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The 25th Anniversary of the Inspector General Act of 1978

Statement of

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Mr. Chairman, Ranking Member Towns, and Members of the Subcommittee on Government Efficiency and Financial Management, House Committee on Government Reform:

INTRODUCTION

I appreciate the opportunity to meet with you today in connection with the Subcommittee's hearing on the 25th anniversary of the Inspector General Act of 1978 (IG Act). This act was landmark legislation, creating independent Inspectors General responsible for conducting and supervising audits and investigations; promoting economy, efficiency, and effectiveness; and preventing and detecting fraud, waste, and abuse in their agencies' programs and operations. The IG Act and its subsequent amendments centralized and elevated the audit and investigative functions under an Inspector General (IG), ensuring an independent voice to the agency head, the Congress, and the public. Today, 57 IGs provide audit and investigative oversight across government.

As you are aware, the IGs work together and coordinate their professional activities through two Councils: the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE). The Deputy Director for Management of the Office of Management and Budget chairs both Councils. The PCIE membership currently includes 29 IGs who are appointed by the President, with advice and consent of the Senate. These IGs are located in every Cabinet department and in the larger independent agencies. The ECIE membership currently includes 28 statutory IGs who are appointed by their agency heads in certain designated federal entities (DFEs). These agencies

- are typically regulatory entities, federal commissions, independent corporations or boards, and foundations;

- have different types of funding, administrative, and personnel authorities and practices; different congressional oversight and funding processes; and separate governance and oversight structures; and

- perform regulatory and other missions that have significant impact on the private sector and the public.

By way of background, I am the Inspector General of the Board of Governors of the Federal Reserve System and have served in this position since 1998. I have also served as the Vice Chair of the ECIE for the past four years and I will be speaking to you today in that capacity. Consistent with your request, my testimony will provide

- a brief historical perspective of the DFE IGs;

- an overview of the IGs' contributions to government economy, efficiency, and effectiveness and preventing and detecting fraud, waste, and abuse;

- the ECIE position on the key findings in the August 2002, General Accounting Office (GAO) report entitled, *INSPECTORS GENERAL: Office Consolidation and Related Issues* (GAO-02-575); and

- views on the future of the IGs and opportunities for change.

HISTORICAL BACKGROUND: DFE IGs

Anniversaries provide an excellent opportunity to reflect on the past and look to the future. The IG Act, which became law on October 12, 1978, established independent IG offices in 12 departments and agencies. Although initially opposed by every department and agency affected, the IGs' unique and unbiased approach in addressing longstanding issues and management challenges has earned them wide acceptance and recognition as an effective and credible force in promoting good government and as a "first line of defense" in the fight against fraud, waste, and abuse.

The success of the IG Act led Congress to expand its provisions to other major departments and agencies and, eventually, to smaller federal entities. During the ten-year period

following passage of the act, the legislative history reflects that Congress gave careful consideration on how best to address audit and investigative coverage in these smaller agencies. Studies and analyses were conducted, bills were introduced and hearings were held, and stakeholder's views were collected and considered.

As a result of this extensive analysis, the need to expand the concepts embodied in the IG Act to the smaller agencies was thoroughly documented. In May 1984, for example, GAO issued a report entitled, *Status of Internal Audit Capabilities of Federal Agencies Without Statutory Inspectors General* (AFMD-84-45). Based on 99 responses received to questionnaire surveys sent to 105 federal organizations and the subsequent follow-up, GAO uncovered in these agencies many of the same problems that prompted Congress to establish the 12 original IGs. Specifically, GAO found

- a lack of audit independence because auditors were supervised by officials who were directly responsible for the programs and activities under review;

- inadequate audit coverage of important and vulnerable agency operations;

- lack of evaluation of significant fraud problems by internal audit/investigative staffs; and

- audit resolution and follow-up systems that did not meet government requirements.

