.S. Department of Agriculture,	
Oral Statement	6
Written Statement	8
The Honorable Brian D. Miller, Inspector General, U.S. GSA	
Oral Statement	15
Written Statement	17
Mr. Jake Wiens, Investigator, Project on Government Oversight	
Oral Statement	21
Written Statement	23
The Honorable Daniel I. Werfel, Controller, Office of Federal Financial Management, Office of Management and Budget	
Oral Statement	50
Written Statement	53

APPENDIX

The Honorable Elijah E. Cummings, A Member of Congress from the State of Maryland:	
Opening Statement	75
Letters to President Barack Obama	77

WHERE ARE ALL THE WATCHDOGS? ADDRESSING INSPECTOR GENERAL VACANCIES

THURSDAY, MAY 10, 2012

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, D.C.

The committee met, pursuant to call, at 9:55 a.m., in Room 2154, Rayburn House Office Building, Hon. Darrell E. Issa [chairman of the committee] presiding.

Present: Representatives Issa, Burton, Mica, Chaffetz, Walberg, Lankford, DesJarlais, Cummings, Maloney, Norton, Tierney, Cooper, Connolly, Quigley, Davis, Murphy, and Speier.

Staff Present: Ali Ahmad, Majority Communications Advisor; Alexia Ardolina, Majority Assistant Clerk; Kurt Bardella, Majority Senior Policy Advisor; Michael R. Bebeau, Majority Assistant Clerk; Will L. Boyington, Majority Staff Assistant; Molly Boyl, Majority Parliamentarian; Lawrence J. Brady, Majority Staff Director; Steve Castor, Majority Chief Counsel, Investigations; John Cuaderes, Majority Deputy Staff Director; Jessica L. Donlon, Majority Counsel; Kate Dunbar, Majority Legislative Assistant; Adam P. Fromm, Majority Director of Member Services and Committee Operations; Linda Good, Majority Chief Clerk; Frederick Hill, Majority Director of Communications and Senior Policy Advisor; Christopher Hixon, Majority Deputy Chief Counsel, Oversight; Mark D. Marin, Majority Director of Oversight; Ashok M. Pinto, Majority Deputy Chief Counsel, Investigations; Laura L. Rush, Majority Deputy Chief Clerk; Jonathan J. Skladany, Majority Counsel; Cheyenne Steel, Majority Press Assistant; Rebecca Watkins, Majority Press Secretary; Jaron Bourke, Minority Director of Administration; Kevin Corbin, Minority Deputy Clerk; Ashley Etienne, Minority Director of Communications; Susanne Sachsman Grooms, Minority Chief Counsel; Carla Hultberg, Minority Chief Clerk; Lucinda Lessley, Minority Policy Director; Dave Rapallo, Minority Staff Director; Safiya Simmons, Minority Press Secretary; Mark Stephenson, Minority Director of Legislation; and Ellen Zeng, Minority Counsel.

ChairmanISSA. The hearing will come to order.

Before we begin, this is an unusual hearing, and I hope that you will all agree that this is a hearing in which we are not talking about any particular problem that has occurred in the recent or not recent past; we are talking about an ongoing question of the independence, the value of inspectors general, and where this Com-

mittee should go in strengthening the 12,000 men and women, $2 billion budget that ultimately protects the taxpayers.

So with that, I am going to make a special request. Recognizing that votes will interrupt this hearing and make it probably impossible for us to get through two panels, I am going to make a request that we be able to consolidate under one panel. In order to do that, I am going to ask unanimous consent here on the dais that all members agree not to get into areas that would create an inherent conflict between a transparency or sunlight individual, such as POGO, and the Office of Management and Budget.

Do I hear any objections?

[No response.]

ChairmanISSA. Hearing none, could we please consolidate this so that we can get through one panel? If anyone objects to questioning as somehow creating a conflict, I will rule on it. But my intention is that I believe everyone on the panel and everyone on both sides of the dais today wants this hearing to accomplish the same fact-finding.

So if the staff would get that done while we do the opening statement.

The Oversight Committee exists to secure two fundamental principles: first, Americans have a right to know the money Washington takes from them is well spent and, second, Americans deserve an efficient, effective government that works for them. Our duty on the Oversight and Government Reform Committee is to protect these rights. Our solemn responsibility is to hold government accountable to taxpayers, because taxpayers have a right to know what they get from their government. We will work tirelessly in partnership with citizen watchdogs to deliver the facts to the American people and bring genuine reform to the Federal bureaucracy. This is our mission.

In 1978, the position of inspector general was established to promote efficiency and ensure that a threshold of accountability was integrated government-wide. I, myself, saw the inspector general far before that, when in the military, where their role, for generations, was critical. Commanders do the best they can, but commanders need watchdogs at all levels, independent watchdogs. The IGs are America's front line of oversight in the Executive Branch.

In fiscal year 2009 alone, their audits and investigations identified over $43 billion in potential savings. Having a robust group of permanent inspectors general at the Federal agencies is the best way to protect taxpayers from waste, fraud, and abuse.

The Obama Administration has often proclaimed its commitment to transparency and accountability. That is why it is so troubling, and I remember that his predecessor had similar situations and want to note that, but the President has allowed vacancies at several IG offices to linger for months, and in some cases years.

Even more disturbing is the Administration's willingness to demonstrate a pattern, at times, of hostility towards some members of the inspector general community. That is not to say that that has not happened with past administrations.

One of the President's first actions on the IG front was to remove IG Gerald Walton from his post at the Corporation for National

and Community Service. We on this side of the aisle objected to it and continue to feel that this was inappropriate.

However, that is not the issue for today. The issue for today is in fact how do we find something, regardless of who is in the White House, that satisfies, first, the American people's right to know and right to be protected from waste; second, strengthens the relationship between this Committee and our counterparts in the Senate in being able to count on the inspectors general as our conduit into the Executive Branch.

We can all have discussions about this Administration, and we have had plenty and will have more, but I think when we look at exposing taxpayer loss and waste, we cannot look at any one administration. We have often, on a bipartisan basis, lauded the success of tracking the stimulus fund spending. Doesn't mean we agree to the stimulus bill itself, but it means that, in fact, we saw inspector general given a new job as chairman of that and we saw his years of experience help him help us understand what we would do next to improve transparency in the Federal Government.

Today, four IG posts have been vacant for more than 1,000 days. Five IG vacancies are at cabinet departments. One of our points will in fact be to deal with such situations as USAID's vacancy at a time in which Afghanistan and Iraq are not yet settled questions, and the variability of that entity to deliver its historic support, rather than direct funding to indigenous nationals, without USAID direct oversight concerns us and would concern us even more if we cannot have an inspector general there.

So, in closing, I think it is extremely important not to allow today's hearing in any way to reflect on the current Executive Branch individuals, including President Obama and Vice President Biden. In fact, we need to look beyond that. We need to look to the question of do we need to change the law for future presidents that would ensure prompt filling of vacancies in the absence of presidential action; could CIGIE or other entities have the right to temporarily fill those? If there is a dismissal—and I must admit I was tardy here because I was dealing with a potential false dismissal of an inspector general today—the fact is if that occurs, what is our ability to ensure that the acting inspector general in that entity or agency is in fact independent and that that dismissal is reviewed, or any other action reviewed in a way that prevents any loss of the independence, no matter what the allegation is.

As we all know, it is clear that inspectors general wear two hats. One of them is for the agency or the cabinet position they work for. They may or may not be presidentially appointed; they may or may not be confirmed in the same way. That may be something that needs to be changed. But today we will primarily be dealing with, and asking the question of, how can we get greater independence and, for this Committee, more consistent transparency to this Committee and to the public.

With that, I recognize the Ranking Member for his opening statement.

Mr. CUMMINGS. Mr. Chairman, just a point of clarification. Just one point. The OMB, as I understand it, has a policy of——

Chairman ISSA. I recognize the OMB has chosen not to be on this panel. We will remove the name. It may very well mean that he will be called back for a future hearing.

Mr. CUMMINGS. That will be fine. First of all, it is not that they are unwilling; it just sets another precedent. And they will testify at any time, so they are glad to come back.

Chairman ISSA. Sure. It was an ask for, and I had hoped that they would view this as the time in which it would not be a problem. As you know, Administration selectively decides at times that they will sit with non-Administration and selectively decides they won't, but ultimately we will respect their decision. We will get through the first panel. If there is time, based on some change, but I suspect strongly there won't be and we will have to reschedule.

Mr. CUMMINGS. That will be fine. Thank you very much, Mr. Chairman. I really appreciate that.

Inspectors general are critical to ensuring that our government works effectively and efficiently on behalf of the American taxpayers. Although our Committee plays a prominent and often public role in conducting government oversight, we rely heavily on IGs to conduct audits, inspections, and investigations on a daily basis at Federal agencies. Our Committee also plays a unique role in overseeing IGs and ensuring that they have the tools to do their jobs.

In 2007, one of the most respected members of our Committee, Jim Cooper, introduced H.R. 928, the Improving Government Accountability Act, to enhance IG independence and efficiency. Under the then-Chairman Henry Waxman, the Committee approved this legislation by a voice vote. The House and Senate then adopted it and the bill was signed into law by President Bush in 2008. In my opinion, this is how we should approach today's hearing: by working together in a bipartisan manner to ensure that oversight is rigorous and constructive.

Today we will discuss IG vacancies at Federal agencies. Right now, seven IG positions are vacant that require presidential nominations and Senate confirmations. Although the President has nominated several candidates who are awaiting Senate confirmation, he is yet to nominate others. In addition, an existing vacancy at the Special Inspector General for Afghanistan Reconstruction requires a presidential nomination, but not a Senate confirmation.

We all agree that we should have highly qualified, dedicated professionals in place at every IG office across the Federal Government. Personally, I am most concerned that the Administration has not nominated anyone to serve as State Department IG. The last Senate confirmed State Department IG was Howard Krongard, and he resigned after an investigation by this Committee into his conflicts of interest and his failure to conduct sufficient oversight of agency operations. That position deserves to be filled as soon as possible.

To be fair, the number of current vacancies is not necessarily unusual. In fact, in the fourth year of George W. Bush's presidency, there were also seven vacancies for Senate confirmed IGs, including at the State Department, Department of Treasury, the General Services Administration, and the Department of Health and Human Services. And this does not include Clark Kent Ervin's re-

cess appointment to serve as IG of the Department of Homeland Security, which was never confirmed by the Senate.

The fact that President Bush had as many IG vacancies in 2004 as President Obama does today does not mean we should ignore the current vacancies. Similarly, we should not single out the current Administration for purely partisan reasons.

As part of our review today, we also have to acknowledge the role played by the Senate in these vacancies. For example, President Obama nominated Michael Horowitz to be the IG of the Department of Justice on July 29th, 2011. Until 2009, Mr. Horowitz had served as a presidentially appointed, Senate confirmed commissioner on the United States Sentencing Commission; yet, even though the Senate had confirmed him previously, his nomination was held up for eight months. When the Senate finally did the vote, they confirmed his nomination by a voice vote.

Similarly, Brian Miller, the current IG at GSA, who will be testifying here today, had to wait nine months before the Senate finally confirmed his nomination by President Bush in 2005.

The IG vetting process is very extensive and challenging. It becomes even more difficult to identify qualified candidates who are willing to serve when they are blocked by anonymous holds and undue delays in the Senate.

Finally, I would be remiss if I did not recognize the hard work of those who serve in IG offices. This includes not only the thousands of staff who dedicate their professional careers to these tasks, but also those who serve as acting IGs while others await Senate confirmation. In fact, just yesterday our Committee heard testimony from the very capable acting IG at the Department of Homeland Security.

Nobody should be under the misimpression that the lights are turned off at IG offices while they await a permanent IG. These officials and staff do a terrific job on behalf of the American people and I commend them for their dedication.

With that, Mr. Chairman, I yield back.

Chairman ISSA. Thank you.

All members will have seven days to submit opening statements for the record.

As I recognize the panel, I would ask unanimous consent that, because we are not sure whether we will get to him, the Honorable Daniel Werfel's opening statement be placed in the record as though he did testify.

Without objection, so ordered.

Chairman ISSA. We now introduce the Honorable Phyllis K. Fong, who is the Inspector General of the U.S. Department of Agriculture and Chair of the Council of Inspectors General, or CIGIE, as we will tend to call it here.

Also a returning favorite, the Honorable Brian D. Miller, who is the Inspector General of the United States General Services Administration. Welcome back.

And Mr. Jake Wiens is the investigator for the Project on Government Oversight, often called POGO. Welcome back.

Pursuant to the Committee rules, I would ask you to please rise to take the sworn oath. Raise your right hands.

Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

[Witnesses respond in the affirmative.]

Chairman ISSA. Let the record indicate all witnesses answered in the affirmative.

Please be seated.

As I previously said, we are unfortunately, today, going to be on a very tight constraint because of votes. I will try to keep our folks to their five minutes. I would ask you to try to stay to your five minutes. And I assure you we will stay as long as we can on a vote and, if possible, return as soon as possible.

With that, we recognize Ms. Fong for her opening statement.

STATEMENTS OF WITNESSES

STATEMENT OF THE HONORABLE PHYLLIS K. FONG

Ms. FONG. Thank you, Mr. Chairman, Ranking Member Cummings, and members of the Committee. It is a real privilege to be here today to represent the Federal IG community, which consists of 73 IGs in the Executive and Legislative Branches.

At the outset, before I get into the topic of this hearing, I would like to express the appreciation of the IG community to you and the members of the Committee for your continuing support of our mission and your interest in our work. This Committee has a noteworthy record of bipartisan support for the contributions of IGs. In particular, we note your work on the Data Act of 2012, which was recently passed by the House and which contains several provisions that would greatly assist IG operations if enacted. So, on behalf of the community, we want to thank you for your support.

My written statement provides an overview of the IG Council's activities, so I am going to focus my remarks this morning on the role that we play as a Council in filling IG vacancies.

As has been remarked, the process to fill vacancies involves multiple players and a thorough vetting process, and CIGIE plays a very small role at the front end of this process. By law, we are responsible for submitting recommendations on potential IG candidates to the appropriate appointing authority; namely, the President for cabinet level agencies, and the agency head for smaller designated Federal entity IGs.

To do this, we have set up an IG recommendation panel to receive materials from interested candidates. The panel is composed of experienced IGs who represent different kinds of IG offices, who bring insight and experience to the process.

With respect to the PAS IGs, the panel provides recommendations on an ongoing and continuous basis to the Office of Presidential Personnel so that that office can consider candidates as vacancies arise.

When a vacancy arises in a DFE IG position, the panel contacts the appropriate agency head directly to offer its assistance in filling that vacancy.

CIGIE actively reaches out to numerous groups to publicize this process and to ensure that people who may be interested in IG po-

sitions understand the role that we play in the process and that they are able to take advantage of that role.

I should note here that while we do provide one source of IG candidates to appointing authorities, we are not the only source of candidates. For example, people who are interested in IG jobs can apply directly to the appointing authorities if they so desire. Also, our recommendations are not binding. The appointing authorities are not required to accept or to act on our recommendations when they make decisions on how to fill IG vacancies.

Once we provide our recommendations, our formal role in the appointment process is over.

We look forward today to continuing our work in this area and we welcome your questions and comments. Thank you.

[Prepared statement of Ms. Fong follows:]

Committee on Oversight and Government Reform
House of Representatives

Statement of Phyllis K. Fong
Chairperson, Council of the Inspectors General on Integrity and Efficiency
Inspector General, United States Department of Agriculture

Hearing on Inspector General Vacancies
May 10, 2012

Council of the
INSPECTORS GENERAL
on INTEGRITY *and* EFFICIENCY

Good morning, Chairman Issa, Ranking Member Cummings, and Members of the Committee. As Chair of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), I am honored to represent the Federal inspector general (IG) community this morning to discuss our work and recent accomplishments, and to describe CIGIE's role in the process of naming new IGs.

Let me begin by thanking this Committee, on behalf of the IG community, for your continuing support of our mission and your interest in our work. This support is longstanding and bipartisan, and we are truly grateful. In particular, we note the Committee's work on the Data Accountability and Transparency Act of 2012,[1] which was recently passed by the House and which contains several provisions that would well serve the IG community.

My testimony today will briefly discuss CIGIE's mission, recent IG community accomplishments, and the role that CIGIE plays in identifying candidates for IG vacancies when they arise.

CIGIE's Mission

The Inspector General Reform Act of 2008 (IG Reform Act) established CIGIE, a unified council of statutory Federal IGs, to carry out two key missions:

- address integrity, efficiency, and effectiveness issues that transcend individual Government agencies; and

[1] H.R. 2164.

- increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General.[2]

CIGIE's members currently include 73 IGs from the executive and legislative branches of Government, as well as six senior administration officials with related portfolios and responsibilities.[3] OMB's Deputy Director for Management serves as CIGIE's Executive Chairperson, while the Chairperson is an IG elected by the full membership for a 2-year term. The Chairperson appoints a Vice Chairperson from the IG members of the council.

IG Community Accomplishments

In accordance with CIGIE's primary mission, over the past several years the IG community has identified and addressed a number of issues that transcend individual agencies. CIGIE has issued reports on such topics as cyber security, suspension and debarment, the use of new media, the effectiveness of the Chief Financial Officers Act of 1990, disaster preparedness programs, international trade and competitiveness, IG hotline operations and whistleblower protections, the Federal Audit Clearinghouse, and IG oversight of the American Recovery and Reinvestment Act of 2009. These reports and others are available on CIGIE's website at www.ignet.gov.

CIGIE's training and professional development mission is addressed through our Training Institute, which offers training to OIG audit, investigative, inspection and evaluation, leadership,

[2] Pub. L. 110-409, Section 11(a)(2).
[3] The other statutory members of CIGIE are the Deputy Director for Management of the Office of Management and Budget (OMB), the Deputy Director of the Office of Personnel Management, the Special Counsel of the Office of the Special Counsel, the Assistant Director of the Criminal Investigative Division of the Federal Bureau of Investigation, the Director of the Office of Government Ethics, and the Comptroller of the Office of Federal Financial Management of OMB.

and mission support personnel. The institute, which is in a developmental phase, trained over 1,400 students from 56 CIGIE member agencies in fiscal year (FY) 2011.

CIGIE's standing committees[4] are active bodies that are responsible for, among other things, developing professional standards that apply to overall OIG operations, as well as OIG audits, investigations, inspections, and evaluations.[5] CIGIE, through its committees, also manages a peer review program of IG audit and investigation operations that evaluates OIG adherence to professional standards. In FY 2012, CIGIE initiated a pilot program to peer review OIG inspection and evaluation activities on a voluntary basis. The peer review process for all three disciplines (audit, investigation, inspection/evaluation) entails developing peer review programs, guides, and training, as well as carrying out the actual reviews on a regular cycle. Overall, these programs play a critical role in advancing the professionalism of OIG operations and enhancing confidence in the quality of OIG products.

Finally, CIGIE reports annually to the President on the overall accomplishments of the Federal IG community. The report for FY 2011 should be released shortly and will be made publicly available on CIGIE's website. We anticipate that the statistical results for FY 2011 will be consistent with, and generally greater than, the results reported for FY 2010. In FY 2010, Federal OIGs reported $87.2 billion in potential savings as a result of audits, investigations,

[4] There are seven standing committees for Audit, Information Technology, Inspection and Evaluation, Integrity, Investigations, Legislation, and Professional Development. With the exception of the Integrity Committee, the committee chairs are IGs elected to those posts. As committee chairs, they serve on CIGIE's Executive Council and provide corporate leadership, collaborative vision, and long-term planning to the IG community.
[5] By law, OIG audits must be done in accordance with Government auditing standards promulgated by the Comptroller General.

inspections, and evaluations. With an aggregate budget of approximately $2.5 billion for 69 OIGs,[6] these potential savings represent a return of about $35 on every dollar invested.[7]

In addition to statistical accomplishments, CIGIE's annual report summarizes some of the shared management and performance challenges facing many Federal agencies. This is based on the work done by individual IGs each year, who report the high-risk activities and performance issues that affect their agencies' operations or strategic goals. A comparison of these agency-specific challenges indicates that certain top management challenges are shared by many Federal agencies. CIGIE's FY 2010 report identified challenges such as information technology management and security, financial management and performance, Federal expenditures and operations under the 2009 Recovery Act, human capital management, procurement and grants management, and performance management and accountability. Individual IGs continue to work within their agencies to address these challenges.