In its June 1986, follow-on report entitled, *INTERNAL AUDIT: Nonstatutory Audit and Investigative Groups Need To Be Strengthened* (AFMD-86-11), GAO reviewed 41 agencies without statutory IGs and found that problems continued to exist. The PCIE also conducted a study at the request of Senator William V. Roth, Committee on Governmental Affairs, and found similar results. In related hearings during this period, both OMB Director James C. Miller and Comptroller General Charles A. Bowsher supported extending the IG concept. Congress, too, believed that a strong audit presence was especially needed at smaller agencies because their operations usually are not as closely watched by the Congress, the press, or the public. Without statutory IGs in these agencies, the Congress, the public, and agency officials had little

independent assessment of how agency funds were being spent or the effectiveness of agency programs and operations.

Ultimately, the 1988 amendments created statutory IGs in an additional 33 regulatory agencies and agencies with budgets over $100 million. While the number of IGs at designated federal entities has decreased over the years (some entities—such as the Panama Canal Commission and ACTION—either ceased operations or were merged into other federal agencies), the DFE IG concept has remained constant. The 1988 amendments are particularly noteworthy in that they provided a consistent audit and investigative framework for smaller agencies that are best characterized by their diversity. In passing the IG Act amendments, Congress recognized the value of an on-site IG as a visible deterrent to potential fraud, waste, and abuse and as an objective evaluator of the economy, efficiency, and effectiveness of programs and operations in these agencies.

ACCOMPLISHMENTS

Twenty-five years later, the IG Act has unquestionably contributed to more efficient and effective government. The IG community has had a significant and positive impact on improving federal programs and operations; strengthening government accountability and transparency; and preventing and detecting fraud, waste, abuse, and mismanagement. The PCIE and ECIE annual report, *A Progress Report to the President, Fiscal Year 2002*, highlights the following impressive results of IG efforts:

- Potential savings of nearly $72 billion,
- More than 10,700 successful criminal prosecutions,
- Suspensions or debarments of over 7,600 individuals or businesses,
- Almost 2,200 civil or personnel actions,
- More than 5,700 indictments and criminal informations,
- Over 234,000 complaints processed, and

- More than 90 testimonies before the Congress.

Full-time and on-site, the DFE IGs have contributed significantly and tangibly to enhancing programs and activities. Over the years, DFE IG audits and inspections have addressed their agencies' various mission-critical activities such as human capital management, procurement, financial management, the budgetary process, and electronic Government, as well as wide-ranging administrative management issues and concerns. Our investigations have uncovered and addressed travel abuse, conflicts of interest, procurement irregularities, and other areas essential to organizational and employee integrity.

Today, the DFE IGs continue to have a substantial impact on many of the critical and topical challenges facing our government, including financial management accountability, information technology (IT) management, and emergency preparedness. For example, the Accountability of Tax Dollars Act of 2002 brings the Chief Financial Officer Act concept of annual, audited financial statements to a number of smaller agencies. Some of these agencies are, for the first time, now preparing financial statements that will be subject to year-end audit. The DFE IGs are playing a key role to meet the act requirements of conducting or overseeing these financial statement audits, in a timely manner. Similarly, the IT area has been the focus of IG reviews, not only from an operational standpoint but also from a security perspective as required by the Federal Information Security Management Act (FISMA). Like our Presidentially-appointed counterparts, DFE IGs are performing and reporting independent security evaluations and agency compliance with FISMA provisions. Emergency management and continuity of operations also continue to be a focal point as the DFE IGs assess how their agencies have enhanced security, post-September 11.

Collectively, the IGs continue to address cross-cutting issues and challenges. Through the PCIE and ECIE, the IGs join together in roundtables and working groups throughout the year to address a wide range of issues, such as government performance, information technology, and misconduct in research.

POSITION ON GAO'S REPORT ON CONSOLIDATION

In August 2002, GAO issued a report, *INSPECTORS GENERAL: Office Consolidation and Related Issues* (GAO-02-575) that summarizes the results of a survey regarding the impact of consolidating ECIE offices by moving smaller ECIE offices into larger PCIE offices, and making other changes to federal IGs (such as converting certain DFE IGs to a Presidential versus an agency head appointment). GAO concluded that certain elements of ECIE IG independence and effectiveness could be strengthened through consolidation and conversion. While each DFE IG has a unique perspective on the report, our formal comments to the report incorporated the general comments and feedback from 26 of the 28 DFE IGs regarding the conclusions and matters for consideration in the GAO report.