IG Vacancies

Under the IG Reform Act, CIGIE is responsible for submitting "recommendations of individuals to the appropriate appointing authority" for consideration when an IG vacancy arises.[8] Generally, the appointing authority for establishment IGs is the President; the appointing authority for IGs of designated Federal entities (DFE) is the agency head. As part of this

[6] In October 2010, Congress expanded CIGIE's membership to include four IGs from the intelligence community. Their accomplishments will be included in the annual report for FY 2011.
[7] Note that of the $87.2 billion in potential savings reported for FY 2010, nearly $50 billion was reported by the U.S. Postal Service OIG in connection with its work on civil service retirement system overpayments and the certification process for electronic payments. In FY 2009, in our first annual report, CIGIE reported $43.8 billion in potential savings, for a return of approximately $18 on every dollar invested.
[8] Section 11(c)(1)(F). Prior to 2008, the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency, which were CIGIE's predecessors, did not have a formal role in identifying potential candidates for IG positions.

process, most IGs appointed by the President are subject to Senate confirmation (PAS IGs), while IGs appointed by agency heads do not go through Senate confirmation.

To fulfill its responsibilities, CIGIE has established the IG Recommendation Panel to identify possible candidates for IG positions. The panel is composed of experienced IGs representing both establishment and DFE entities and is chaired by the IG of the Federal Election Commission. CIGIE officials actively publicize the panel's role and activities in presentations to the IG community; accountability and oversight communities at the Federal, State, and local levels; and the private sector. In addition, CIGIE provides information to the public on our website (www.ignet.gov) about the process for filling IG vacancies. Individuals who are interested in IG positions are encouraged to contact the panel.

The panel asks each potential candidate to submit a resume and complete a standardized questionnaire covering employment history; professional qualifications; prior OIG, government, and management experience; and interest in particular agencies or type of appointment. The panel meets periodically to consider applicants and decide which candidates to refer to the appointing authorities.

CIGIE works with the appointing authorities to ensure that they are aware of CIGIE's role in filling IG vacancies. With respect to establishment IGs, the panel has established a liaison with the Office of Presidential Personnel and refers candidates on a continuing basis for consideration for IG appointments as vacancies arise. With respect to DFE IGs, CIGIE notified all DFE agency heads after passage of the IG Reform Act of our new role in recommending IG candidates and invited agencies to contact the panel should a vacancy arise. CIGIE also

contacts the appropriate DFE agency head directly when an IG position becomes vacant to offer our assistance.

It should be noted that while CIGIE plays a role in identifying potential IG candidates, CIGIE is not the only source of candidates available to appointing authorities. For example, candidates can contact appointing authorities directly. Also, appointing authorities are not required to act on or accept CIGIE recommendations when filling IG vacancies.

As of May 7, 2012, CIGIE records indicate that there are ten vacant IG positions; nominations have been submitted to the Senate for two of them.[9] Since passage of the IG Reform Act in October 2008, 25 IGs have been appointed to fill vacancies. Of these 25, 13 are PAS IGs and 12 are DFE IGs appointed by their agency heads.

Conclusion

This concludes my written testimony. Thank you again for inviting me to testify today before the Committee about CIGIE's activities and accomplishments, and the role that we play in the process of appointing IGs. I would be pleased to address any questions you may have.

[9] Eight of the ten are Presidentially appointed (seven of these require Senate confirmation), while two are appointed by agency heads.

Chairman ISSA. Thank you.
Inspector Miller?

STATEMENT OF THE HONORABLE BRIAN D. MILLER

Mr. MILLER. Good morning, Chairman Issa, Ranking Member Cummings, members of the Committee. Thank you for inviting me here to talk about the role of inspectors general. My remarks today reflect only my personal experience.

It is a great privilege for me to have served as inspector general since being confirmed in 2005, and I recognize the tremendous responsibility that comes with this job.

IGs wield a large amount of discretion and authority. They issue reports that can have a devastating impact on the agency and individuals. IGs make criminal referrals, often resulting in felony convictions and incarceration. IGs advise heads of Federal agencies and the Congress. We regularly appear at hearings such as this one and often meet with members of Congress and their staff. Perhaps most importantly, IGs need to navigate sometimes difficult relationships with their home agency, as well as relationships with other IGs, agencies, prosecutors, and the law enforcement community as a whole.

Part of the genius of our system of government is that IGs provide the needed check and balance on the operation of Federal agencies.

Now, the usual incentives for taking a presidential appointment do not apply to IG positions. IGs are not policymakers; they apply the laws and policies already on the books. They are not political. IGs have to be nonpartisan, fair, and impartial. Finding and nominating the right person for the job is absolutely vital.

IGs have a dual reporting requirement to Congress and the agency head. As one former inspector general, Sherman Funk, put it in the Fall 1996 issue of the Journal of Public Inquiry, dual reporting equates to "straddling a barbed wire fence." Mr. Funk stated that because of the challenges facing IGs, the job must be done with sufficient common sense, a healthy dose of good humor, unremitting homework, support by professionally competent staff, and, above all, a solid and reflexive integrity. Then the barbed wire fence may cut occasionally, but it will not disable.

Based on my own experience, I believe that once selected and appointed, an IG needs time and experience on the job to develop long-term audit and investigative priorities, the ability to hire highly specialized staff, and the independence to accomplish the mission. My permanent appointment allowed me the needed leverage and longevity to make lasting improvements to my office and to make long-term recommendations to GSA.

Additionally, I believe my impact has been greater because I have been able to create longstanding relationships with agency officials, the Department of Justice, and the Congress. I have also worked hard to establish partnerships with State and local IGs in law enforcement as part of my duties with the Financial Fraud Enforcement Task Force.

Examples of some of the steps I have been able to take include the following:

In 2008, I formed the Office of Forensic Auditing to employ innovative auditing and investigative techniques, and to develop evidence that meets admissibility standards for prosecution in Federal courts.

In 2011 we began a criminal intelligence program to augment our investigative activities by consolidating our information-gathering efforts and serving as a force multiplier for our special agents around the Country. We have integrated our hotline into this program so that a trained investigative analyst looks at very complaint and tip to identify trends and connections to other open cases. Additionally, our partnership with FinCEN, the Financial Crimes Enforcement Network, broadens our agents' ability to spot bribery cases and kickbacks.

I appreciate the time and effort that went into confirming me as an inspector general, and I hope that my efforts have served the interests of the United States. Thank you for your time, and I would be happy to answer any questions.

[Prepared statement of Mr. Miller follows:]

Statement of the Honorable Brian D. Miller

Inspector General

General Services Administration

Committee on Oversight and Government Reform

United States House of Representatives

May 10, 2012

Statement of the Honorable Brian D. Miller
May 10, 2012

Good Morning Chairman Issa, Ranking Member Cummings, and members of the Committee. Thank you for inviting me to testify today about the role of Inspectors General (IG). This committee has championed the independent and critical mission of IGs, and I thank Congress for its continued commitment to our mission.

My remarks today reflect only my personal experience. It is a great privilege for me to have served as an Inspector General since 2005, and I recognize the tremendous responsibility that comes with the job. IGs wield a large amount of discretion and authority. They issue reports that can have a devastating impact on the agency and on individuals. IGs make criminal referrals often resulting in felony convictions and incarceration. IGs advise heads of federal agencies and the Congress. We regularly appear at hearings like this one and often meet with members of Congress and their staffs. IGs propose legislation and talk with the media.

Perhaps most importantly, IGs need to navigate sometimes difficult relationships within their home agency as well as relationships with other IGs, agencies, prosecutors, and the law enforcement community as a whole. Part of the genius of our system of government is that IGs provide that needed check and balance on the operations of federal agencies.

The usual incentives for taking a Presidential appointment do not apply to IG positions. IGs are not policy makers. They apply the laws and policies already on the books. They are not political. IGs have to be nonpartisan, fair, and impartial. Finding and nominating the right person for the job is vital.

IGs have a dual reporting requirement to Congress and the agency head. As one former Inspector General, Sherman Funk, put it in the Fall 1996 issue of Journal of Public Inquiry, dual reporting equates with "straddling a barbed wire fence." Mr. Funk stated that because of the challenges facing IGs, the job must be done "with sufficient common sense, an understanding of

the relative priorities of each, a healthy dose of good humor, unremitting homework, support by professionally competent staff and, above all, solid and reflexive integrity." Then "the barbed wire may cut occasionally but it won't disable."

Based on my own experience, I believe that once selected and appointed, an IG needs time and experience on the job to develop, for example, long-term audit and investigative priorities, the ability to hire the highly specialized staff they need, and the independence to accomplish their mission. My permanent appointment allowed me the needed leverage and longevity to make lasting improvements to my office and to make long-term recommendations to GSA. Additionally, I believe my impact has been greater because I have been able to create long-standing relationships with agency officials, the Department of Justice, and Congress. I have also worked hard to establish partnerships with state and local IGs and law enforcement as part of my duties with the Financial Fraud Enforcement Task Force.

Examples of some steps I have been able to take include the following. In 2008, I formed an Office of Forensic Auditing to employ innovative auditing and investigative techniques such as data-mining to detect fraudulent conduct in agency operations and to develop evidence that meets the admissibility standards for prosecution in federal courts. In 2010, we began to identify the increasing infiltration of counterfeit products in the federal supply chain by partnering with the Intellectual Property Rights Center operated by Immigration and Customs Enforcement (ICE). In 2011, we began a Criminal Intelligence program to augment our investigative activities by consolidating our information gathering efforts and serving as a force multiplier for our special agents around the country. We have integrated our hotline into this program so that a trained investigative analyst looks at every complaint and tip to identify trends and connections

to other open cases. Additionally, our partnership with the Financial Crimes Enforcement Network (FINCEN) broadens our agents' ability to spot bribery cases and kickbacks.

As co-chair of the Financial Fraud Enforcement Task Force's Public and Private Sector Outreach Committee, I work with state and local law enforcement and procurement officials, the federal procurement community, and the private sector to find new ways to prevent, detect, and prosecute financial fraud. These partnerships facilitate an inter-government approach to fight fraud. Our office shares information with federal, state, and local partners through a quarterly report containing criminal convictions and civil settlements as well as through an interactive map linking state and local websites that contain information on disreputable individuals and companies so that other levels of government are not also defrauded by the same companies.

I appreciated the time and effort that went into confirming me as an IG, and I hope my efforts have served the interests of the United States. Thank you for your time, and I would be happy to answer any questions the Committee may have.

Chairman ISSA. Thank you.
Mr. Wiens.

STATEMENT OF JAKE WIENS

Mr. WIENS. Chairman Issa, Ranking Member Cummings, thank you for inviting me to testify today.

My name is Jake Wiens and I am an investigator at the Project on Government Oversight, which is also known as POGO.

From POGO's perspective, the inspector general system is an essential component of a well functioning Federal Government. IGs identify billions of dollars in cost-savings every year; they conduct investigations that hold government officials and contractors accountable for misconduct; and they help to evaluate the effectiveness of government programs and policies.

Because POGO considers IGs to be so incredibly important, we regularly undertake efforts to strengthen and improve the IG system as a whole. Some of those efforts have focused on giving IGs the tools to be more independent and other efforts have focused on the necessity of holding IGs themselves accountable for misconduct and poor performance.

Our most recent effort to strengthen the IG system is a web page that we created called Where Are All the Watchdogs? The web page continually tracks the overall number and length of IG vacancies, and whose responsibility it is to fill the positions.

POGO created the IG vacancy tracker because we firmly believe that the effectiveness of an IG office can be diminished when that office does not have permanent leadership. IG offices that are led by permanent IGs have a number of structural advantages over IGs that are led by acting IGs. Some of those advantages are unique to the IG context and others are general management concepts that could apply in basically any organization.

One structural advantage to permanent IG leadership involves independence. Another advantage of permanent IG leadership involves credibility. Both of those qualities can have a huge determinant on the effectiveness or lack thereof of a particular IG office.

As of today, 10 of the 73 statutory IG positions are vacant. Some of the positions have been without permanent leadership for years on end, while others only recently became vacant. Although the overall number of IG vacancies is important, the context surrounding particular vacancies is necessary to truly understand the implication of that vacancy. IG positions can become vacant for a variety of reasons, some of which are troubling, while others are completely appropriate; and in some occasions a vacancy may even be beneficial. Likewise, IG vacancies can continue for extended periods of time for a variety of reasons.

It is useful to look at some of the current vacancies to understand how they began, why they have continued, and what the implications of those vacancies might be.

The State Department IG has now been vacant for 1,576 days, just over four years. The position first became vacant when State's most recent permanent IG, Howard Krongard, resigned amid allegations that he had been blocking criminal investigations into contractors operating in Iraq. The initiation of that vacancy created an opportunity to fill that position with a highly qualified and well re-

spected permanent IG who could restore credibility to that IG office. But that opportunity has not been realized, as the position has remained vacant without a nominee since the last year of the Bush administration.

The Corporation for National and Community Service IG position has now been vacant for 1,064 days. The position first became vacant in June 2009, when President Obama removed CMCS's most recent permanent IG, Gerald Walton, under controversial circumstances. Since Walton's termination, the Obama Administration has nominated two candidates for the position. The first was nominated in February 2010, but his nomination has since been withdrawn; and the second was nominated in November 2011 and has been awaiting Senate confirmation for 177 days. The continued vacancy, regardless of fault, comes at a terrible time for the CMCS IG because their budget was recently cut in half during the fiscal year 2012 appropriations.

The Special Inspector General for Afghanistan Reconstruction position has now been vacant for 461 days. The position became vacant after the original SIGAR, Arnold Fields, resigned his office amid scrutiny by a bipartisan group of Senators, as well as POGO, who had arrived at the conclusion that he was not qualified for such an important position. But the fact that a replacement has not been appointed by the President, even though it has been more than a year since Fields resigned, also shows that it can be easier to create outside pressure for a removal than for an appointment, even though the impact of not having a permanent SIGAR is just as bad as having an ineffective SIGAR.

POGO strongly urges both the Obama Administration and Congress to make filling all of these vacancies a priority. But we also caution that filling the vacancies quickly should not come at the expense of identifying highly qualified candidates, a process which can take time.

Thank you very much for asking POGO for its views on these important issues, and I would be happy to answer any questions.

[Prepared statement of Mr. Wiens follows:]

Testimony of Jake Wiens, Investigator,
Project On Government Oversight,
before the House Committee on Oversight and Government Reform
on "Where Are All the Watchdogs? Addressing Inspector General Vacancies"
May 10, 2012

Chairman Issa, Ranking Member Cummings, Members of the Committee, thank you for inviting me to testify today and thank you for helping to focus attention on the issue of vacancies in the Inspector General (IG) system. My name is Jake Wiens and I am an Investigator at the Project On Government Oversight, also known as POGO.

Founded in 1981, POGO is a nonpartisan independent watchdog that champions good government reforms. POGO's investigations into corruption, misconduct, and conflicts of interest achieve a more effective, accountable, open, and ethical federal government. In that regard, POGO shares many commonalities with IGs, the federal government's independent watchdogs.

POGO views IGs as an essential component of a well-functioning federal government, and over the past few years we have undertaken a number of efforts to study and improve the IG system. In 2008, POGO released a report on the need for more independence in the IG system.[1] And in 2009, POGO released a follow-up report on the importance of balancing an IG's need for independence with the need to hold IGs accountable for their conduct and for the quality of their work.[2] Both of those reports have contributed to important reforms that have put IGs in a better position to succeed.[3]

Our most recent effort to strengthen and improve the IG system is a campaign we launched in February to bring attention to the large number of IG offices that are operating without permanent leadership. To that end, POGO created a web page called "Where Are All the Watchdogs?" which continually tracks the overall number of IG vacancies, the length of those vacancies, and whose responsibility it is to fill the positions.[4]

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[1] Project On Government Oversight, *Inspectors General: Many Lack Essential Tools for Independence*, February 28, 2008. http://www.pogo.org/pogo-files/reports/government-oversight/inspectors-general-many-lack-essential-tools-for-independence/go-ig-20080226.html (hereinafter *Inspectors General: Many Lack Essential Tools for Independence*)

[2] Project On Government Oversight, *Inspectors General: Accountability is a Balancing Act*, March 20, 2009. http://www.pogo.org/pogo-files/reports/government-oversight/inspectors-general-accountability-is-a-balancing-act/go-igi-20090320.html (hereinafter *Inspectors General: Accountability is a Balancing Act*)

[3] *Inspectors General: Accountability is a Balancing Act*, Appendix A; Project On Government Oversight, "Inspector General Community Posts Recommended Practices for Hotlines," November 15, 2011. http://pogoblog.typepad.com/pogo/2010/11/inspector-general-community-posts-recommended-practices-for-hotlines.html

[4] Project On Government Oversight, "Where Are All the Watchdogs?" http://www.pogo.org/resources/good-government/go-igi-20120208-where-are-all-the-watchdogs-inspector-general-vacancies1 html (hereinafter "Where Are All the Watchdogs?")

POGO firmly believes that the effectiveness of an IG office can be diminished when that office does not have permanent leadership, especially when that vacancy exists for an extended period of time, as many of the current vacancies have.[5] But we also acknowledge that IG vacancies can begin and continue for a variety reasons, some of which are problematic and some of which are completely appropriate. It is important to note that the negative aspects of an IG vacancy must be balanced against the need to identify highly qualified candidates and to vet those candidates thoroughly, a process which can—and should—take time.

Background

Congress created the first statutory IGs in 1978, in reaction to both the Watergate scandal and to a series of investigations into fraud, corruption, and mismanagement at the General Services Administration (GSA).[6] The statutory IGs are distinct from non-statutory IGs, which existed long before 1978 and are generally found in the military chain of command.[7]

Statutory IGs are considerably more independent than non-statutory IGs.[8] They derive much of that independence from their unique dual-reporting structure, which requires that they report their findings to both their agency head and to Congress. The statutory IGs also have a number of other tools that help keep them independent, including access to their own counsel, control over the content of their websites, and the discretion to audit and investigate matters of their choosing without agency interference.[9]

Those tools enable IGs to be very effective. A recent report by the Government Accountability Office (GAO) found that, in fiscal year 2009, IGs reported they had identified $43.3 billion in potential savings as a result of their audits and investigations.[10] That total represents a return of about $18 in potential savings for every dollar invested in an IG, according to a GAO calculation.[11] Beyond identifying cost savings, IGs also routinely conduct investigations into misconduct that can lead to criminal prosecutions and other sanctions. And, as evidenced by the IG audit that uncovered the recent GSA conference scandal, most IGs have the independence necessary to publish findings that implicate officials at the highest levels of their agency.[12]

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[5] "Where Are All the Watchdogs?"
[6] *Inspectors General: Many Lack Essential Tools for Independence*, p. 9.
[7] *Inspectors General: Many Lack Essential Tools for Independence*, pp. 8-9.
[8] *Inspectors General: Many Lack Essential Tools for Independence*, pp. 8-9.
[9] Inspector General Act of 1978, as amended.
[10] Government Accountability Office, *Inspectors General: Reporting on Independence, Effectiveness, and Expertise (GAO-11-770)*, September 21, 2011, p. 11. http://www.gao.gov/products/GAO-11-770 (Downloaded May 8, 2012) (hereinafter *Inspectors General: Reporting on Independence, Effectiveness, and Expertise (GAO-11-770)*)
[11] *Inspectors General: Reporting on Independence, Effectiveness, and Expertise (GAO-11-770)*, p. 11.
[12] Project On Government Oversight, "Interview: David Kotz, Former SEC Inspector General," April 30, 2012. http://pogoblog.typepad.com/pogo/2012/04/interview-david-kotz-former-sec-inspector-general.html

Currently, there are 73 statutory IGs, most of which fall under the authority of the Inspector General Act of 1978, as amended.[13] Those IGs can be divided broadly into two categories: (1) IGs that must be nominated by the President and confirmed by the Senate, and (2) IGs that are appointed by the leadership of their agency.[14] The former category generally involves larger agencies, while the latter generally involves smaller agencies, most of which are known as designated federal entities.[15] Thirty-two IGs require a presidential nomination, while forty-one require an appointment by the agency.[16]

Because the vast majority of IG positions do not have term limits,[17] the positions generally become vacant only when an IG resigns or is removed. In that event, one of the Deputy IGs generally becomes the Acting IG until a permanent IG is selected.

Current Number and Length of Vacancies

As of today, 10 of the 73 statutory IG positions are vacant.[18] Of those 10 vacancies, 8 fall into the category of IGs that require a nomination by the President and 2 fall into the category that require an appointment by the agency.[19] Of the 8 positions that require a nomination by the President, only 2 have nominees pending confirmation. The longest vacancy is at the State Department, where the IG office has now been without permanent leadership for 1,576 days without a nominee pending confirmation. The shortest vacancy is at the Securities and Exchange Commission, which has been vacant for 104 days as of today and requires an appointment by the agency.

Table 1, below, shows which IG offices are currently operating without permanent leadership, how many days those positions have been vacant, whether the vacant IG position has a nominee, and, if relevant, how long the nominee has been awaiting confirmation, as of May 10, 2012.

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[13] Inspector General Act of 1978, as amended; Congressional Research Service, Frederick M. Kaiser, *Statutory Offices of Inspector General: Past and Present* (Order Code 98-379), September 25, 2008, p. 3. http://www.fas.org/sgp/crs/misc/98-379.pdf (Downloaded May 7, 2012) (hereinafter *Statutory Offices of Inspector General: Past and Present* (Order Code 98-379)) ; Council of the Inspectors General on Integrity and Efficiency, "Inspectors General Directory & Homepage Links." http://www.ignet.gov/igs/homepage1.html (Downloaded May 9, 2012)

[14] *Inspectors General: Many Lack Essential Tools for Independence*. The Special Inspector General for Afghanistan Reconstruction is the one exception, as it requires an appointment by the President without Senate confirmation: *Statutory Offices of Inspector General: Past and Present* (Order Code 98-379), p. 3.

[15] All IGs that require an appointment by their agency are DFEs, except the Special Inspector General for Iraq Reconstruction, Architect of the Capitol, GAO, Government Printing Office, Library of Congress, and Capitol Police: *Statutory Offices of Inspector General: Past and Present* (Order Code 98-379), p. 5.

[16] Inspector General Act of 1978, as amended; *Statutory Offices of Inspector General: Past and Present* (Order Code 98-379)

[17] The only IGs with term limits are the Postal Service IG, 7 years; the Architect of the Capitol, 5 years; and the Capitol Police, 5 years: *Statutory Offices of Inspector General: Past and Present* (Order Code 98-379), p. 3.

[18] The figure is current as of March 10, 2012.

[19] SIGAR requires an appointment by the President, but does not require Senate confirmation: *Statutory Offices of Inspector General: Past and Present* (Order Code 98-379), p. 3.

Table 1: Current Status of Inspector General Vacancies

Agency	Days Vacant	Vacancy Date	Nominee	Days Since Nomination	Nomination Date	Who Nominates
State	1,576 days	01/16/2008	-	-	-	President
Interior	1,172 days	02/23/2009*	-	-	-	President
CNCS	1,064 days	06/11/2009	Deborah J. Jeffrey	177 days	11/15/2011	President
Labor	1,032 days	07/13/2009	-	-	-	President
Humanities	468 days	01/28/2011	-	-	-	Agency
SIGAR	461 days	02/04/2011	-	-	-	President
DHS	438 days	02/27/2011	Roslyn A. Mazer	294 days	7/21/2011	President
USAID	208 days	10/15/2011	-	-	-	President
DOD	138 days	12/24/2011	-	-	-	President
SEC	104 days	01/27/2012	-	-	-	Agency

Sources: POGO defines the start of a vacancy as the last date on which a permanent IG served in that capacity. The initial list of vacancies was obtained from a directory of IGs maintained by the Council of the Inspectors General on Integrity and Efficiency (CIGIE): http://www.ignet.gov/igs/homepage1.html. Vacancy dates for IG positions that require a presidential appointment were obtained from a database maintained by the GAO: http://www.gao.gov/legal/fedvac/vacancies.html. Vacancy dates for IG positions not listed in the GAO database were obtained from a variety of sources, including IG resignation letters and agency press releases. Information regarding presidential nominations was obtained from a database maintained by the White House: http://www.whitehouse.gov/briefing-room/nominations-and-appointments

Notes: *Earl Devaney, the most recent permanent Inspector General at the Department of the Interior, was appointed Chair of the Recovery Accountability and Transparency Board on February 23, 2009. Devaney took a leave of absence from his position at Interior at that point, leaving Acting IG Mary Kendall responsible for running the office. Devaney resigned from federal service in December 2011. POGO considers the position effectively vacant at the time Devaney was appointed Chair of the RAT Board. However, it should be noted that the Obama Administration could not appoint a permanent IG until Devaney resigned.

Impact of IG Vacancies

In some ways, very little changes when an IG office is led by an Acting IG rather than a permanent IG. Acting IGs are often experienced, competent, and have a good understanding of how to run an IG office. Furthermore, IG offices generally have an Assistant IG for Investigations and an Assistant IG for Audits, both of whom are involved more directly in the day-to-day operations of the office than the actual IG. Even so, the absence of permanent leadership can have a serious impact on the effectiveness of an IG office.

IG's have the power to conduct independent audits and investigations, but they do not have the power to compel an agency to take action based on their findings—they can only make recommendations. Therefore, it is extremely important that the bodies that **are** empowered to take action based on an IG's findings—agency officials and Congress—view the IG as credible and independent. Any indication to the contrary, regardless of fact, can provide those bodies with justification to disregard or cast doubt on the IG's findings, rendering the work of an IG far less effective.

Credibility

Permanent IGs are in a better position to be viewed as credible than are Acting IGs for a number of reasons. One is that permanent IGs are selected for the position on the basis of their qualifications to lead an IG office, whereas a temporary IG may be a good auditor or investigator, but may not be as qualified for a leadership role. That is especially true for the IGs that require a nomination by the President with confirmation by the Senate—they go through a rigorous vetting process, which helps establish that both Congress and the President believe they are qualified for the position.

Another reason is that a permanent IG has the time to establish a reputation for leading an office that conducts audits and investigations that are accurate and thorough. That reputation can insulate the IG office from criticism involving politically sensitive investigations and make agency officials and Congress more likely to take action based on the IGs recommendations.

Independence

According to a report on Quality Standards published by the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE), independence is a crucial component of an IG.[20] Independence is important both in fact and in appearance, the report states, so that "opinions, conclusions, judgments, and recommendations will be impartial and will be viewed as impartial by knowledgeable third parties."[21]

Structurally, permanent IGs are in a better position to be independent than are Acting IGs. For example, most permanent IGs can serve for as long as they please, unless the President or the agency head removes them. The political consequences of removing a permanent IG without sufficient justification can be severe,[22] making such action unlikely. Acting IGs, on the other hand, are temporary by nature, making it much easier for the President or agency head to take steps, either through a nomination or appointment, that lead to their removal. In other words, an aggressive Acting IG is easier to replace than an aggressive permanent IG.

In addition, as evidenced by a review of the historical list of IGs maintained by Council of the Inspectors General for Integrity and Efficiency (CIGIE), it is not at all uncommon for an Acting IG to become a permanent IG.[23] And it's not hard to imagine that a large number of other Acting

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[20] The report was authored by the precursors to the Council of Inspectors General on Integrity and Efficiency, the PCIE and the ECIE. President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE), *Quality Standards for Federal Offices of Inspector General*, October 2003, p. 12. http://www.ignet.gov/pande/standards/igstds.pdf (Downloaded May 8, 2012) (hereinafter *Quality Standards for Federal Offices of Inspector General*)

[21] *Quality Standards for Federal Offices of Inspector General*, p. 12.

[22] "The White House Fires a Watchdog: The curious case of the inspector general and a Presidential ally," June 17, 2009. http://online.wsj.com/article/SB124511811033017539.html (Downloaded May 9, 2012)

[23] Council of Inspectors General for Integrity and Efficiency, "INSPECTOR GENERAL HISTORICAL DATA FEDERAL DEPARTMENTS," Revised May 17, 2007. http://www.ignet.gov/igs/ighistory.pdf (Downloaded May 9, 2005)

IGs have aspired to become a permanent IG. But in order to become a permanent IG, an Acting IG must be nominated by the President or appointed by the agency. That structure, regardless of the integrity of the Acting IG, creates at least the appearance of a conflict of interest because the employment prospects of the Acting IG depend on the goodwill of the Administration that official is charged with investigating. It is hard to imagine that an Acting IG known for conducting hard-hitting investigations and audits that implicate high-level administration officials would be asked by that same administration to serve as IG on a permanent basis.

Regardless of whether the prospect of becoming a permanent IG has any actual impact on the behavior of the Acting IG, the appearance of that conflict alone can put the IG office in the difficult position of having its independence and objectivity questioned by third parties. For example, a recent probe by the Justice Department IG office into politically sensitive allegations that agents working for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) were directed to allow suspected straw buyers to purchase weapons on behalf of drug cartels, including AK-47s, and then subsequently lost track of those weapons, elicited congressional concerns about the independence of the Justice IG office, which at the time was led by an Acting official.

In a March 2011 letter to CIGIE, Senator Charles Grassley (R-IA) requested that the ATF inquiry be handled by an outside IG office, citing the lack of a permanent IG at DOJ as one of the reasons:

> In my experience, acting inspectors general tend to function as caretakers of the office. They are not necessarily equipped to take on an entrenched bureaucracy and challenge senior officials with the tough questions necessary to get to the bottom of a controversy as serious and far-reaching as this one. That would be especially true if the acting inspector general is seeking the nomination to fill the position on a long-term basis.[24]

CIGIE responded that it did not have the authority to require that the Justice IG office recuse itself and added that, even if it had the authority, it viewed the request as unwarranted because the DOJ IG office had "established itself as a model of independence, objectivity, and above all, integrity in every aspect of its daily pursuits."[25] Even if CIGIE is correct that no conflict exists, the perception of a conflict can cast a shadow of doubt on the findings of that office, rendering them far less meaningful.

The perception of a conflict can also have an impact on the interaction between an IG office and whistleblowers, a critically important source of information about agency wrongdoing. POGO

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[24] Letter from Senator Grassley to Kevin L. Perkins, Chair Integrity Committee Council of Inspectors General on Integrity and Efficiency, regarding "Whistleblower allegations involving Operation Fast and Furious, a Project Gunrunner case at the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)," March 8, 2011. http://www.grassley.senate.gov/about/upload/Judiciary-03-08-11-OCIE-letter-ask-for-DOJ-IG-to-be-removed-from-ATF-case.pdf (Downloaded May 9, 2005)

[25] Letter from Patrick McFarland, Inspector General, to Senator Grassley, regarding concerns about the independence of the DOJ OIG, March 16, 2011. http://www.mainjustice.com/files/2011/04/Response-to-Chairman-Issa-4-8-11.pdf (Downloaded May 9, 2005)

has experienced first-hand the impact that an Acting IG can have on the willingness of whistleblowers to provide tips to an IG office. After POGO released a letter in 2009 involving wrongdoing by private security contractors working for the State Department in Afghanistan,[26] we were flooded with tips from whistleblowers who claimed they were providing those tips to POGO because they were not comfortable contacting the State Department IG office. Although the whistleblowers generally did not have direct evidence that the IG office was captured by management, many cited the recurrent pattern of former management officials serving as Acting IG as a factor contributing to their concern.

Management and Strategic Direction

An award-winning academic study, published in 2009, found that vacancies in top agency positions promote agency inaction, create confusion among career employees, make an agency less likely to handle controversial issues, result in fewer enforcement actions by regulatory agencies and decrease public trust in government.[27] Although the study was focused primarily on agency positions, vacancies can cause similar problems in the IG context.

An effective IG understands the most serious risks facing his or her agency and creates a long-term plan tailored to meet those risks. While many agency risks are static, others can emerge dynamically, requiring an IG office to recalibrate its approach. While an Acting IG may be qualified to understand those risks and create a new audit and investigative approach, the temporary status of their position makes it difficult for them to do so, considering that they could be replaced at any time by a permanent IG who might favor a different approach.

So rather than plan ambitious audits, current and former IG staff have told POGO, Acting IGs are more likely to favor short-term projects that are not controversial, essentially serving as a caretaker until a permanent IG is appointed.

Examples of Current Vacancies

While the overall number and length of IG vacancies are important, the true implication of a particular vacancy can only be understood in context. IG positions can become vacant for a variety of reasons, some of which are troubling, while others are completely appropriate—and in some occasions might even be beneficial.

For example, it would be extremely troubling if an IG position became vacant because the President removed an aggressive IG without good reason. But it would completely appropriate—and arguably beneficial—if an IG position became vacant because members of Congress pushed

[26] Letter from Project On Government Oversight to the Honorable Hillary Clinton, Secretary of State, about the U.S. Embassy in Kabul, September 1, 2009. http://www.pogo.org/pogo-files/letters/contract-oversight/co-gp-20090901.html

[27] Anne Joseph O'Connell, "Vacant Offices: Delays in Staffing Top Agency Positions," *Southern California Law Review*, Vol. 82, 2009. http://www.law.yale.edu/documents/pdf/LEO/AOConnell_VacantOfficesforYLS.pdf (Downloaded May 9, 2012)

an IG who lacked integrity or was ineffective to resign, or a President removed an IG for engaging in serious misconduct.

Likewise, IG vacancies can continue for extended periods of time for a variety of reasons. For example, IG positions can remain vacant simply because the President has not taken action to nominate a candidate, which is a problem. But IG positions can also remain vacant when negative information about a nominee emerges during the confirmation process, raising previously unknown doubts about the qualifications of that nominee. In that situation, the benefits of keeping an unqualified candidate from becoming a permanent IG might outweigh the costs of extending the vacancy.

It's useful to look at some of the current vacancies to understand how they began, why they have continued, and what the implications of those vacancies might be.

The State Department

The State Department IG has now been vacant for 1,576 days, longer than the entire course of the Obama Administration. The position first became vacant when State's most recent permanent IG, Howard Krongard, resigned amid allegations that he was blocking politically sensitive criminal investigations into contractors operating in Iraq.[28]

The circumstances of Krongard's resignation show that, even though permanent IGs may be better positioned structurally to be independent from the agencies they are charged with overseeing, the integrity of the individual responsible for running the IG office, regardless of structure, can be a significant determinant of actual independence.

The initiation of the vacancy, following Krongard's resignation, created an opportunity to fill the position with a highly qualified and well-respected permanent IG who would restore credibility to the IG office. But that opportunity has not been realized, as the position has remained vacant without a nominee since the last year of the Bush Administration.

Deputy IG Harold Geisel has been responsible for leading the office since June 2008.[29] Under Geisel's leadership, the IG office has had a mixed record. The overall number of audits and inspections conducted by the office has risen significantly since he took over in 2008.[30] The overall quality of audits is far more important quantity, however, and at least some of the audits

[28] Warren P. Strobel, "Embattled State Department inspector general resigns," McClatchy Newspapers, December 7, 2007. http://www.mcclatchydc.com/2007/12/07/22736/embattled-state-department-inspector.html (Downloaded May 9, 2012)

[29] State Department Office of Inspector General, "Biography." http://oig.state.gov/aboutoig/bios/145675.htm (Downloaded May 9, 2012)

[30] Timothy R. Smith, "Issa sets hearing on inspector general vacancies," *The Washington Post*, May 8, 2012. http://www.washingtonpost.com/politics/issa-sets-hearing-on-inspector-general-vacancies/2012/05/08/gIQAFcPIAU_story.html (Downloaded May 10, 2012) It's important to note, however, that the quality of an audit is far more important than the quantity of audits.

conducted under Geisel have had real impact.[31] Current and former IG staff have also told POGO that Geisel has been an improvement over Krongard.

But the office has also experienced its share of problems under Geisel, including an October 2010 external peer review which identified numerous deficiencies in the section of State's IG office that was responsible for "oversight and assistance for high-cost, high-risk Department programs located in crisis and post conflict areas and countries," called the Middle East Regional Office (MERO).[32] The review found, among other issues, that MERO regularly issued audit reports in which conclusions were not supported by evidence. In response to the finding, Geisel reclassified many of MERO's audits as assessments (which require a lower threshold of evidence) and folded MERO into its main audit section.[33]

Perhaps most concerning, as an Ambassador, Geisel fits into a troubling pattern at the State IG office in which officials with Foreign Service backgrounds serve as Acting IG. Concerns involving that pattern have been analyzed in a number of GAO reports and were raised at a recent House Foreign Affairs Committee Hearing.[34] Regardless of whether Geisel's background actually makes him too close to management, there is no doubt that perception exists in the State Department—countless whistleblowers have come to POGO expressing concerns that they did not trust the State IG. That perception, regardless of fact, can have a devastating impact on the ability of an IG office to be successful because whistleblowers are such a critical source of information.

The Corporation for National and Community Service

The Corporation for National and Community Service (CNCS) IG position has now been vacant for 1,064 days. The position first became vacant in June 2009 when President Obama removed CNCS's most recent permanent IG, Gerald Walpin, under controversial circumstances.

The initial justification for the removal was that the President had lost faith in Walpin as an IG.[35] But after pressure from Congress to better explain its justification, the Obama Administration cited a range of "troubling and inappropriate conduct," including that an Acting U.S. Attorney for the Eastern District of California had filed a complaint with a committee charged with reviewing allegations of IG misconduct. The complaint alleged that Walpin had hindered a DOJ

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[31] Frank James, "U.S. Ambassador Exits Europe Post Before Scathing Report About Her," National Public Radio, February 4, 2011. http://www.npr.org/blogs/itsallpolitics/2011/02/04/133506783/u-s-ambassador-exits-europe-post-before-scathing-report-on-her-style (Downloaded May 9, 2012)

[32] National Aeronautics and Space Administration, Report No. IG-11-002, October 12, 2010. oig.state.gov/documents/organization/149869.pdf (Downloaded May 9, 2012) (hereinafter Report No. IG-11-002)

[33] Report No. IG-11-002

[34] House Committee on Foreign Affairs, "Ros-Lehtinen Opening Statement at Oversight Hearing on State Department Inspector General Office," April 05, 2011. http://foreignaffairs.house.gov/press_display.asp?id=1777 (Downloaded May 9, 2012)

[35] Letter from President Barack Obama to Speaker Nancy Pelosi, regarding Gerald Walpin, June 11, 2009. ga.abcnews.go.com/images/Politics/Obama_letter_%20to_Pelosi.pdf (Downloaded May 9, 2012)

investigation by withholding exculpatory evidence and had ignored DOJ warnings about dealing with the press.[36]

Following Walpin's termination, the committee completed its investigation, finding that Walpin's response to the allegations "sufficiently and satisfactorily addressed the matter and that further inquiry or an investigation regarding the matter was not warranted."[37]

Since Walpin's termination, the Obama Administration has nominated two candidates for the position. The first, Jonathan Hatfield, was nominated in February 2010, but his nomination has since been withdrawn. The second, Deborah Jeffrey, was nominated in November 2011 and has been awaiting Senate confirmation for 177 days.

The continued vacancy, regardless of fault, comes at a terrible time for the CNCS IG office, as its budget was inexplicably cut in half during FY 2012 appropriations.[38] In reaction to the budget reduction, the CNCS IG office announced that it was in the process of cutting 79 percent of its staff (26 of its 33 employees) and is "revamping its original 2012 workplan to eliminate most audits and evaluations."[39]

The CNCS IG office will essentially have to start from scratch in FY 2013, employees have told POGO. That process would be difficult under any circumstance, but the lack of permanent leadership at the CNCS IG office will only make it more challenging.