First and foremost, the DFE IGs emphasized that consolidation would likely sacrifice providing a local preventive presence, oversight, and focus at individual entities in favor of potentially fragmenting the attention of a larger IG office across a broader, more diverse spectrum of programs and operations. Congress took a very measured and careful approach in deciding to provide an on-site, accountable IG presence specifically dedicated to carrying out the IG Act mandate at those agencies selected as designated federal entities. Therefore, care should be taken to avoid making a change as significant as consolidation without compelling evidence that a consolidated approach would, in fact, foster better government.

We believe that the simple organization and operating structure that comes with being a smaller DFE IG is well-suited to the organizations covered in the 1988 amendments and that the Congressional wisdom and intent in taking this approach was well-placed. By virtue of being "on-site" and knowledgeable of their entity's legislative backgrounds, operating environments, cultures, and policies and procedures, DFE IGs are able to act quickly to bring about positive change in entity operations. Increasingly, DFE IGs are leveraging limited resources and contract dollars to respond to new legislative requirements for specific audit and evaluation work (such as FISMA) and reporting on their agencies' progress in a number of areas of interest governmentwide (such as the *President's Management Agenda*). We note that alternatives to consolidation — such as use of consultants and memoranda of understanding with other IGs that

have developed specialized expertise — have been used successfully in the past to augment scarce resources and may offer a way to further strengthen use of resources across all IGs.

As a result, the DFE IGs expressed concern that GAO proposes significant and far-reaching changes to the IG Act and to IG organizations based largely on subjective responses to one survey, without providing sufficient supporting evidence that indicates changes to the current IG structure are truly warranted, and without the views of entity management, customers, and key stakeholders. Absent more detailed information regarding the existence and magnitude of problems with the current structure, the DFE IGs question whether conversion or consolidation would bring more cost-effective, value-added IG operations and results. Almost all of the DFE IGs commented that GAO's proposed consolidation scenarios are overly simplistic given the diversity of the unique agencies that comprise the "designated federal entities." In fact, the end result of consolidation could bring an unprecedented level of complexity to the longstanding IG concept and framework and may serve only to distance the Congress, the public, and agency management from a central and dedicated IG at key entities.

FUTURE OPPORTUNITIES

As IGs, we continually strive to find ways to enhance the economy, efficiency, and effectiveness in our own operations and to serve as a role model for others. On the occasion of the 25th anniversary of the IG Act, the PCIE Legislation Committee has been assessing what statutory changes, if any, should be considered to fine-tune certain aspects of the IG Act. These proposals are still under review within the IG community and will need to be thoroughly discussed with our oversight committees and OMB before endorsing them. We understand that Congressman Jim Cooper is planning to introduce a bill that would seek to strengthen the institutional stature of the IGs. Although the legislation is still being drafted, we are encouraged that IG issues are being actively discussed and considered.

I would like to share some views on opportunities to strengthen the effectiveness of the DFE IGs, as well as the IG community as a whole.

DFE IG Independence and Position.

Under GAO's recently updated, *Government Auditing Standards*, DFE IGs are, in fact, organizationally independent to report externally. However, there continues to be a perception that DFE IG independence is hampered because the IG is appointed by the agency head. If this is, indeed, a concern, then Congress could potentially strengthen the appearance of independence by

- providing a statutory provision that removal of an IG is only for cause (to be defined as providing, in statute, that an officer of the government can only be removed due to certain criteria, such as misconduct or malfeasance, lack of integrity, or inadequate performance), and

- establishing term limits for IG positions (within a range of five to nine years).

Congress may also want to consider changes that would increase the stature of DFE IGs by bringing their position and compensation in line with other officials who report to the agency head, such as the General Counsel, Chief Information Officer, or the Chief Financial Officer. The IG Act as amended sets the position level for the PCIE IGs at the executive level, but is silent on the level for the DFE IGs.