The Special Inspector General for Afghanistan Reconstruction

The Special Inspector General for Afghanistan Reconstruction (SIGAR) position has now been vacant for 461 days. The position became vacant after the original SIGAR, Arnold Fields, resigned his office amid scrutiny from a bi-partisan group of Senators and POGO, who had arrived at the conclusion that he was not qualified for such an important position.[40] POGO cited numerous deficiencies in SIGAR's audits and operations in calling for Fields' removal. Fields fired his two top deputies a week before resigning.[41]

The resignation of Fields shows that the initiation of a vacancy can sometimes be beneficial, as it creates the opportunity for a more qualified candidate to take the position. But the fact that a

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[36] Integrity Committee, Re: IC 614, October 19, 2009. http://www.politico.com/static/PPM130_walpinclearedltr.html (Downloaded May 9, 2012)
[37] http://www.politico.com/static/PPM130_walpinclearedltr.html
[38] Rick Cohen, "CNCS Inspector General Dealt Budget Blow: Bad Move for Nonprofits," January 11, 2012. http://www.nonprofitquarterly.org/index.php?option=com_content&view=article&id=19051:cncs-inspector-general-dealt-budget-blow-bad-move-for-nonprofits&catid=155:nonprofit-newswire&Itemid=986 (Downloaded May 9, 2012)
[39] Sean Reilly, "Bulk of IG office's staff likely to be laid off, reassigned," January 27, 2012. http://www.federaltimes.com/article/20120127/AGENCY01/301270001/ (Downloaded May 9, 2012)
[40] Project On Government Oversight, "Fields Resigns as Special IG for Afghanistan Reconstruction," January 11, 2011. http://pogoblog.typepad.com/pogo/2011/01/fields-resigns-as-special-ig-for-afghanistan-reconstruction.html#more (hereinafter "Fields Resigns as Special IG for Afghanistan Reconstruction")
[41] "Fields Resigns as Special IG for Afghanistan Reconstruction"

replacement has not been appointed by the President, even though it has been more than a year since Fields resigned, also shows that it can be easier to create outside pressure for a removal than for an appointment, even though the impact of not having a permanent SIGAR is arguably as bad as having an ineffective permanent SIGAR.

POGO has repeatedly called on the Obama Administration to fill this position, which requires an appointment by the President, but does not require Senate confirmation.

The Department of Homeland Security

The Department of Homeland Security IG has been vacant for 438 days. The position became vacant when Richard Skinner resigned in March 2011.

The Obama Administration nominated Roslyn Mazer to fill the position in July 2011. Mazer was thought by many to be a qualified candidate.[42] An attorney by training, Mazer has spent much of her career in the IG community. After serving seven years in the Oversight & Review Division of the DOJ IG office, Mazer served as the IG of the Office of the Director for National Intelligence (ODNI).

But her confirmation vote was delayed after Senator Susan Collins (R-ME) announced she would vote to oppose the nomination, citing letters she had received from two of Mazer's top deputies at the ODNI IG office. The letters raised concerns about Mazer's management style, with one describing her leadership as "directive, controlling, stifling, without focus—and to me exemplified a form of mental abuse." Mazer has rejected those charges and pointed to the "many meaty and significant reports" produced during her tenure as ODNI IG.[43]

Mazer's confirmation process shows how a vacancy can be extended when negative information that raises serious questions about a candidate's qualifications emerges unexpectedly.

How the Obama Administration Compares with Previous Administrations

As the individual examples show, a large number of factors can contribute to the initiation and continuation of an IG vacancy. To truly understand the implications of those vacancies, the details are extremely important. But it is also useful to look at IG vacancy numbers over previous Administrations to get a sense of how the Obama Administration compares.

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[42] "CONFIRMATION HEARING FOR ROSLYN A. MAZER INSPECTOR GENERAL, DEPARTMENT OF HOMELAND SECURITY HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE," November 15, 2011. http://www.cardin.senate.gov/newsroom/statements_and_speeches/confirmation-hearing-for-roslyn-a-mazer-inspector-general-department-of-homeland-security-homeland-security-and-governmental-affairs-committee (Downloaded May 9, 2012)

[43] Jennifer Scholtes, "White House Asks Panel to Postpone Vote on Its Nominee for DHS Inspector General," December 14, 2011.

Unfortunately, the data available to POGO from previous Administrations is incomplete, which does not allow for a perfect comparison. The data is limited to the category of IGs that require a nomination by the President with Senate confirmation. And key details are missing about the average time between the beginning of an IG vacancy and a nomination (nomination lag) and the average time between the nomination and confirmation (confirmation lag) during previous Administrations. But the data is nonetheless useful for getting a general sense of how the Obama Administration might compare.

Table 2, below, compares the average length of IG vacancies across the four Administrations preceding the Obama Administration. The data shows that IG vacancies were, on average, shortest during the Reagan Administration and longest during the Clinton Administration.

Table 2: Average IG Vacancy Length Under Previous Administrations

Administration	Position	Average Number of Days
Reagan	Inspector General	224
Bush 41	Inspector General	337
Clinton	Inspector General	453
Bush 43	Inspector General	280
Obama	Inspector General	379*

Source: The data on previous Administrations comes from an academic study on vacancies: Anne Joseph O'Connell, "Vacant Offices: Delays in Staffing Top Agency Positions," *Southern California Law Review*, Vol. 82, 2009. http://www.law.yale.edu/documents/pdf/LEO/AOConnell_VacantOfficesforYLS.pdf (Downloaded May 9, 2012) According to the study, the raw vacancy data was obtained from the Office of Personnel Management. The data on the Obama administration was compiled by POGO and is preliminary: See Table 4.

Note: POGO obtained the data from the previous Administrations directly from the study and has not conducted its own analysis of the raw data.

In order to get a better understanding of which part of the process generally contributes most to the length of the IG vacancy, Table 3 shows the average nomination lag and the average confirmation lag between 1987 and 2005, which does not cover the entire course of the Reagan or Bush 43 Administrations, but is the only data available to POGO.

Table 3: Average IG Nomination and Confirmation Lag Between 1987 and 2005

Date Range	Average Nomination Lag	Average Confirmation Lag
1987-2005	290	120

Source: The data comes from an academic study on vacancies: Anne Joseph O'Connell, "Vacant Offices: Delays in Staffing Top Agency Positions," *Southern California Law Review*, Vol. 82, 2009.
http://www.law.yale.edu/documents/pdf/LEO/AOConnell_VacantOfficesforYLS.pdf
According to the study, the raw vacancy data was obtained from the Library of Congress.

Note: POGO obtained the data in this table directly from the study and has not conducted its own analysis of the raw data.

Considering that President Obama has not completed a full term in office, it is too early to know for certain how his Administration will compare to previous ones in terms of average IG vacancy length. And the limited data from previous Administrations on nomination and confirmation lags allows for only an imperfect comparison. Nonetheless, Table 4, below, shows that, as of today, the total IG vacancy length under President Obama has lasted an average of about 379 days, with an average nomination lag of 264 days and an average confirmation lag of 115 days. In terms of the average total number of days vacant, the Obama Administration has the second longest average, with only President Clinton having longer vacancies, on average. The Obama Administration's average nomination lag, however, is 26 days faster than the average between the period of 1987 and 2005, the only years for which nomination data is available. That data is skewed, however, because it does not include the majority of the Reagan Administration, which had the shortest average IG vacancy.

Table 4: IG Vacancy Lengths Under the Obama Administration

Nominee	Agency	Position	Vacancy Date	Nomination Date	Nomination Lag	Confirmation Date	Confirmation Lag	Total Vacancy
Buckley, David Brent	CIA	IG	3/14/09	8/5/2010	509	9/29/2010	55	564
Elkins, Jr., Arthur Allen	EPA	IG	3/3/06*	11/18/2009	302	6/22/2010	216	518
Gratacos, Osvaldo Luis	EIB	IG	10/1/09	5/13/2010	224	9/29/2010	139	363
Gustafson, Peggy E	SBA	IG	6/29/09	7/6/2009	7	9/24/2009	80	87
Heddell, Gordon S	DOD	IG	7/14/08	6/1/2009	132	7/10/2009	39	171
Horowitz, Michael Evan	DOJ	IG	1/28/11	7/29/2011	182	3/29/2012	244	426
Linick, Steve Alan	FHFA	IG	6/30/08*	4/12/2010	447	9/29/2010	170	617
Martin, Paul Kenneth	NASA	IG	4/11/09	10/1/2009	173	11/20/2009	50	223
Montoya, David Alfred	HUD	IG	10/12/10	7/18/2011	279	11/18/2011	123	402
Tighe, Kathleen Susanne	DOEd	IG	7/1/08*	11/20/2009	304	3/10/2010	110	414
Romero, Christy Lynne	TREAS	SIGTARP	3/31/11	2/1/2012	307	3/29/2012	57	364
McCullough III, Irvin Charles	DNI	IG	10/7/10	8/2/2011	299	11/7/2011	97	396
AVERAGE					**264**		**115**	**378.75**

Sources: The initial list of vacancies was obtained from a directory of IGs maintained by CIGIE http://www.ignet.gov/igs/homepage1.html. Vacancy dates for IG positions that require a presidential appointment were obtained from a database maintained by the GAO: http://www.gao.gov/legal/fedvac/vacancies.html. Vacancy dates for IG positions not listed in the GAO database were obtained from a variety of sources, including IG resignation letters and agency press releases. Information regarding presidential nominations was obtained from a database maintained by the White House: http://www.whitehouse.gov/briefing-room/nominations-and-appointments

Notes: POGO defines the start of a vacancy as the last date on which a permanent IG served in that capacity. The nomination lag was calculated from the first day of the Obama Administration when the vacancy began during the previous Administration. The total vacancy numbers do not include the time the position was vacant under the previous administration. The FHFA IG position and DNI position were created by Congress during the course of the Obama Administration. POGO calculated the initial vacancy date for those positions beginning on the day the law creating that position was signed into law.

Conclusion

POGO firmly believes that IG offices are in a much better position to succeed when led by a permanent IG, as compared to an Acting IG. And we strongly urge both the Obama Administration and Congress to make filling those vacancies a priority. But we also caution that filling those vacancies quickly should not come at the expense of identifying highly qualified candidates, a process that does take time.

Chairman ISSA. Thank you.

Before I recognize myself, I would ask unanimous consent that two letters from Congressman Chaffetz, one to President Obama dated February 9th, 2012, and one also to President Obama dated May 17th, 2011, be placed in the record, both related to these vacancies.

Without objection, so ordered.

Chairman ISSA. Mr. Wiens, one quick question, not as my own question, but in your opening statement you said that sometimes a vacancy can be good. I am presuming that what that really meant was sometimes creating a vacancy would be good, but retaining a vacancy is never desirable.

Mr. WIENS. Yes, exactly. It is the initiation of that vacancy is what I meant——

Chairman ISSA. Good.

Mr. WIENS.—that creates that opportunity.

Chairman ISSA. No problem at all. Okay.

I am going to start with a question I know the answer to. That always makes it a little easier from the dais. Mr. Miller, are you familiar with White House liaisons that operate within, for example, GSA?

Mr. MILLER. Generally. I have met, I think, each one.

Chairman ISSA. Ms. Fong, you are too?

Ms. FONG. Yes.

Chairman ISSA. And, Mr. Wiens, are you familiar with how White House liaisons are placed in all the branches of the Executive Branch?

Mr. WIENS. I am not as familiar.

Chairman ISSA. Okay, then I will stick to my two IGs for a moment.

In your experience, isn't it true that these White House liaisons, regardless of who is in the White House, have pretty much unfettered access to information that they would choose to have, and the ability then to report it directly back to counsels in the White House?

Mr. MILLER. I wouldn't know, Mr. Chairman.

Chairman ISSA. Well, in your particular case, the White House liaison was aware of your investigation and the chief of staff, actually, in this case, I believe, reported it back to the White House counsel. So there is a separate avenue in every administration of these legislative or White House liaisons.

Here is one of my basic questions for the two IGs. That is all well and good, but do we currently have that same level of transparency from IGs, or anyone else, in each of the branches?

[No response.]

Chairman ISSA. We will take that as a no.

Ms. FONG. I am sorry, but I don't follow your question. Could you——

Chairman ISSA. Well, Ms. Fong, unless you report with the same specificity and constant reporting nature that a White House liaison does at you name the ABC, Justice, GSA, SEC, wherever, unless we have that same level, then the White House knows an awful lot more about things that are going right and wrong more directly and more unfettered than we do, isn't that true? Because

you are our only eyes and ears; we don't get to appoint a person who works for this branch to sit every day and be able to be in the critical meetings with the cabinet officer and other direct staff. Isn't that true?

Ms. FONG. I will just say that from our perspective we, as you know, have a statutory responsibility to report directly to you, as well as the head of our agencies, and we carry that responsibility out. We believe that is a very important responsibility.

Chairman ISSA. And that is my very question.

Mr. Miller, you are a hero around here. You did a very good job, and continue to do a very good job in your role at GSA, and we want you to do that. But I want to make a point here today, and that was the reason for this fairly long set of questions. In the case of your recognition that there was a huge problem with the Las Vegas GSA party, and other problems, you determined that and informed the White House through the referrals that GSA made directly to counsel, but not you doing it, but it happened as a result of your reporting it to the administrator, and thus to the White House liaison, the chief of staff, and so on. But you didn't report it to us during that 10 months. The current statute would have made it a requirement, wouldn't it?

Not the general interpretation of the statute, but doesn't the current statute, Ms. Fong, if something is significant, significant enough that you are pre-warning an administration official, you are pre-warning them because you want them to deal with it immediately, and it is in fact serious, doesn't that trigger the same requirement under current statute that you report to Congress?

Ms. FONG. I think you put your finger on exactly what the issue is. The language in the statute says keep the head of the agency and Congress fully and currently informed of significant issues. As you noted, the practice is to work with the agencies on urgent issues immediately so that they can be addressed very quickly, and then to work with Congress as quickly as can be reasonably handled; and it does involve some discretion and some judgment.

Chairman ISSA. So if this Committee were to send a letter to CIGIE, but to all the IGs, in light of the historic interpretation—and I want to be very fair, there is a historic interpretation and then there is an interpretation that perhaps I am going to give you today from the dais. It would be my new interpretation that anything that you choose or believe you have to tell the head, formally or informally, because you believe it is significant, triggers that requirement that you also tell us in due course.

Don't have a problem with caveats for things which have unique sensitivity, law enforcement sensitivity, but the basic we have a problem reporting, would it help if perhaps the Ranking Member and I made it clear that we believe that should trigger the information on some basis to us?

Ms. FONG. Or do you need new legislative language, which is always our backup?

Ms. FONG. We always welcome legislation.

Chairman ISSA. No you don't. All of us would prefer to work refining things without vast new laws, because we always piggy-back a lot on once we get to a new law.

My time has run out, but could you comment on that?

Ms. FONG. Sure. I appreciate your comments. I am aware that there have been legislative proposals on this area, and you are aware of some of the concerns that the IG community has historically had. I think we should definitely have continuing dialogue with you on this to flesh out areas where you have a concern where perhaps you don't believe we have been as forthcoming as you believe we should be, and I think we should continue that dialogue with you, your staff, the Ranking Member.

Chairman ISSA. Thank you.

I believe we have enough time for the Ranking Member's questions, and then we are going to go do the votes and then come back. So the gentleman is recognized.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Ms. Fong, the Council of Inspectors General on Integrity and Efficiency issues annual reports on significant activities and accomplishments of the Federal IGs. Each year your report includes data on government-wide potential savings and total savings to the government from all IG audit recommendations. Can you explain the difference between potential and total savings? I think we have a chart here somewhere.

Somebody put the chart up. There we go.

Can you explain the difference between potential and total savings?

Ms. FONG. Let me just take a step back.

Mr. CUMMINGS. Okay.

Ms. FONG. My understanding of the data—and this is based on the data that each IG office compiles in response to the IG Act requirements. And the data categories talk about potential savings because it is very difficult to measure actual savings. So my understanding of the data that we are providing is that we give a number for potential savings from audits and another number for potential savings from investigations. We add that up and have a total number of potential savings overall.

Mr. CUMMINGS. Okay.

Ms. FONG. It is very difficult to track actuals because of the nature of the criminal justice system, for example.

Mr. CUMMINGS. But you do this report, right? It comes out of your office, right?

Ms. FONG. Yes. The Council does the report.

Mr. CUMMINGS. So your annual reports for the last five fiscal years, 2006 through 2010, show a promising trend, is that fair to say?

Ms. FONG. I think you are right. I have looked at the results for the last three years; not the last five because I couldn't do that. But the last three do look as if we are on a very upward trend. I will note that a large portion of the recoveries in the last few years have been due to Postal Service IG and some of the specific work they are doing on pensions and EBT.

Mr. CUMMINGS. So let me show you the stats, okay? The graph up here shows that the potential savings for all IG recommendations and the actual savings to the government have steadily increased dramatically over the years, and I understand it is hard to get the actual number, so I guess these are pretty close estimates.

But no matter how you look at it, in fiscal year 2006, the potential savings were only $9.9 billion and the total savings were $16.7 billion. By fiscal year 2008, the potential savings were $14.2 billion and the total savings went up to $18.6 billion. By fiscal year 2010, potential savings shot up to $80.2 billion and the total savings went up to $87.2 billion.

Does this appear to be accurate to you?

Ms. FONG. I appreciate your asking me that question. This is the first that we have seen the chart, and I would be very happy to take the chart and analyze it in light of the data we have and provide you some comments on it for the record.

Mr. CUMMINGS. I guess I think that one of the things that we find is that in government today there is a lot of talk about Federal employees and what they don't do and what they don't accomplish, and agencies that don't accomplish certain things; and this Committee being concerned about savings, it seems like this would be something that would be at the top of your list as far as what you are effective at, because that is something that we are all interested in.

But you are not that familiar with these charts, is that what you are saying to me?

Ms. FONG. Yes. I think generally the numbers appear to me to be accurate, but I would like to just take a closer look and get some comments back to you.

Mr. CUMMINGS. But based upon what you do see, there is a positive trend going forward.

Ms. FONG. Yes, there is a positive trend.

Mr. CUMMINGS. And can you generally comment on why that might be? Without even knowing all the numbers. I mean, is there something happening that we don't know about?

Ms. FONG. Well, I would like to say that as the IG community matures and gets more experienced, that we are getting better at identifying the issues that really require oversight and that that is showing some payoff in terms of dollar recoveries as well as recommendations to improve programs. I would like to say that.

Mr. CUMMINGS. Well, just say it.

Ms. FONG. I will say that.

Mr. CUMMINGS. All right, you have said it. To me, it looks like both potential savings and total savings have increased dramatically under this Administration. What does this say overall about the community of inspectors general under the Administration? Can you comment generally on the effectiveness on the community of inspectors general and some of whom are acting? In other words, we have concerns about vacancies and whatever, but obviously the actings and the people in permanent positions, apparently they are doing something significant because that is a big jump from a few years ago until now.

Ms. FONG. Well, just to comment on the jump, again, I just want to reiterate that a large portion of that is due to the Postal Service IG's accomplishments. I want to give them appropriate credit.

But to get to your larger point about the acting IGs and their organizations, I have spoken to many of them recently. All of them have told me, the ones I have spoken with, that they are going after their mission full speed ahead, that they are very proud of the

accomplishments of their offices, that they feel they have issued some very hard-hitting reports with real dollar recoveries, and they feel that their offices continue to operate at a high professional level.

Mr. CUMMINGS. Well, as I close, I would agree with that and want to publicly thank them for what they do. I think it would be almost impossible for us on this panel and this Committee to effectively and efficiently do our jobs without you, without the IGs.

With that, I yield back, Mr. Chairman.

Chairman ISSA. And on that agreement we will stand in recess until just a few minutes after the second of two votes, which means about 15 minutes. Thank you.

[Recess.]

Chairman ISSA. This meeting will come to order.

We now recognize the gentleman from Illinois, Mr. Davis, for five minutes.

Mr. DAVIS. Thank you very much, Mr. Chairman.

Mr. Wiens, thank you for being here today. Let me say that I am very thankful for the service that your organization provides. I would remind us that it is important to have permanent inspectors general. I want to point out, however, that the lack of a permanent IG does not mean that those offices simply shut down. One indicator of effectiveness is the amount of recovered funds, or the number of suspensions or debarments, or other quantitative metrics, all of which IGs report to Congress on a semiannual or quarterly basis.

Do you have any statistics that compare the output of permanent IGs to acting IGs?

Ms. FONG. Let me go ahead and comment on that question. When we compile our statistics, we compile them for the whole community of IGs. Now, I believe that we could break it out, on a fiscal year basis, the statistics for organizations headed by permanent IGs versus organizations headed by acting IGs, but we do not currently have those statistics.

Mr. DAVIS. All right. Well, but I am sure you would agree that acting IGs often perform very valuable services in conducting audits, inspections, and investigations. Would that be correct?

Ms. FONG. Yes, I would very much agree with that.

Mr. DAVIS. For example, the acting IG at the Department of Interior conducted the investigation into the Deepwater Horizon spill, is that correct?

Ms. FONG. I believe that is correct.

Mr. DAVIS. I asked my staff to pull together some stats on this, and I think there is a slide that we could look at that might show what I am talking about. For example, the Department of Homeland Security currently has an acting IG named Charles Edwards. In fact, he testified before us yesterday. Before he assumed his post, recovered funds were $3.7 million in fines; savings and administrative cost savings were $6.5 million. After he assumed his post these amounts increased to $19.9 million and $20.5 million, respectively.

My point is not that he is doing something substantially different than his predecessor, although that may be true; my point is that the IG offices are made up of thousands and thousands of dedicated

workers who devote their professional careers to this. Would you agree that there are these individuals who are indeed professionals?

Ms. FONG. Yes. The offices of inspector general have many very dedicated and very professional and experienced people.

Mr. DAVIS. And if we would take a look at SIGAR in the quarter before Acting Special IG Trent took over, SIGAR proposed only four suspensions or debarments. Most recently, Acting IG Trent's office proposed 40 suspensions or debarments. Similarly, at the State Department, before Acting IG Geisel was in charge, the IG's office recovered $715,000 in funds and opened 14 investigations. Under the acting IG's leadership, recovered funds increased to $10.7 million and the number of investigations opened has increased to 49.

I guess what I am really just simply pointing out is the fact that these individuals do in fact provide very effective services and that we are in good stead, oftentimes, when they are placed in those offices, although they have not been permanently placed. And I guess it does help, though, to try and speed up the permanent placement so that the individuals have the security, themselves, of knowing what they are going to be doing, what they are going to be expected to do. And my point is simply that we should try, in as many instances as possible, to make these permanent placements so that the individuals are not just acting or have a level of uncertainty about what their tenure is going to be in a particular office or location.

So I thank you all.

Mr. Chairman, I yield back.

Chairman ISSA. Would the gentleman yield?

Mr. DAVIS. Yes.

Chairman ISSA. Just a question. And I am not trying to put words in your mouth; I am trying to understand. So one of your statements is that, to the greatest extent possible, if we can't find someone else to put up, in many cases we probably should urge the putting up of the acting IG who has been doing a good job and see if that isn't a consensus candidate for the Senate as one of the solutions?

Mr. DAVIS. Well, that is certainly a position that I take. I mean, I have always been told that the proof of the pie is in the eating. And if a person is doing a good job, there is nothing to suggest that he or she would not continue to do so; and I would certainly hope that the Senate would take that into consideration when there is a need for a permanent placement.

Chairman ISSA. Once again, when we talk about the shortcoming of the Senate, we are always in agreement here in the House.

Mr. DAVIS. Thank you.

Chairman ISSA. Thank you.

Now we recognize the gentleman from Indiana, the former chairman of the full Committee, somebody who knows a great deal about inspectors general, Mr. Burton.

Mr. BURTON. Wait a minute. I was the chairman emeritus; now it is the former chairman. Can you tell me the difference? Never mind.

Chairman ISSA. You know, if you have to know, then you have been too long not the chairman.

Mr. BURTON. Oh, I see, I am over the hill, part of the OTHG, over the hill gang? Never mind.

Chairman ISSA. Now, look. We look at your picture there. Okay, you look great. You look dapper. You still look great; you still look dapper. A rose by any other name, Dan. The gentleman is recognized.

Mr. BURTON. Are you guys enjoying all this?

Allow me to just start off, Mr. Chairman, by saying that we have over a trillion dollars in deficits this year, and the potential for over $1 trillion in deficits every year for the next decade makes one wonder why there wouldn't be more concern about oversight. I mean, the State Department is so involved and so responsible for what is going on over in the Middle East. I am not saying that the acting IG is not doing an adequate job, but it just seems to me that one of the most important things that the President would want to do, especially in economic times like this, is get somebody in there that is responsible for looking after the expenses in a very thorough way. I mean, Afghanistan and Iraq have been just such a drain on our resources over the past decade, it just boggles my mind to think that the Administration hasn't moved on getting a permanent IG. And also, you know, you wonder how many things may have fallen through the cracks.

I know Mr. Miller out there has worked on the problems that we talked about out in Las Vegas, those conferences and other things, and that sort of fell through the cracks. They didn't catch that until a lot of those things had been done, and there is some question about the gentleman who was in charge of that whole operation out there, whole area, might even have done something that was of a criminal nature and that he might even be tried before it is all over. It would seem to me that we would want to catch those things in advance, instead of catching them way after the fact. Or if not in advance, as close to the problem as possible.

So I am not sure—you probably have already answered this question, but let me just ask you a question that you might not be able to answer, and that is can you give me an answer as to why the President hasn't made a decision on this? That is number one. Number two, are there not plenty of competent people who have worked in this area of government that the President could have nominated that would have been able to take over and do the job?

Ms. Fong?

Ms. FONG. Well, as you know, the process to fill an IG position is a complicated process; it involves a number of players, it involves extensive vetting. It is an important process. We——

Mr. BURTON. Excuse me, Ms. Fong. Let me just interrupt real quickly. The President has had three years to make a recommendation, over three years, almost four, and it just seems to me, after three and a half years, it would seem that he could have at least recommended somebody so the vetting process could start. But to wait for three and a half years, and to know the costs that were involved, and an awful lot of people have said there has been a lot of waste, fraud, and abuse in Iraq and Afghanistan. It just seems they would have had somebody all over that, instead of asking for money and spending the money without proper oversight.

Go ahead.

Ms. FONG. Well, I think we can all agree that while acting IGs do a very, very good job, these positions should be filled as speedily as possible. I think that absolutely goes without saying.

Mr. BURTON. Well, if I were talking to the President—I always frame my comments on the floor like this because we can't talk to the President. But if I were talking to the President, I would say you ought to listen to Ms. Fong, because this should be done and should be done very quickly.

Mr. Miller, anybody else have any comments?

[No response.]

Mr. BURTON. Well, listen, I am awfully glad you folks got to see me; it has been a big thrill for you, I know.

Chairman ISSA. Would the gentleman yield?

Mr. BURTON. I would be happy to yield to my colleague.

Chairman ISSA. Thank you.

Following up on the acting, particularly for the IGs, but also for Mr. Wiens, do you believe that legislatively we could enhance vacancies that occur under both Republicans and Democrats, enhance the ability to have some legitimacy and some clout of the IGs by establishing procedures, perhaps under CIGIE, where, for example, we have a pool of IGs and the ability to move them without triggering a confirmation automatically for a year, if you will, in the inaction of a president within X amount of time for Congress to have a role in choosing, the way we do for GAO, candidates?

There are a number of ideas that have been floated around. Ms. Fong, I know you know many of them. The idea that you can have no IG and then, for whatever reason, the deputy leaving, and so you end up with, in the case of some agencies, they simply grab some career person who doesn't even have a history in the IG, and they throw them in as acting, and that is where you sit until there is action.

Do you believe that Congress should at least evaluate whether or not to have a role in preventing vacancies? For anyone on the panel.

Mr. WIENS. My own perspective is that the process seems to work pretty well most of the time. The overall number of vacancies is one metric, but if you look at the particular cases and look at how long they take, I think they take too long. But the process should take time because you are vetting candidates. I think in cases like the State Department, hearings like this are incredibly important because it puts pressure on those officials. But I do think examples like the State Department are the exception rather than the rule, so I am not sure that that would be quite necessary to do.

Chairman ISSA. Mr. Miller?

Mr. MILLER. Mr. Chairman, you may want to study any constitutional impediments. Article II, Section 2, Clause 2, the appointments clause, vests the authority to make appointments of principal officers in the President. So it would be worth having your counsel study that issue.

Chairman ISSA. Sure. And I wasn't talking about a principal officer. I am talking about the selection of an independent acting, and I gave the example of an agency that today is not headed by a confirmed individual, not headed by the previous deputy, but in fact

headed by a person who was never in the IG position, simply a senior person at that agency, without confirmation even of the commission. So, if you will, some role in those situations to create an acting.

Ultimately, there is the whole question of what statutory authority and constitutional authority you would have, and I think that is a very good one. At the end of the day, if you have somebody who has been selected by a chair of an agency or commission who is not confirmed, not voted by that, but simply thrown in there as the acting, you are so far removed from any constitutional legitimacy that you would have to ask the question of does Congress or should Congress, or even through a process, an administrative process, be able to see that somebody is selected that is not simply a yes person for that entity.

Ms. FONG. Let me offer a few comments on that. I think this situation does occur, it has occurred over the past few years. The statute, the Reform Act doesn't specifically address what do you do when you have a vacancy, who becomes acting. So generally, within the community, I think many of us recognize that one of the best practices for an IG office is to establish a very clear line of succession protocol that is public so that when an IG is incapacitated or gone, it is very clear that the authority flows within the OIG to carry out that OIG's mission. And in the best case scenarios that is what happens when there is a vacancy.

Now, sometimes, in offices that don't have such a protocol or in offices where the agency head may decide that they want to get involved, we have seen different ways that those situations are handled. I can think of a situation where an agency head, meaning either a board or commission, has appointed an acting IG from outside the OIG's office while they recruited for a permanent IG; and in those cases we were very fortunate. I think we established, CIGIE established a good dialogue with the acting IG to educate and inform on the IG role and how to carry out the mission, because there are some inherent questions about potential conflicts of interest dealing with audit independence and investigative independence, and those issues need to really be thought through very carefully; recusals may need to be thought about.

There have been other situations in the past where, when there is a vacancy that arises, the appointing authority, be it the agency head or the White House or whoever it is, on occasion has reached out and asked for a detailee from another IG office to come in and serve as the acting IG while a permanent IG is being recruited; and again I think that is an option that could be explored, depending on the situation. It is something that we would be happy to dialogue on.

Chairman ISSA. We appreciate that.

We now recognize the gentlelady from New York, somebody who very well knows these issues, Mrs. Maloney.

Mrs. MALONEY. Thank you very much, and I want to certainly welcome everyone on the panel, but particularly Mr. Miller, and congratulate you for your truly outstanding, creative, determined results-oriented work. You have really made all of us proud of you on both sides of the aisle. Also, Mr. Miller, you recently testified,

I believe, before this Committee on the GSA's 2010 outrageous conference in Las Vegas. Is that right?

Mr. MILLER. That is correct.

Mrs. MALONEY. And during the previous administration you also conducted vigorous investigations related to the former GSA Administrator, Lurita Doan. That is also correct, right?

Mr. MILLER. That is correct.

Mrs. MALONEY. So your work in rooting out waste, fraud, and abuse seems to be just as vigorous, regardless whether there is a Republican or a Democrat sitting in the White House. Is that right?

Mr. MILLER. That is correct.

Mrs. MALONEY. Let me ask you this. Do you believe that you would not have been able the results that you achieved if you were an acting IG?

Mr. MILLER. I don't believe that. I believe I—I would hope I would do exactly the same things.

Mrs. MALONEY. Okay, let me ask it in a different way to make my point. You are a member of a community of exceptional IGs, some of whom are in acting positions now, some of whom are permanent. You meet with them, you consult with them, you work and participate in many endeavors together, is that right?

Mr. MILLER. That is correct.

Mrs. MALONEY. Now, do you treat your colleagues any differently if they are a permanent or an acting IG?

Mr. MILLER. No, I do not.

Mrs. MALONEY. Do you give more weight to the opinions of a permanent IG, as opposed to an acting IG?

Mr. MILLER. No.

Mrs. MALONEY. Do you not decide to cooperate with an acting IG on whatever their goal is any differently than a permanent? Do you treat them the same?

Mr. MILLER. I treat them the same.

Mrs. MALONEY. During a hearing before this Committee in 2009, the IG of the Pension Benefit Guaranty Corporation, Rebecca Batts, gave very good testimony and she testified that the absence of a permanent IG is mitigated by, and I want to quote her statement because I think you're important, "permanent senior executive audit and investigative staff who remain in place throughout the transition from one inspector general to the next."

So she sees the independence and the continuity of the professional staff as a really important aspect of the IG's office. Would you agree with that?

Mr. MILLER. I would agree.

Mrs. MALONEY. And would you really basically agree with her statement that the staff can make a difference and is a very important part of getting the work done?

Mr. MILLER. Finding well qualified staff is extremely important.

Mrs. MALONEY. Ms. Fong, would you also agree with Ms. Batts' statement?

Ms. FONG. I believe that she has a very good point there, and I would add that our acting IGs, by definition, are part of that very qualified and experienced career staff with professional expertise.

Mrs. MALONEY. Well, in closing, I think we all can agree that a permanent, Senate confirmed IG is preferable. But we should not accept the idea that an acting IG and their staff are not capable of performing excellent, vigorous oversight and achieving results that are just as meaningful as permanent IGs.

Thank you.

Chairman ISSA. Thank you.

I thank the gentlelady.

Just in the nick of time returns the gentlelady from California, my colleague, Ms. Speier, for five minutes.

Ms. SPEIER. Thank you, Mr. Chairman.

I find this discussion kind of interesting and, with all due respect, a little long-headed. The truth of the matter is that all of us are temporary as members of Congress. We have two-year terms. To follow this line of logic, then, none of us can really be all that effective because we have temporary appointments.

Chairman ISSA. Would the gentlelady yield?

Ms. SPEIER. Of course.

Chairman ISSA. But we cannot be dismissed, except for felonious behavior, during that two-year period. We serve at the pleasure of no one except the next election. So Mr. Miller, for example, served under the Bush Administration, confirmed, and then was in limbo, to use a Catholic term, until, I am sorry, he was appointed both times, but he found himself going from appointment to acting, and waited.

So my point to you, and I will give you back the time——

Ms. SPEIER. Good.

Chairman ISSA.—is part of the discussion today is if you serve, if you will, at the whims of the cabinet officer and dismissal offends no one in the Senate because they didn't confirm you, versus you have been put up, vetted, confirmed by the Senate, and now a dismissal by the cabinet officer, regardless of party, reflects directly on those people who confirmed who typically the Senators want to know why. There can be a huge difference in the dismissal perception between an acting and a permanent, but I think the gentlelady's point is right, which is that although IGs sort of have four-year terms for good behavior, at most we only have two-year terms for good behavior.

I will reset the clock.

Ms. SPEIER. All right. Thank you.

So I guess my bigger concern is that this discussion should probably be directed at the Senate more so than at the President, because it is the Senate that oftentimes takes a long time to confirm individuals. And as I understand it, with you, Mr. Miller, you waited 270 days before you were confirmed by the Senate. But I don't believe that in any way damaged your ability to do your job, did it?

Mr. MILLER. I waited about nine months after I was first nominated in October of 2004, and then I was re-nominated in January 2005. I remained as a prosecutor and assistant United States attorney during that time, until I was confirmed and sworn in as inspector general.

Ms. SPEIER. So you were not acting during that time?

Mr. MILLER. I was not acting, no.

Ms. SPEIER. I see. Okay.

Let me address Acting IG Mary Kendall, who is presently at the Department of Interior. She has been there since 2009 in an acting role and has suspended or debarred 78 firms or individuals. She is also responsible for the investigation in the Department's Mineral Management Service. So I don't think we would at any point suggest that she hasn't done a good job, in fact, a very effective job as an acting IG, correct?

Mr. MILLER. I know Mary. I think the world of Mary and I think she has done a great job.

Ms. SPEIER. Okay. Now, what I would like to concentrate on, and I can't begin to tell you how important I think you are and the roles that you play. I want to focus on what we should be doing to make sure the recommendations you make are actually implemented, because for the talk of billions of dollars of potential savings that you are able to ferret out in any investigation, unless the Department volitionally takes action, there is no hammer. How do we give you more teeth is one question? Two, to what extent do your recommendations typically get embraced?

And all of you can answer that. Maybe Ms. Fong would like to start, having been in your position for 10 years now, I guess, is that right?

Ms. FONG. Let me offer a few comments on that. You are right that the IG role is to make recommendations and it is the agency's role to implement changes, to accept the recommendations and move forward if they choose to do so. And I recognize that this Committee has taken a real interest in IG recommendations and agency actions. I think every year you ask all of us to report to you on the status of our recommendations, which ones have been accepted, implemented, and which ones remain open; and I think, actually, in terms of what can be done to move that process along, that is a tremendous step. By the fact that you ask us to report on it, we work within our agencies, we bring that issue up to the front. The agency head becomes aware of your interest and we see action happening as a result of that because the agencies want to move along on those open recommendations, they want a good report. I think that is very important.

Ms. SPEIER. What additional powers should we give you?

Ms. FONG. In general?

Ms. SPEIER. In general.

Ms. FONG. Well, I think you all have taken a huge step forward with the Data Act that you just passed in the House of Representatives. That includes a number of provisions that would really help IGs in terms of computer matching, data gathering under the Paperwork Reduction Act, and reforming some of the IG Acts. We are hoping that those provisions that relate to IG operations will get passed in the Senate as well. Those are things that we have wanted as a community for a number of years, so we are very heartened to see progress being made on that.

Ms. SPEIER. Mr. Miller?

Mr. MILLER. Well, when I was chair of the Legislation Committee for the National Procurement Fraud Task Force, we put together a white paper with a lot of recommendations regarding additional tools for inspectors general, and I have previously testified to other

recommendations. I would be happy to share those with you after the hearing.

Ms. SPEIER. All right.

And the gentleman from POGO?

Mr. WIENS. So we have done a number of reports on the inspector general system, and in those reports we do have a detailed list of recommendations that we would like to see implemented. I don't have them in front of me, but I would be happy to share with you later.

Ms. SPEIER. All right, my time is about to expire.

Mr. Chairman, I actually think that if we spend the kind of money we do creating offices of inspectors general, that when they make recommendations they should be required to be implemented by the departments. When I think of the National Transportation Safety Board and the good work they do, the really remarkable work they do, and yet all they can do is make recommendations, which can or cannot be actually taken up by the industries that they are investigating. So I don't know what we can do as a Committee, but I think it is a waste of taxpayer funds if all of these recommendations that are being made and the potential savings that are suggested in the $87 billion range, if we can't force these departments to take the actions that the inspectors general suggest.

Chairman ISSA. I thank the gentlelady.

Without objection, Mr. Miller's and Mr. Wiens' additional papers you referred to will be placed in the record as soon as received. Additionally, we will take the collated recommendations we have been collecting for the last four years from inspectors general, make them directly available to you and include them in the record, because it has been the policy under both Chairman Towns and myself to collect those, catalog them, because ultimately, even if they don't have the authority, we do have the authority to see that the Administration adheres to them, so I would love to work with the gentlelady on that.

With that, in closing, we will go to the chairman emeritus for a quick remark.

Mr. BURTON. I just want to make it very clear that we have outstanding people working in the IGs offices, and I wasn't inferring that there wasn't any complaint with that. What I was saying, and I think the gentlelady alluded to it, was that the President has a responsibility when he becomes President to make the appointments that need to be made, especially when they have to be confirmed by the Senate. To leave a position as important as the IG for the State Department open for three and a half years is not a sign that that is a responsible move by the Administration. The President, you can excuse him for six months, you can excuse him for a year, or even maybe 18 months under certain circumstances. But three and a half years, almost to the end of his first term, assuming he has a second term, is just too long. So I would just say one more time that whatever president, whatever party, needs to be very attentive to making the selections for the various appointments as quickly as possible after his administration takes office.

Chairman ISSA. I thank the gentleman.

We will now dismiss our first panel and reset for our second panel. Thank you.

[Pause.]

Mr. BURTON. [Presiding.] We will now start with the Honorable Mr. Werfel. Thank you very much for being with us today. You are Controller of the Office of the Federal Financial Management for OMB, and you are recognized for an opening statement.

STATEMENT OF THE HONORABLE DANIEL I. WERFEL, CONTROLLER, OFFICE OF FEDERAL FINANCIAL MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET

Mr. WERFEL. Thank you, Congressman Burton.

Mr. BURTON. Oh, excuse me, one thing. We have to have you rise so we can swear you in.

Do you swear to tell the whole truth and nothing but the truth, so help you God?

[Witness responds in the affirmative.]

Mr. WERFEL. Again, thank you, Congressman Burton, Chairman Issa, Ranking Member Cummings, and members of the Committee, for the invitation to discuss the status of Federal inspector general leadership with you today.

The IG community plays an integral role in enhancing financial stewardship and accountability across the Federal Government. Through audits, investigations, evaluations, and inspections, the IG community provides critical analysis and oversight that strengthens program integrity, helps to eliminate waste, and holds our Federal projects and programs accountable to the public.