Extension of the Program Fraud Civil Remedies Act (PFCRA) Authority to DFE IGs

In 1986, Congress enacted the Program Fraud Civil Remedies Act (PFCRA), which enables agencies to recover losses resulting from false claims and statements where the claims are less than $150,000. Executive departments, the military, establishments defined in the original IG Act, and the United States Postal Service have PFCRA authority.

It is our understanding that Congress intended to provide all IGs with this authority when PFCRA was enacted in 1986. However, since the DFE IGs were created two years later by the1988 amendments to the IG Act, they were not covered by PFCRA. Many DFE IGs would

clearly benefit from utilizing the PFCRA to recoup taxpayer dollars because they are often confronted with recovery amounts less than $150,000. The PCIE Legislation Committee notes that this proposal has virtual unanimous support among the entire IG community and could be achieved by a very simple adjustment to PFCRA.

Changing the Reporting Periods of Our Semiannual Reports

The IG Act as amended currently requires each IG to prepare semiannual reports (SAR) summarizing the activities of his or her office and provide them to the agency head "no later than April 30th and October 31st of each year." The agency head then transmits the "SAR" to the appropriate committees of Congress within 30 days.

Our goal is to make sure that our SARs add value to your oversight and legislative activities at a stage when it really matters. The proposal being considered by the PCIE Legislation Committee would change the semiannual reporting periods, requiring IGs to provide reports to the agency head by January 31st and July 31st of each year, followed by a similar transmission to the Congressional committees 30 days later. As a result, Congress would receive the SAR by March 1st each year to coincide with the delivery of the President's budget request and agency Performance Accountability Reports. It would potentially provide helpful input to Congress in a more timely manner, for your use in oversight hearings on agency budgets and in earlier stages of authorization and appropriations bills.

PCIE and ECIE Codification

Created by Presidential Executive Orders, the mission of the PCIE and the ECIE is to promote collaboration on integrity and efficiency issues that transcend individual governmental agencies and to increase the professionalism and effectiveness of IG personnel throughout government. To that end, many members of the IG community believe that statutorily establishing a single "Inspectors General Council" would strengthen coordination and effectiveness among IGs on governmentwide projects and initiatives of interest to Congress and the Administration, as well as provide for enhanced sharing of law enforcement and audit-related

information. An IG Council would also help promote and coordinate a multidisciplinary approach to address increasingly complex and technical programs.

The PCIE Legislation Committee is considering one proposal that would, in brief, create a single, unified IG Council comprised of the current membership of the PCIE and ECIE. Under this proposal, the Council would assume the duty for maintaining government-wide training for OIG staff conducted by the Inspector General Criminal Investigator Academy, the IG Forensic Laboratory, and the IG Auditor Training Institute. Since this codification proposal would institutionalize our existing Councils, it would necessitate annual appropriations. We recognize that this and other proposals would need to be thoroughly discussed with our oversight committees and OMB.

Closing

Mr. Chairman, this concludes my prepared statement. In closing, I would like to again thank you and the Members of your Subcommittee for having this hearing and allowing us to focus attention on the 25th anniversary of the IG Act and to reflect on our past accomplishments and future direction. We appreciate your interest in and support of the IG mission and community and welcome an on-going dialogue going forward.

I join Gaston Gianni in expressing our appreciation to you, Mr. Chairman, and you, Mr. Towns, Congressman Cooper, the House Government Reform Committee Chairman Tom Davis, and the Committee's Ranking Member Henry Waxman, for your involvement with H.J. Res. 70, a joint resolution in recognition of our 25th anniversary. This resolution acknowledged our many accomplishments, commended our employees, and reaffirmed our role, and we look forward to its passage.

The IG community takes its mission and authority very seriously and remains committed to promote integrity, accountability, and transparency within individual departments and agencies, and across government. At this time, I would be happy to respond to any questions that you, Mr. Towns, or other Members of the Subcommittee may have.