In this era of fiscal constraints, the role of the IG is more important than ever in helping agency leadership identify and address management challenges and maximize the impact of our limited Federal resources.

By way of background, the central role of the IG dates back to the passage of the Inspector General Act of 1978, over 34 years ago. The IG Act established the offices of inspector general within Federal agencies to conduct and supervise audits and investigations in agency programs, and to provide leadership and coordination for activities designed to promote economy, efficiency, and effectiveness, and prevent and detect fraud and abuse.

More recently, the IG Reform Act of 2008 established the CIGIE, which is charged with, among other things, identifying, reviewing, and discussing areas of weakness and vulnerability in Federal programs and operations with respect to fraud, waste, and abuse, and developing plans for coordinated government-wide activities that address these areas.

Under the Reform Act, the OMB Deputy Director for Management serves as the executive chairperson of the CIGIE, focused on facilitating the exchange of information between CIGIE and the agencies represented on it. However, this role is properly limited, given the importance of preserving the independence of the IGs and the CIGIE. That independence is one of the most central and crucial qualities of the IGs, allowing them to report objectively and directly to their agency heads on potential areas of concern or deficiency; and critical to this independence is the expertise and dedication of the civil servants that support the IGs, armed with exten-

sive and diverse expertise in areas such as accounting, auditing, law, management analysis, program analysis, public administration, and investigations.

This Administration remains committed to supporting the work of the IG community, while respecting its independence. Beyond supporting the IGs, their indispensable work in safeguarding and overseeing taxpayer funds is consistent with the core commitment of this Administration to make the Federal Government more transparent and accountable to the American people than ever before.

As dedicated stewards of the taxpayer dollars, the Government has a responsibility to provide information to the public on how Federal funds are being spent and to work tirelessly to root out and prevent waste, fraud, and abuse in Federal programs. Working with the IG community over the past three years, we have made tremendous strides towards these goals and work together to create a more efficient, effective, and accountable government across a number of areas.

In the area of technology, the IG community has examined multiple facets of government-wide IT operations, complementing the Administration's efforts to close over 1,000 data centers by the end of 2015 and in establishing the TechStat program, which has resulted in approximately $4 billion worth of savings and cost reductions in IT investments.

In the area of audit and financial management, this year, for the first time since the passage of the Chief Financial Officer's Act over 20 years ago, 23 of the 24 applicable agencies obtained an opinion from independent auditors on their financial statements, and all but two of those opinions were clean.

In contracting, the IGs have put a spotlight on suspensions and debarments where appropriate. Agencies have done the same. Armed with this new tool, the Federal Awardee Performance and Integrity Information System, or FAPIIS, to provide broadened access to information about the integrity of contractors, agencies are making better use of suspension and debarment authorities to ensure that contractors are playing by the rules and have the requisite integrity and business ethics to do business with the Government.

As a final example, there is the area of improper payments, a leading priority in the Administration's campaign to cut waste. Over the past two years, the Federal Government has avoided $20 billion in payment errors by driving the improper payment rate down in Medicare, Medicaid, Pell Grants, SNAP, and other critical assistance programs. To complement our efforts, in March of this year, the IGs completed the first ever review of agencies' efforts to reduce improper payments and provided critical recommendations that will help continued progress in this area.

Overall, IGs have made significant contributions in overseeing and improving the Federal Government's performance and accountability over the past 34 years, and I am confident they will continue to do so. In these challenging fiscal times, the Administration recognizes the importance of maintaining a strong, independent role for IGs, and we look forward to continuing to work with the

IG community to promote financial stewardship and accountability across the Federal Government.

Thank you, and I look forward to answering your questions.

[Prepared statement of Mr. Werfel follows:]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
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Testimony of Daniel I. Werfel
Controller, Office of Management and Budget
before the
House Committee on Oversight and Government Reform
May 10, 2012

Introduction and Overview

Thank you, Chairman Issa, Ranking Member Cummings, and members of the Committee, for the invitation to discuss the status of Federal Inspector General (IG) leadership with you today.

The IG community plays an integral role in enhancing financial stewardship and accountability across the Federal Government. Through audits, investigations, evaluations, and inspections, the IG community provides critical analysis and oversight that strengthens program integrity, helps to eliminate waste, and holds our Federal projects and programs accountable to the public. In this era of fiscal constraints, the role of the IG is more important than ever in helping agency leadership identify and address management challenges and maximize the impact of our limited Federal resources.

The central role of the IG dates back to the passage of the Inspector General Act of 1978 (IG Act) over 34 years ago. The IG Act established Offices of Inspector General within Federal agencies to conduct and supervise audits and investigations in agency programs and to provide leadership and coordination for activities designed to promote economy, efficiency, and effectiveness and prevent and detect fraud and abuse.

More recently, the Inspector General Reform Act of 2008 (Reform Act) established the CIGIE, which is charged with, among other things, identifying, reviewing, and discussing areas of weakness and vulnerability in Federal programs and operations with respect to fraud, waste, and abuse and developing plans for coordinated, Government-wide activities that address these areas. Under the Reform Act, the OMB Deputy Director for Management serves as the Executive Chairperson of CIGIE, focused on facilitating the exchange of information between CIGIE and the agencies represented on it. However, this role is properly limited, given the importance of preserving the independence of IGs and the CIGIE. The Chairperson of the Council, whose responsibility it is to carry out the functions and duties of the Council, is currently Phyllis Fong, the IG for USDA.

In addition, the Reform Act amended the IG Act by adding requirements that help to safeguard IG independence. This independence is one of the most central and crucial qualities of the IGs, allowing them to report objectively and directly to their agency heads on potential areas of concern or deficiency. Critical to this independence is the expertise and dedication of the civil servants that support the IGs, armed with extensive and diverse expertise in areas such as accounting, auditing, law, management analysis, program analysis and public administration, and

investigations. This Administration remains committed to supporting the work of the IG community while respecting its independence.

IG and Management Partnership

The indispensable work of IGs in safeguarding and overseeing taxpayer funds is consistent with a core commitment of this Administration to make the Federal Government more transparent and accountable to the American people than ever before. As dedicated steward of the taxpayers' dollars, the Government has a responsibility to provide information to the public on how Federal funds are being spent and to work tirelessly to root out and prevent waste, fraud, and abuse in Federal programs. Working with the IG community over the past three years, we have made tremendous strides towards the President's goal of promoting transparency and accountability for all Federal spending. But there is more that we can, and must, do.

That is why the President created the Government Accountability and Transparency Board (GAT Board). The GAT Board, comprised of IGs and senior agency leaders with proven records as fraud and waste watchdogs, was established nearly a year ago as part of the President's commitment to creating a more efficient, effective and accountable government. This past December, the GAT Board provided the President with its inaugural report, which included recommendations the Government can take now to improve the accessibility, usability, and reliability of Federal spending data and broaden the deployment of anti-fraud technology proven successful during the Recovery Act. The work of the GAT Board draws heavily on the experience of the IGs that joined together as the Recovery Accountability and Transparency Board (Recovery Board) to oversee and safeguard Federal funds appropriated under the Recovery Act. Working together, agencies, the Recovery Board, OMB, recipients, and Congress made sure that funds were deployed quickly, transparently, and with historically low levels of waste, fraud, and abuse.

As the GAT Board reported to the President, "Cooperation and strong relations between Agency management and the IG community promote a synergy that can effectively identify risks and mitigate fraud, waste, and mismanagement." Each year, IGs identify top management challenges facing their individual agencies and focus on high-risk activities common across the Federal Government, including information technology (IT) and security, financial management, and procurement, among other issues. There are several recent and notable successes that have been driven, in part, by the effective partnership between audit and management. Specifically:

- In the area of technology, the IG community has examined multiple facets of government-wide IT operations, complementing the Administration's efforts to close over 1,000 data centers by the end of 2015, and in establishing the TechStat program which has resulted in approximately $4 billion worth of savings and cost reductions in IT investments.
- Through the tireless efforts of both the audit and financial management communities, this year, for the first time since the passage of the Chief Financial Officers Act over twenty years ago, 23 of the 24 applicable agencies obtained an opinion from the independent auditors on their financial statements, and all but two of these opinions were clean.

- As IGs have put a spotlight on suspensions and debarments, agencies have done the same. Armed with a new tool - the Federal Awardee Performance and Integrity Information System – to provide broadened access to information about the integrity of contactors, agencies are making better use of suspension and debarment authorities to ensure that contractors are playing by the rules and have the requisite integrity and business ethics to do business with the Government.
- Combating improper payments is a leading priority in the Administration's Campaign to Cut Waste. Over the past two years, the Federal Government has avoided $20 billion in payment errors by driving the improper payment rate down in Medicare, Medicaid, Pell Grants, Supplemental Nutrition Assistance Program benefits (Food Stamps), and others critical assistance programs. To complement our efforts, in March of this year the IGs completed the first ever review of agencies' efforts to reduce improper payments to determine whether they were compliant with the Improper Payments Elimination and Recovery Act of 2010. These IG reviews added another layer of accountability to the government-wide effort to reduce and recapture improper payments. In their reviews, IGs provided recommendations for actions, which will be critical to continued progress in this area and meeting the President's charge to avoid $50 billion in improper payments by the end of this fiscal year.

Closing

IGs have made significant contributions in overseeing and improving the Federal Government's performance and accountability over the past 34 years and I am confident they will continue to do so. IG reports have saved billions of dollars and have helped draw agency and public focus to high-risk activities and performance issues that affect operations and missions. In these challenging fiscal times, this Administration recognizes the importance of maintaining a strong, independent role for IGs, and we look forward to continuing to work with the IG community to promote financial stewardship and accountability across the Federal Government.

Thank you, and I look forward to answering your questions.

Mr. BURTON. Thank you very much, Mr. Werfel.

As I understand it, you and Mr. Zients are responsible to coordinate between various controllers, investigators in the government, is that correct?

Mr. WERFEL. We have somewhat of a limited role on the Council of IGs. We play more of an administrative role under the IG Reform Act. The sweet spot for the role of OMB, myself, and Acting Director Zients is to work with the inspector general community to understand what they are seeing, what trends they are seeing, what findings they are leading to to help inform OMB on the right policies to issue across government to help deal with those issues. That is the primary focus of our work with the IGs, is to learn from one another about how we can strategize as OMB to coordinate cross-government activities. And the IGs can learn from us in terms of what we are seeing so that they can focus their investigations appropriately.

Mr. BURTON. Let me ask you a question. Mr. Zients is the acting head of OMB, right?

Mr. WERFEL. That is correct.

Mr. BURTON. Why hasn't the Administration sent his name up for confirmation? Or have they?

Mr. WERFEL. At this time I do not believe that his name has been submitted for nomination. I am unaware of the circumstances surrounding that issue.

Mr. BURTON. Do know how long it has been since his name has been submitted?

Mr. WERFEL. Again, I do not believe his name has been submitted. I do know that I believe that he became the acting director in January of 2012.

Mr. BURTON. And the State Department has an acting inspector general.

Mr. WERFEL. Yes, that is correct.

Mr. BURTON. The thing I can't understand is the President makes a recommendation to the Senate and the Senate reviews that, the proper committees, and then they either confirm them, the full Senate, or they reject them. The Senate does not have the opportunity to rule on that or to make a judgment unless it is submitted to them. I just don't understand why, at this point, we still have these people that are in acting positions after three and a half years. I am not sure you can answer that question, because you are in a coordinating capacity, as I understand it, but it just seems to me that the responsibility that is required by the Constitution in the confirmation process is circumvented when the President has an acting director of any of these agencies for a long period of time.

Do you have any idea, and I don't know if you do or not, do you have any idea how many acting directors we have of various agencies right now, besides these two?

Mr. WERFEL. In terms of inspectors general?

Mr. BURTON. Inspectors general or OMB or anything else.

Mr. WERFEL. Well, in preparing for this hearing, I was able to review the data and the information. I think as was reported on the first panel, there are, across the entire IG community, which is made up of 73 total Federal statutory IGs, there are currently

10 vacancies, and I believe there is an acting IG in each of those agencies.

Mr. BURTON. Oh, I am sure. And I am sure that the acting IGs are doing a good job. It is just that the—you know, Harry Truman had a sign on his desk; it said the buck stops here. And if somebody is a temporary or non-confirmed person, it seems to me that the buck doesn't get to the top guy. Once the President sends somebody up for confirmation and is confirmed, then the responsibility for that appointment rests with the President. So, as I said before, I would urge the President, or any president, to move as quickly as possible on moving toward the confirmation process and making the appointment as quickly as possible.

I am not sure I have any other questions for you right now other than what I have already asked, and that is why the Administration has taken so long, particularly on the IG that deals with the State Department. I mean, the amount of money—the President is asking for $8.2 billion in extraordinary and temporary funding in Iraq, Afghanistan, and Pakistan, and this comes on top of $43.4 billion proposed for the core budget for the State Department USAID, which manages foreign aid. So all this money is being requested and we are going to have to act to make sure that those funds are there for those purposes. But I know, for one, and I think the Chairman feels the same way, we would like to have a permanent IG and other appointees as quickly as possible, and not wait three and a half years.

And I am not saying this just because of President Obama. I am saying this for any president. And there have been other presidents that have delayed and delayed, and they shouldn't do that.

Does the gentlelady have any questions?

Ms. SPEIER. I do, Mr. Chairman.

I guess, Mr. Werfel, I am kind of confused. The Office of Management and Budget, what role do they have in terms of appointing inspectors general?

Mr. WERFEL. Congresswoman, we do not have a role in that process. There is a process that was described in the first panel in which the CIGIE, or the Council of Inspectors General, has a committee that submits names for consideration to the appointing official, which in this case is the President. OMB does not participate on that committee. And then, once those names are submitted, they are submitted into a personnel process within the White House, again, a process that OMB does not participate in. We, as I have mentioned, play a substantive role in helping both coordinate inspector general activities and working together in terms of analyzing both patterns and trends across government and how to work collectively to root out fraud, error, and waste, but in the specific narrow point of the hiring and the appointments process, for that OMB does not play a role.

Ms. SPEIER. So the purpose of this hearing is to discuss the appointments process and why it is taking too long in certain departments. So you have no role, your office has no role in that.

Mr. WERFEL. That is correct.

Ms. SPEIER. So why do you think you are here?

Mr. WERFEL. I think I am here because the way the Inspector General Reform Act operates, there is——

Ms. SPEIER. You don't have to answer that question.

Mr. WERFEL. Okay.

Ms. SPEIER. It was more rhetorical. Let me ask you, though, since you are here, you were confirmed by the Senate as controller for the Office of Management and Budget.

Mr. WERFEL. Correct.

Ms. SPEIER. And for a period of time you were acting controller.

Mr. WERFEL. That is correct.

Ms. SPEIER. Did you feel that you were doing any less of a job because you were acting during part of that time?

Mr. WERFEL. No, I do not.

Ms. SPEIER. Was your authority at all diminished?

Mr. WERFEL. From my personal experience, no.

Ms. SPEIER. Now, as acting controller, you helped the Administration achieve record levels of openness and accountability throughout the Federal Government. So how successful would you say the Administration has been at fostering openness and transparency in the Federal Government?

Mr. WERFEL. I think it has been a remarkable set of accomplishments that I don't think get sufficient attention. You point to something like the Recovery Act. That law was enacted and demanded a set of accountability and transparency that the government had not seen before; it required information to be reported out to the public on spending of taxpayer dollars at a timeliness and level of detail that had not been seen before; and it required us to, in very quick order, develop IT solutions, data definitions, coordinate across multiple stakeholders, both grantees, contractors, and all host of recipients to make those very, very tough demands that both Congress and the President put on the Federal Government to make the Recovery Act the most transparent bill that has ever been enacted. It was a historic effort and really set a new bar for the manner in which the public has transparency into where Federal dollars are going.

Ms. SPEIER. Now, I, like the majority, am troubled that the IG has not yet been appointed in State, and I hope that that appointment is made soon. But I think it is important to state for the record that the work of the IG's office within State continues unabated and, in fact, if I am not mistaken, the budget of the IG's office in State has more than doubled from $31 million during President Bush's term to $65 million under President Obama's term. So would you say that the office has the resources it needs to get the job done?

Mr. WERFEL. Congresswoman, I am glad you raised the question. From my vantage point, where I sit at OMB, and my work with the inspector general, and I have a very close working relationship with Ms. Fong, there are a variety of different areas where OMB is in a position to help the IG community succeed. One of them is to work with them to better understand the resource needs of the inspector general community and to work with them to develop justifications that can survive congressional scrutiny for the levels that the President requests for the IGs.

I would note, as a global matter, that while the President, working with Congress, has cut essentially $1 trillion in discretionary resources in the budget, the IG community funding level has re-

mained constant across the IGs and has been somewhat protected from the other discretionary cuts that we are seeing. Specific to the State Department, the State Department's enacted level in fiscal year 2011 was $59 million; in 2012 that went up to $62 million; and the President's budget request for 2013 is $66 million. This is the place where OMB can step in and assist an IG in being as successful as possible and understanding what that resource calibration needs to be.

I will add, as a final point, from where I sit, I think that the inspector general community is as healthy and as strong as I have ever seen it in my 15-year career at the Office of Management and Budget, and I have not detected in any way, shape, or form any diminution of those roles or responsibilities or impact when there is an acting IG in place.

Ms. SPEIER. Thank you. My time has expired.

Thank you, Mr. Chairman.

Mr. BURTON. Thank you.

My colleague, would you have any questions?

Mr. CONNOLLY. I do. Thank you, Mr. Chairman.

I would ask for unanimous consent that my full statement be entered in the record at this point.

Mr. BURTON. Without objection.

Mr. CONNOLLY. I thank the Chair.

Welcome, Mr. Werfel. How long have you been in government, Mr. Werfel?

Mr. WERFEL. Fifteen years.

Mr. CONNOLLY. Fifteen years. Do you think we have made public service more and more attractive by the day?

Mr. WERFEL. It is a challenging time to be a Federal employee. I think I have two reactions to that question. On the one hand I feel that the challenges our Country faces have never been more critical and never been more important. When I go to sleep at night, I think about the immense challenge that the Federal workforce has before it and how important that work is, and it is motivating and energizing to know that when you are serving your Country by serving the Federal Government, that that has real meaning and purpose, and it can be a truly motivating factor.

At the same time, it is important that we are investing in our people effectively and, by doing that, recognizing the great work that they are doing, recognizing the important role that they play. And there are circumstances in which sometimes the Federal employee can be the punching bag.

Mr. CONNOLLY. Well, let me just ask about that. Do you think that an unrelenting verbal assault in the form of disparagement about the value of public service about what Federal employees do, about the Federal workplace itself, coupled with a two-year pay freeze and the proposal of an additional three-year pay freeze, and changing the terms of pension, making it less attractive by requiring more up-front payment and fewer benefits at the other end for prospective employees to fund an unrelated piece of legislation, in this case unemployment insurance, and then asking another one for current employees the same thing, to fund an unrelated piece of legislation, transit funding; and now this Committee, just the other day, marked up its piece of the reconciliation, which will cost

Federal employees something in the order of magnitude of 78, $79 billion.

That combined with hearings sometimes entitled Is the Federal Government Too Big and Bloated? Are Federal Workers Inefficient and Incompetent? Doesn't GSA's Recent Excess in a Western Division Conference Sort of Characterize What We Are Saying, That All Federal Employees Are Kind of Like That? Might that have anything to do with morale and our ability to recruit and retain skilled workers such as, oh, I don't know, IGs, for example?

Mr. WERFEL. Congressman, I think a couple of reactions. One, the President has asked the Federal workforce to join others around the Country in tightening their belts and making certain sacrifices, given the economic challenges that we have; and time and again the Federal workforce has reacted and absorbed that belt-tightening in a manner that I think we can all be proud of in terms of still staying focused and passionate about what we do. I think the President wants to make sure that any approach we have is balanced; any approach we take towards deficit reduction is balanced; and that we are not writing the entire cost on the backs of one segment of the Country.

With respect to your question about morale, it is really, really important for a healthy and sustainable Federal workforce, in carrying out all the critical services that we do, to make sure that we are recruiting effectively and we are attracting talented and effective people into the Federal workforce. So I understand your questions and I appreciate them. I agree that it is very important that we recognize Federal workers for their contributions and that we don't disparage them unnecessarily, in particular if there is an isolated incident that raises the type of concerns that——

Mr. CONNOLLY. And I have one more question I am going to sneak in that is a follow-up to to something the Chairman said in his statement with which I agree, and that has to do with maybe highlighting the dysfunction of the Senate as part of the problem here.

We had one IG who was totally uncontroversial, Michael Horowitz, at DOJ, and it took eight months to get his confirmation through. And in looking at the record, luckily, the number of vacancies in IG offices right now are comparable to the number of vacancies in 2004, as President Bush was gearing up for his re-election; and I think that perhaps suggests something about how onerous and difficult the Senate process has become, as the Chairman suggested.

If the Chairman will indulge, I just want to give the witness an opportunity to answer that, and I am done.

Chairman ISSA. [Presiding.] Do you have any comments disparaging the Senate?

Mr. WERFEL. I do not have any comments. On a personal level, they confirmed me pretty quickly, so I am very appreciative of the Senate.

The only thing I would remark is I would go back to Ms. Fong's remarks in the first panel in which she talked about the complexity of the process of bringing an IG on board. There is obviously the Senate process; there is the desire to find highly qualified individ-

uals. So it is a complex terrain and one which should probably be evaluated over time.

Chairman ISSA. Thank you.

I will recognize myself for more or less one question.

Mr. WERFEL. Please.

Chairman ISSA. The first panel, to my pleasure, congratulated us for passing on a bipartisan basis the Data Act. The Data Act is fairly extensive. OMB has not been the greatest proponent of it under you and your predecessor. One of the questions is do you have any concerns you would like to share with us today? Obviously, Senator Warner, Mark Warner in the Senate, is a lead sponsor of an identical bill. The Vice President has been very supportive and been part of it at every point. Chairman Devaney has been part of it. I want to put you on the spot a little. I think Mr. Connolly did a good job of going completely off of the first panel's discussions brilliantly, and I would like to do that because I think the Data Act deserves an understanding, if you are prepared to make comments on challenges you see, if any, that need to be addressed.

Mr. WERFEL. Thank you, Chairman. I will make a couple of remarks about that in response to your question. I would like to first caveat my remarks by saying that we are reviewing the bill. The process to review the bill involves getting input from every agency and from a diverse segment within each agency, including lawyers and accountants——

Chairman ISSA. You can let the accountants and the lawyers worry me.

Mr. WERFEL. Well, we are evaluating, and we will certainly be able to present to you a comprehensive reaction of both what we find as promising and areas where we think more work is needed.

Let me also emphasize up front, before I go into the specifics, that the President and the Administration are in complete agreement with the objective of advancing transparency and accountability. The President played a critical role in that when he served in Congress on the Senate and cosponsored the Transparency Act, a bill that really had a monumental impact in thinking about Federal transparency, and one in which we are continuing to execute on today.

I raise that because—and there are a variety of different other bills that we are executing on today that the President has signed and supported, like the Gipper Modernization Bill, as an example, and I already mentioned the Recovery Act earlier. We continue to execute on these various transparency bills, and in doing so we are investing in technologies, in new solutions, in growing our Federal workforce to understand better how to raise their game in terms of transparency. All those activities are ongoing and I want to make sure that people understand that we are not starting from scratch; we are starting with a very important foundation that has been built in advancing transparency. There is more information out there on websites like USASpending.gov and Recovery.gov in where our Federal dollars are going than ever in the Nation's history, and I think that is an important starting point.

Now, with respect to the Data Act——

Chairman ISSA. By the way, we would agree with you particularly as to Recovery, which is really the only site I know of that has recipient reporting in a verifiable way.

Mr. WERFEL. It is really transformative, and we are proud of the work that we did together with the Recovery Board and Chairman Devaney in achieving some of the results there.

The final caveat is we are ready to roll up our sleeves and work with this Committee and with Congress on solutions that can further advance these important goals of transparency and accountability. And while we will get you a more comprehensive view on the Data Act, I think there are some important questions that I would raise, and you asked me about concerns, so I will start there.

A first concern would be the Data Act, as I understand it, would create a new commission, and the question that we have is in a time where government is looking to streamline the complexity of our bureaucracy, is the way to move forward in enabling transparency is to add an additional layer of potential bureaucracy by creating a new organization? And it is not just that that organization would exist and make government bigger; it is the fact that that organization would have regulatory authority to issue standards. And now, as I am a recipient, already challenged by the complexity of having OMB requirements and agency requirements and we work hard to try to dovetail those together in an effective way, now you have added potentially a third entity——

Chairman ISSA. Well, let me just stop you for a second, because I think that is a good point and it has been one of the potential criticisms, along with push-back from those who would have to report, who currently receive the money and have less transparency because they don't actually have to tell us where they spent it. But the reason for the commission in the bill as it stands now is very straightforward: you haven't done your job. If you look at the transparency created while OMB had the authority to bring groups together, to provide the common standard, to make it all happen, the authority already was there. Congress, to a certain extent, is saying you can only wait so long with people saying we are going to do it. When you have a situation, as all of us on the dais, because most of us, beyond even the people here today, we were here for the beginning of Recovery Act. Chairman Towns was critical in ensuring that there was greater transparency and helping us ensure even that there was a portion of the Act that was earmarked for investigations and reporting, where initially we were just sending the money and then not giving them an unfunded mandate. So all of that we went through.

The point is Chairman Devaney and the Recovery Act showed us something that was a good model. We added on to it some other reforms, but at the end of the day we believe that the reason that his model didn't spread throughout the government is that this Administration and this government, including career professionals who work for and with you, simply have a lethargic view toward making this transition.

Now, some of it may be that it is very hard to tell career people at all these agencies you have to do it. My view would be any bureaucracy that accomplishes its goal, if you then want to reorganize to eliminate it because it now can be taken on by a consolidation,

that is great. But I would propose to you that Senator Warner and myself are pretty strong, along with my Ranking Member, that we don't see it happening if we simply say thou shall do it, but you will do it by some sort of agreement with existing assets.

Your comment?

Mr. WERFEL. I understand that perspective. Obviously, I would bring a different perspective to the table in terms of our pace and our accomplishments.

The point that I was raising was simply a suggestion that we look at different alternatives. You are in an environment where the President has been pretty clear; he submitted a proposal to Congress to give reorganization authority. We are looking for different ways to streamline government. So I think it is a worthy question to explore whether the types of accountability that you are looking for can be achieved through existing instruments and existing organizations within government. Maybe so, maybe not. That is the type of dialogue we want to engage with you because of the importance we are placing on streamlining the complexity of government bureaucracy.

Let me just add one more point. The other question I think is worth raising, again, without having monopoly on what the right answer is, but just a question worth raising, it has to do with what measures can we take within a bill like this to ensure that the impact and burden that is placed on the community, State and local governments as an example, universities, businesses that do work with the government, both small, medium, and large, what kind of measures can we put in place to make sure that we are balancing the important goal of transparency with the regulatory or information collection reporting burden that would be imposed on them as we advance this objective.

Chairman ISSA. Sure. I appreciate that.

Mr. WERFEL. And that is the type of question that we would want to——

Chairman ISSA. And we look forward to working with you on it.

My time has expired. I will say, of course, that although we fully paid for the Data Act on this side, we are all aware that we are asking, in very few cases, for all new reporting. In almost every case what we are doing is saying we are going to consolidate reporting so that if you do multiple reports, it actually gets easier than it is because we are looking at not having to report and report in different formats to different agencies, which is one of the reasons for the Data Act.

With that, I believe we go to the chairman emeritus for five minutes.

Mr. BURTON. I don't think I will take the full five minutes.

First of all, Mr. Werfel, I think you have been a very good witness and I appreciate your forthcoming. We invited Mr. Zients down and for some reason he couldn't make it, and, as I understand it, he is responsible for handling the IG portfolio for the White House. As I understand it, he is the executive chairman of the CIGIE and the President's liaison to the IG community.

What I would like to know is who makes the recommendations for new IGs to the President. I mean, somebody has to say to the President—and the reason I think we asked Mr. Zients to come up

here is because he is charged with the responsibility of this coordination process. So I think that many of us thought that maybe he was the one, or somebody working with him was the one that made these recommendations to the President. Do you have any idea who makes the recommendations? Because I am sure the President, with the vast bureaucracy we have, doesn't have time to go through everything and try to pick out somebody that is qualified. So somebody is making those recommendations. Do you know who that is?

Mr. WERFEL. Well, first of all, let me clarify, Congressman, that Mr. Zients is not the official within the White House that makes recommendations to the President on filling IG vacancies. As the acting director and leader within the Office of Management and Budget, that is not within his set of responsibilities.

Mr. BURTON. Who does, do you know?

Mr. WERFEL. As I mentioned earlier, and I think as Ms. Fong testified, there is one of two ways, I think, in which recommendations can be made to the President. One is that the CIGIE, the Council, has a process that was developed under the Inspector General Reform Act of 2008 to develop a list of potential qualified candidates for the President to consider; and then there is a Presidential Personnel Office within the White House which recruits and explores a variety of different candidates for positions throughout government, including inspectors general, and they can identify candidates and make recommendations to the President as well. So there is a separate function within the White House that OMB is not involved in, and particularly not with respect to inspectors general.

Mr. BURTON. Since you and Mr. Zients, since you folks work in the coordinating process, between the various ones, you know when a new IG is taking office and you know the process and everything else. And I just don't understand this because I have never been a president; I have never been in the Executive Branch. When a president takes office and this vast bureaucracy has to be filled with people who are appointed and being confirmed by the Senate, I would presume that organizations like CIGIE makes recommendations rather quickly so that the President can get on with his job of being the chief executive. I guess the thing I don't understand is how there could be a number of vacancies, whether it is under Republican or Democratic administrations, that go on for, say, three or four years when these recommendations are made relatively soon after the President is sworn in.

I don't know if you can answer that or not, but it just seems to me that these recommendations are made by the Office of Personnel Management, or OMB, or whoever it is, or this organization CIGIE, relatively soon. So why is it that it takes so long for the President to make a recommendation to the Senate?

Mr. WERFEL. Again, I don't have the particular subject matter expertise or experience with respect to any given vacancy because I am not involved in that role. What I will say——

Mr. BURTON. Well, when you coordinate and Mr. Zients coordinates between various IGs, he obviously is working with some who are acting and some who are permanent. If they are acting, I just wonder if there is any question that ever arises why haven't we

picked a permanent person for this and gotten them to the Senate for confirmation.

Mr. WERFEL. I have never raised that question and I am not aware and I can't speak for Mr. Zients as to whether he has. As I testified earlier, I have not and never experienced any diminution in the effectiveness of the IG, whether acting or not.

Mr. BURTON. I guess my final question is there is a list of people that are vetted and they are recommended for various positions like the—and they are presented to somebody, maybe it is the chief of staff at the White House, who says to the President, this is the guy that ought to fill this job over at State. And you don't know who that person is?

Mr. WERFEL. Me personally, I have never been consulted or asked regarding a particular——

Mr. BURTON. Well, Mr. Chairman, I think that is one of the things that we ought to find out at some point, who is making the recommendations to the President and why there isn't any action taken, especially after a period of two, three years.

With that, I yield back.

Mr. LANKFORD. [Presiding.] Thank you.

With that, I yield to myself for five minutes.

Mr. Werfel, welcome back again. Glad that you are here. And it is my same question on that. Why would we not try to press, whether it be OMB or the Executive Office, not try to go back and say, you know what, we haven't filled the post of the Secretary of State's IG ever; been here three and a half years, there has never been a nominee for that. The Interior position, if I remember that correctly, it was a month after the President took office that went vacant. There has never been a nominee there.

What is the process of acknowledging we have a big hole here? Who then takes it from there to make sure that gets pressed so that gets done?

Mr. WERFEL. It is an interesting question. I feel that I can only speak for myself and my role at OMB, and I have a very particular focus with respect to the manner in which I interact with inspectors general. And believe me, I am very busy and the inspector general community keeps me very busy in terms of identifying new areas for me to be coordinating across government. The mere fact and the practical reality is that as part of that footprint it has not historically involved advising on candidates. In some measure——

Mr. LANKFORD. Well, not just candidates; getting it done at all. I am not saying that your office would select the next person; just saying, you know what, this hasn't been filled in three and a half years, we probably should get a person. That is the watchdog for the organization.

And the reason I am bringing it up, let me just mention a couple of things. When I was in Afghanistan last August and we met with some folks from State Department and met with some folks from USAID, one of the things that came out immediately were some projects that are happening on the ground in Afghanistan. For instance, a hospital that was constructed that, after they constructed it they said, you know what, this region needs a hospital; then they determined we really don't have doctors or nurses to man this long-term, we don't have a hospital administrator. So we spent millions

and millions of dollars constructing a building in Afghanistan that now can't be used and they can't transition it over; a power plant that can't be transitioned. So they said we have now shifted our focus now from actually constructing to trying to just maintain what we have constructed.

Well, that is really the job of inspector general to jump into the middle of it and say we have an enormous amount of waste that is happening by the millions of dollars in some of our USAID programs.

We just had a hearing with the OGR several, three months ago, discussing human trafficking that is happening with the State Department and DOD. That is something uniquely the IG can rise up and say, you know what, in some of our embassies with State we have employees there that are actually in debt bondage that we are bringing in from third-world countries and that are coming into this spot. Now, no one denied it; it is just a matter of what do we do with that.

Those are issues that we need an IG in place that can help and go after that. The question becomes that is out there. We know about those things. What do we not know about because we have never had a permanent IG in those areas? And obviously you can't answer that either, but there has to be someone to raise the flag to say at some point we have to fill this position so that we have a watchdog in place.

Let me just raise one other issue on it. The one that is surprising to me, and I have obvious concerns on USAID, and some of it is because of the strategy, the Forward strategy that they have, and I am sure that has no political ramifications for USAID to have a theme of Forward. But for that program that is out there that intentionally is focused on transitioning money to other governments and to non-governmental organizations, 30 percent off of their budget, so now we have USAID that doesn't have an inspector general transitioning 30 percent of its funds in its new Forward program to people that don't have a watchdog. We are in trouble on that. We have a giant of an enormous amount of fraud and waste that is happening with no watchdogs now in two layers of that. Does that raise a red flag at all to you?

Mr. WERFEL. Actually, it does not—I wouldn't characterize it as a red flag, and here is why: because I challenge the premise of the question that there is no watchdog. The Inspector General's Office, as has been talked about throughout this hearing, there are thousands of civil servant talented individuals that step in and often step in with great effectiveness in the event of the inevitable vacancies that occur. My work as controller at OMB focused on a set of activities, such as financial management, the financial statements, improper payments, internal controls; and from my reflection I have not observed any reduction in effectiveness of the IG community. In fact, if anything, they are keeping us as busy as ever in terms of the aggressiveness of their approach. There were charts that showed the increasing nature of their investigations and their——

Mr. LANKFORD. The Post Office things. I noted that.

Mr. WERFEL. They are as effective as I have ever witnessed in an IG community, and that is from the perspective that I have as controller in terms of the specific areas that I focus on.

Mr. LANKFORD. Right. I understand that. But I also hear, every time that there is an issue that comes up in any department and it is a position that the Senate is dragging their feel on confirmation, the first thing the other side of the aisle rises up and says is, you know what, this wouldn't be an issue if we had a permanent chair in that spot, if we had a permanent leader in that spot; this is a problem because we have never confirmed someone. And now the flip side of it, if no one has ever even been nominated, it is like, is trickling along, it is doing fine.

So in some ways we are trying to have it both ways on this, trying to say, when the Senate hasn't confirmed, that is really the cause of this; going back to things even like ATF, saying we have never had a permanent director there. We have all these problems with ATF because we have never had a permanent director. But now if we don't have a permanent IG, well, that is fine. I just have a difficult time with that, looking at it both ways, and especially with areas with the USAID Forward program that is transitioning dollars even farther away from us.

One other quick thought on it. I had a real concern on the transition of the Department of Interior IG, that a month into the Administration that goes vacant. We are dealing with the BP oil spill; we are dealing with brand new regulations on fracking; we are dealing with Bureau of Land Management. We are dealing with some very controversial issues on how we handle the future of energy with the Department of Interior and we have no permanent IG there. Do you know when there is going to be a proposal for a watchdog in an organization that much of our energy future is dependent on what happens in this entity?

Mr. WERFEL. Again, I am not involved in that process, so I have no details.

Mr. LANKFORD. Okay.

With that, I would like to yield to Mr. Mica.

Mr. MICA. [Presiding.] Thank you, Mr. Werfel. I will yield myself the remainder of the time here for some questions.

How long have you been in your position?

Mr. WERFEL. I was confirmed by the Senate on October 13th, 2009, to be the controller at OMB.

Mr. MICA. So you have been there pretty much since the beginning of the Obama Administration?

Mr. WERFEL. Yes. And prior to that I served as a civil servant within OMB as the deputy and acting controller. And I started my career at OMB in 1997.

Mr. MICA. And who do you report to?

Mr. WERFEL. Jeff Zientz.

Mr. MICA. And what is his position?

Mr. WERFEL. He is the Deputy Director for Management and currently the Acting Director.

Mr. MICA. But he is in an acting position?

Mr. WERFEL. That is correct.

Mr. MICA. I'm very, very frustrated with this Administration in particular. We had former Chairman Burton, just a few minutes

ago, lead this Committee. I have been on it since I came to Congress, now 19, I guess going on 20 years. Been through all kinds of administrations, Republican and Democrat. I do have to say this is the most difficult one we have ever had to deal with. The stonewalling is a great new art form with these folks. I chair the Transportation and Infrastructure Committee, and we have six subcommittees with broad jurisdiction, DOT, FAA, GSA, which has been on the news day and night. GSA isn't under our jurisdiction legislatively, but we conduct oversight there too.

The other thing, too, is with the czars and some of these positions that aren't approved. It has made it doubly difficult to attain information. Our side is—and the founding fathers wanted it this way, they wanted oversight. Actually, the founding fathers, back in 1808, created this Committee. The predecessor to this Committee, it is an interesting history because they didn't trust the appropriators and they didn't trust the authorizers who created the programs. They wanted someone else to investigate, make certain that things went right.

You have an important role, too, in making certain that there is proper financial management, is that correct?

Mr. WERFEL. Yes, that is my role. I coordinate financial management policy across the government.

Mr. MICA. And since they don't cooperate and they stonewall us, it has been almost impossible to get information. The only recourse we have had was going to the inspector generals, and now I see we have 10 vacancies, and I guess there are 4 of them that might make some progress. I see why you wouldn't want to have permanent people in place who are getting information that could possibly be passed on to Congress.

Doesn't that sound like a pattern of further impediment to the process? I have two investigators here that I have sent out trying to get information. I have only been chairman for 14 months. Mr. Burton and I, we did Whitewater, we did Waco, we did Travelgate. We did every hearing you could possibly think of in this Committee because this is an important investigative committee of Congress.

But never before have I ever seen an administration that not only will not give you the information. We have demanded time and time again. I could give you copies in the last 14 months trying to get information. The GSA fiasco, we did the very first hearing in an empty building that sat empty two blocks from the White House, asked for information about their administrative expenditures. Mr. Dunham, my subcommittee chairman, and I demand at every public hearing and in writing information. Then the only way these people got caught was through the IG.

Of course, we had Mr. Miller, the IG, and I wonder a little bit about that, because when GSA held the outrageous, lavish taxpayer-funded fiasco in Las Vegas, it was reported by a former staffer of our committee that this was going on. The IG began an investigation. This occurred in October of 2010; it was reported to the IG in November; Mr. Miller went to work in May; he finished the report; he briefed GSA and other Administration officials in June; he briefed Kimberly Harris, counsel with the White House. Do you know Kimberly Harris?

Mr. WERFEL. I know Kimberly Harris, but I am not aware of particular communications.

Mr. MICA. Well, that is another thing. I am wondering in this flow, your job is financial management, improving this. Do the IGs report back to you? Are you informed when there is waste, inefficiency, corruption, or any of the above?

Mr. WERFEL. As a general matter, I review IG reports——

Mr. MICA. Did you review the IG report for GSA?

Mr. WERFEL. I have read the IG report.

Mr. MICA. Did Mr. Miller bring it to you also in May or in June of last year?

Mr. WERFEL. No, he did not.

Mr. MICA. He did not. So it went to Kimberly Harris is the information we got. Then nothing was done with it. We didn't see it; it was never given to us. Now I know why they only wanted to give us one line. They gave us one line. That was their total administrative cost.

Now, of course, we are not the brightest people in the world, but we figured out if you are spending 300 percent more in two and a half years, that would be a financial management issue, wouldn't it be, Mr. Werfel, if you saw that increase in administrative expenditures?

Mr. WERFEL. I would——

Mr. MICA. It would light up a few lights. If it doesn't, then there is something wrong; somebody doesn't have their lights on up here. But we are supposed to be protecting the taxpayers, you are at OMB in your position of financial management. So, one, there is something wrong if you know this person, if you are not getting the information. There is something wrong here if, first of all—now, thank God we had Miller there.

Now, Miller never turned over anything to us; it took their whistleblower, our former employee, to go to Miller again, did it not? Are you aware that she went back to Miller and asked when, after the guy snubbed his nose, held a convention, the situation was done. Plenty of time to do an investigation; we had from November to May. Adequate time to do an investigation on the funny business in Las Vegas. I think that was enough time. They informed the GSA administrator at the time and other officials; they never let us know. We kept asking questions; show us what is going on to warrant these expenses.

Then only because this outrageous actor, who was a senior executive service employee, thumbs his nose at everybody, he decides to do, what was it, a 17-day South Pacific vacation, Napa Valley? He picked the best locales. So he is off there and she blows the whistle again. And so Miller does his investigation. This is with an IG in place. I am not talking about how many agencies that don't have an IG in place. So can you imagine what it is like out there when there is nobody minding the store? This is a very, very serious business.

I think we need to even look at the law and making certain that——

Mr. CONNOLLY. Would the gentleman yield?

Mr. MICA. No, not right now; I am on a roll. A little later.

Mr. CONNOLLY. Well, Mr. Chairman, I know you are on a roll, but——

Mr. MICA. No——

Mr. CONNOLLY.—we are still operating under the five minute rule here, are we not?

Mr. MICA. No, not right now.

Mr. CONNOLLY. You are clocking in at 8 minutes and 50 seconds, Mr. Chairman.

Mr. MICA. I am on a second round. I just granted a second round. I will grant you the same, sir.

Mr. CONNOLLY. I don't mean to interrupt, but I wanted to make a point.

Mr. MICA. I am trying to make some points here, and I can get some members to yield time. We can go through that routine. And I would be glad to extend the courtesy to you or any Democrat members because I think it is fair. And I am not trying to harass him, but I am just trying to make a point here.

Again, this is very difficult for us to get information, even when there is an IG, is my whole point; and Mr. Miller was then asked again to investigate. More of this funny business was reported and the only way we found out about it was about a month ago when that report did become public.

But don't you think, Mr. Werfel, that you should, or somebody at OMB should, have their lights turned on when these reports are done? If you are in charge of financial management, which you are—and I don't care whether it is President Obama, President Bush, Republican or Democrat.

That is not the issue here. The issue is something is not working. And I just sent these guys down to Texas; stonewalled again by TSA. The only way we found out was through a whistleblower. The agencies give us the information. And I sent the IGs down there, and if it wasn't for some of those guys intervening and then this Committee intervening, they told us they had 2800 pieces of equipment; it turned out they had 5700. They told us that they were taking care of the situation; yes, as our investigators are going in the front door, they are moving stuff out the back door, giving us a bogus report.

So the inspector general in every administration and this Committee play an important role, and I want you to report back to the Committee or OMB and let us know would it be helpful, should we put in the law—obviously we are not clicking here. I go back and people say how can you let this go on?

Well, it is very hard for me to explain. I am trying to get the information; I can't get the information. There is not IGs in place to even help us. So you see the frustration, and we have to do a better job. We have to restore faith in this whole system. Just in the last few weeks, my goodness, people have lost faith in the government.

Do you see my point, Mr. Werfel? Again, I hope we can make something positive out of this hearing. If you need additional help to move these along, anything we can do I would be glad to do.

Mr. Connolly, did you seek recognition? Mr. Connolly is recognized for 11 minutes.

Mr. CONNOLLY. I promise, Mr. Chairman, I won't take that, and I thank you.

First of all, let me ask you, Mr. Werfel. You are in OMB. Did the Administration increase the budget for inspectors general?

Mr. WERFEL. In some cases, yes. So, for example, I mentioned earlier the State Department inspector general budget has gone from roughly $59 million in 2011 to $66 million in 2013.

Mr. CONNOLLY. But, I mean, just looking at the global figure.

Mr. WERFEL. The global, it has increased. It certainly hasn't decreased in any meaningful way. We were at $2.6 billion for IGs in 2011, $2.7 billion for IGs in 2012, and roughly $2.7 billion is in the President's budget for 2013. I think that is notable given that in just about every other area we are seeing significant cuts in discretionary programs and there is clearly evidence of ensuring that the cuts are not hitting the IGs.

Mr. CONNOLLY. I would simply point out that many of my friends on the other side of the aisle talk about government costing too much, but there are some investments that have a return on them. For example, we know the additional resources being proposed for IG offices have a return on them, do they not?

Mr. WERFEL. Absolutely.

Mr. CONNOLLY. And recoverable funds in increased efficiency and in certainly uncovering waste, fraud, and abuse.

Mr. WERFEL. And we saw statistics earlier in the hearing that pointed to particular savings and accomplishments.

Mr. CONNOLLY. Would that not also be true, for example, of the General Accounting Office?

Mr. WERFEL. Yes. The Government Accountability Office certainly has that type of impact in terms of having a positive——

Mr. CONNOLLY. This Committee has received testimony that, as a matter of fact, the ratio goes as high as $91 for every new $1 invested in GAO in terms of recoverable amongst the money; and yet we had GAO testify here that in terms of overall size GAO is down to a level that we haven't seen since 1935.

And then a third agency I could cite, IRS, there is something like $400 billion of owed taxes on the table, not new taxes, not slashing investments, money that is ours, that is owed the American people that is simply not collected for want of resources. We know that every dollar we invest in a new IRS agent has a direct return, is that not true, Mr. Werfel?

Mr. WERFEL. And we have evidence of particular activities within the IRS who have a clear positive return on investment.

Mr. CONNOLLY. So it puzzles me sometimes that, despite our rhetoric about wanting to reduce the debt and wanting to make sure that we get government right-sized, we are not willing to make the investment sometimes in proven entities that can recover either lost revenue or avoid inefficiencies and improper payments. You have testified before us many times, for example, on the improper payment issue. Very little pain associated with that; huge payoff.

Final point I want to make is, and then I will yield back, Mr. Chairman, but the Chairman talked about GSA. I do not share the clarity of the Chairman about some of the conversations he cited with respect to the White House and Mr. Miller. A passing reference have you seen an IG report or the IG report hardly means

or is to be construed as recognition that full knowledge was made available.

But I will point out we had the IG from GSA here; we had the outgoing administrator who fell on her sword and resigned as a matter of honor, after firing two deputies and putting a lot of other people on probation.

But the testimony we heard from the IG of GSA was that he didn't uncover this excess; Susan Brita, the deputy to the administrator, Martha Johnson, uncovered it. She is the one who referred it to the IG. And I asked in questioning here. The IG has been there since 2005 in place. He heard no evil, saw no evil, smelled no evil, found no evil, even though we know that this excessive celebration event preceded this Administration and continued in this Administration.

But it wasn't the IG, with 300 personnel at his command; he didn't find this at all. Only when the administrator staff referred it to him, and then it took him nine months to come up with a report that, frankly, I think almost anyone else even on this panel could have written in half the time.

So yeah, having an IG is important, but I don't know that the IG is entirely the heroic figure sometimes painted. In this particular case, I think if he was doing his job, he could have uncovered this years before and maybe avoided the embarrassment of the situation. In any event, it was the appointed administrator and her staff that uncovered that excess, referred it properly to him, and he was able to investigate that. Is that your understanding as well, Mr. Werfel?

Mr. WERFEL. I wouldn't call myself an expert on all the moving pieces, but it is my understanding that in this particular case the deputy administrator referred the issue for further IG investigation.

And if I could, I just want to make a broader comment about OMB's role in inspector general report in response to both your questions and Congressman Mica's. We take IG findings in their reports extremely seriously; in particular those that affect financial management. We work with other Federal agencies. Part of our role is to bring, for example, chief financial officers and other members of the community together to understand what is going on in IG reports across government; what we can learn from them.

The GSA report is no different. We need to understand better what happened so we can prevent it from happening again, and we need to explore with the broader community what steps we can take to fix the issue and make government better going forward.

That is the basic role that OMB has with respect to IG reports, and I think it is a very critical one and one that we have fostered a very strong relationship with Ms. Fong and other IGs around that shared mission of better government.

Mr. CONNOLLY. Thank you very much.

Mr. Chairman, I thank you for the time.

Mr. MICA. Well, thank you.

And I do want to try to conclude the hearing today, but I did again have this information that was provided on our witness. It says Danny Werfel is the Controller of the Office of Federal Financial Management within the Office of Management and Budget. He

is responsible for coordinating OMB's efforts to initiate government-wide improvements in all areas of financial management.

And again I used a GSA example, and we did in fact have a former staffer who works at GSA blow the whistle and an investigation was conducted, and properly so. That started in November after the October incident in 2010. In May, GSA and others were informed, the administrators. We had the witnesses here. Nothing was done. In June the White House was advised. You said you knew the counsel but didn't know the incident or didn't read the report.

My whole point here was these were very serious allegations of abusive use of taxpayer dollars. Okay, so it is reported. Nothing is done. The guy takes off and launches another wasteful scenario, and Susan Brita again blows the whistle and the inspector general begins an investigation. But somehow all of the cylinders don't seem to be clicking and you just got through testifying to the gentleman from Virginia that you get these reports and they are taken seriously. And my questioning was do we require, is this required. Maybe we should require that this goes to OMB and to you all. I guess you are just doing this as a matter of course.

What I am trying to do is to get things to click so that some action is taken. That had the potential, I think, even at that stage for some criminal referrals. I don't know all the details on it, but please, when it comes to financial initiating government-wide improvements of all areas of financial management, you have an agency spending money like that, it raises questions. And my point was with an inspector general in place.

But here we have other agencies, at least half a dozen, and we have some with 1,000 days, that is three years, nearly three, four years, four years at the State Department; huge operations without somebody in charge on a permanent basis. I deal with acting administrators and I am telling you it is difficult. I have one right now in FAA and we have a tough situation there.

So my point is not to give you a hard time, maybe a little bit, but to see how we can improve this whole process. Make certain you have the tools. I have no problem with giving you additional funds. It was testified you are going from $2.6 billion to $2.7 billion. That is fine. You can have a good rate of return when you are doing your job; it is an $18 return on $1 spent, I believe. So I could double the money if I could get more benefits back and better management, cut the debt and spending for the taxpayer. So that is my point today.

We do have an important responsibility here, because sometimes the authorizers don't get it right; sometimes the appropriators just spend money and don't get it right. We are that third entity that the founding fathers to make certain, you look at other governments, they have somewhat of a similar structure, but none of them have, again, this filter like our Committee that keeps going after waste, fraud, and abuse, which is so important keeping the system straight and making it work better and more efficiently.

So with that commentary, I thank you for your participation. I would like you to also provide the Committee with additional information. We will be sending you written requests and I wish you would respond.

The record will be left open for additional comments and responses.

With that being said, and I see no further members here, the House Government Reform and Oversight Committee will stand adjourned, and I thank our witnesses for taking time to appear before us today. This Committee stands adjourned.

[Whereupon, at 12:43 p.m., the committee was adjourned.]

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Opening Statement
Rep. Elijah E. Cummings, Ranking Member

Hearing on "Where Are All the Watchdogs? Addressing Inspector General Vacancies"

May 10, 2012

Inspectors General (IGs) are critical to ensuring that our government works effectively and efficiently on behalf of the American taxpayers. Although our Committee plays a prominent and often public role in conducting government oversight, we rely heavily on IGs to conduct audits, inspections, and investigations on a daily basis at federal agencies.

Our Committee also plays a unique role in overseeing IGs and ensuring that they have the tools necessary to do their jobs. In 2007, one of the most respected Members of our Committee, Jim Cooper, introduced H.R. 928, the Improving Government Accountability Act, to enhance IG independence and efficiency. Under then-Chairman Henry Waxman, the Committee approved this legislation by a voice vote, the House and Senate then adopted it, and the bill was signed into law by President Bush in 2008.

In my opinion, this is how we should approach today's hearing: by working together in a bipartisan manner to ensure that oversight is rigorous and constructive.

Today we will discuss IG vacancies at federal agencies. Right now, seven IG positions are vacant that require Presidential nominations and Senate confirmations. Although the President has nominated several candidates who are awaiting Senate confirmation, he has yet to nominate others. In addition, an existing vacancy at the Special Inspector General for Afghanistan Reconstruction requires a Presidential nomination, but not Senate confirmation.

We all agree that we should have highly qualified, dedicated professionals in place at every IG office across the federal government. Personally, I am most concerned that the Administration has not nominated anyone to serve as the State Department IG. The last Senate-confirmed State Department IG was Howard Krongard, and he resigned after an investigation by this Committee into his conflicts of interests and his failure to conduct sufficient oversight of agency operations. That position deserves to be filled as soon as possible.

To be fair, the number of current vacancies is not necessarily unusual. In fact, in the fourth year of George W. Bush's presidency, there were also seven vacancies for Senate-confirmed IGs, including at the State Department, the Department of the Treasury, the General

Services Administration, and the Department of Health and Human Services. And this does not include Clark Kent Ervin's recess appointment to serve as IG of the Department of Homeland Security, which was never confirmed by the Senate.

The fact that President Bush had as many IG vacancies in 2004 as President Obama does today does not mean we should ignore the current vacancies. Similarly, we should not single out the current Administration for purely partisan reasons.

As part of our review today, we also have to acknowledge the role played by the Senate in these vacancies. For example, President Obama nominated Michael Horowitz to be the IG of the Department of Justice on July 29, 2011. Until 2009, Mr. Horowitz had served as a Presidentially-appointed, Senate-confirmed Commissioner on the U.S. Sentencing Commission. Yet, even though the Senate had confirmed him previously, his nomination was held up for eight months. When the Senate finally did vote, they confirmed his nomination by a voice vote.

Similarly, Brian Miller, the current IG at GSA who will be testifying here today, had to wait nine months before the Senate finally confirmed his nomination by President Bush in 2005. The IG vetting process is very extensive and challenging, and it becomes even more difficult to identify qualified candidates who are willing to serve when they are blocked by anonymous holds and undue delays in the Senate.

Finally, I would be remiss if I did not recognize the hard work of those who serve in IG offices. This includes not only the thousands of staff who dedicate their professional careers to these tasks, but also those who serve as Acting IGs while others await Senate confirmation. In fact, just yesterday, our Committee heard testimony from the very capable Acting IG at the Department of Homeland Security.

Nobody should be under the misimpression that the lights are turned off at IG offices while they await a permanent IG. These officials and staff do a terrific job on behalf of the American people, and I commend them for their dedication.

Thank you, and I look forward to today's testimony.

Chaffetz for the record 5/10/12

Congress of the United States

Washington, DC 20510

May 17, 2011

President Barack Obama
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

We write to request that you address the growing number of vacancies that now exist among our nation's Inspectors General.

As you know, in 1978, Congress established the Inspectors General as powerful and independent offices with the responsibility to promote the economy, efficiency, and effectiveness of federal departments and agencies. The investigations and reports of Inspectors General help Congress shape legislation and oversight activities. The Inspectors General also play an important role in improving government performance, providing transparency into federal programs, and giving Americans better value for their tax dollars.

In 2007, the latest year for which complete data is available, the Inspectors General closed 33,740 investigations into matters including benefit recipients, contractors, grantees, and federal employees. In the past two years, just one office, the Inspector General of the General Services Administration, audited or reviewed over 200 contracts with an estimated value of $25 billion, identified over $1.1 billion in potential cost avoidance and $33 million in questioned costs, and assisted in 23 False Claims Act cases that were settled for over $400 million.

According to the Council of Inspectors General on Integrity and Efficiency (CIGIE), there are currently nine vacant presidentially appointed Inspector General positions across the government. This includes eight vacancies that have occurred since the beginning of your term. Cabinet-level agencies currently without a permanent Inspector General include the Department of State, the Department of Justice, the Department of Homeland Security, the Department of Labor, and the Department of Housing and Urban Development.

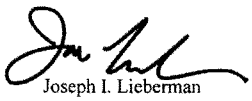
We are particularly concerned that many of these vacancies involve departments and agencies responsible for oversight of several of your Administration's most important initiatives. For example, the positions of Special Inspector General for Afghanistan Reconstruction, Special Inspector General for the Troubled Asset Relief Program, and Inspector General for the Intelligence Community are all currently vacant. The Department of State, which is responsible for billions of dollars of spending in Iraq and Afghanistan, has not had a permanent Inspector General since December 2007.

President Barack Obama
May 17, 2011
Page 2

We share your commitment to making our government better able to serve its citizens and perform its core missions. As a result, we have serious concerns that the lack of permanent Inspectors General at so many federal agencies is impeding the federal government's efforts to increase efficiencies and detect and prevent waste, fraud, and abuse.

With this concern in mind, we respectfully request that you move without delay to appoint qualified, experienced individuals to serve as Inspectors General. We look forward to your response.

Sincerely,



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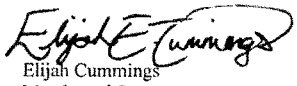

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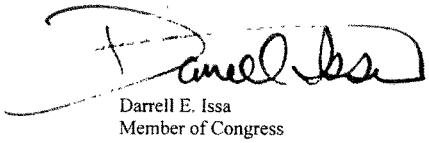

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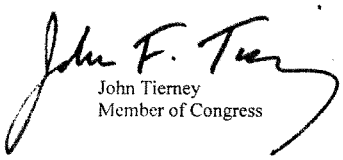

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February 9, 2012

The Honorable Barack Obama
President of the United States
The White House
Washington, D.C.

Dear Mr. President;

On May 17, 2011, the United States Congress sent a bipartisan, bicameral letter to you regarding the number of vacancies within the Inspectors General Community. At the time, there were nine offices lacking their presidentially appointed top officials. Today there are ten, and there appears to be little progress in filling those offices. Like many Americans, I question why an Administration that promised unparalleled transparency would be reluctant to appoint its internal watchdogs.

As you know, Congress passed the Inspector General Act in 1978, establishing powerful and independent offices with the responsibility to promote the economy, efficiency, and effectiveness of federal departments and agencies. The investigations and reports of Inspectors General help Congress shape legislation and oversight activities. The Inspectors General also play an important role in improving government performance, providing transparency into federal programs, and giving Americans better value for their tax dollars.

According to the Council of Inspectors General on Integrity and Efficiency, there are currently twelve Inspectors General vacancies across the federal government. The list of vacancies is as follows:

Agency/Establishment	PA/PAS/DFE	Date Vacated
Department of State	PAS	December 2007
Corporation for National and Community Service	PAS	July 2009
Department of Labor	PAS	July 2009
Special IG for Afghanistan Reconstruction	PA	February 2011
National Endowment of the Humanities	DFE	January 2011
Department of Justice	PAS	January 2011
Special IG for Troubled Asset Relief Program	PAS	April 2011
Department of Homeland Security	PAS	March 2011
Agency for International Development	PAS	October 2011
Department of the Interior	PAS	December 2011
Department of Defense	PAS	December 2011
Securities and Exchange Commission	DFE	January 2012

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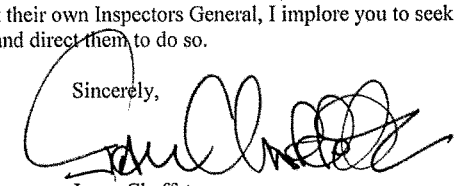
Ten of these offices require a presidential appointment. However, you have nominated only four individuals from this list since July 2011. Remarkably, none of these nominations include the agencies principally responsible for overseeing the billions of taxpayer dollars spent in Afghanistan and Iraq. This includes the Department of State, which has not had an Inspector General since December 2007.

Upon entering office, you committed to making your administration the most open and transparent in history. Transparency cannot exist, however, without a fully functional Inspectors General Community. I urge you to act without delay to nominate qualified individuals and work with the Senate to fill the aforementioned vacancies. Where authority exists within the designated federal entities to appoint their own Inspectors General, I implore you to seek why those offices have not taken action, and direct them to do so.

Sincerely,



Jason Chaffetz
Member of Congress

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