

July 20, 2000

MEMORANDUM TO: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

FROM: Dennis K. Rathbun, Director **/RAI/**
Office of Congressional Affairs

SUBJECT: SENATE GOVERNMENTAL AFFAIRS HEARING ON
INSPECTORS GENERAL, 7/19/00

The Senate Governmental Affairs Committee held a hearing on S. 870, Inspector General Act Amendments. Senator Collins (R-ME) introduced the bill last year, which would authorize renewable nine-year terms for Inspectors General's (IG), prohibit the acceptance by IG's of cash awards or bonuses, increase IG pay from Level IV to Level III, consolidate smaller IG offices, and provide for a periodic external review of IG management practices. There is not a comparable bill in the House. Witnesses at the hearing also discussed whether permanent law enforcement authority should be provided to IG's, who currently have temporary authority from the U.S. Marshals Service.

Mr. Gotbaum of OMB testified that the nine-year fixed term was not needed to guarantee IG's independence and that it could negatively affect recruitment of people who did not desire such a long term. He suggested that guidance be included in S. 870 regarding the appropriate role of an IG clarifying whether the IG should be as an observer of agency actions or a participant in suggesting improvements. Referring to his previous service as a DOD Assistant Secretary, Mr. Gotbaum noted the dilemma of desiring to work with the IG to address agency issues, but being concerned about the consequences if he did not follow all of the IG's recommendations. Referring to some disputes that have occurred between IG's and the heads of agencies, Senator Thompson (R-TN) said that, "somebody in the Administration" should have the authority to resolve them; OMB currently has limited authority in this area.

Mr. Gianni spoke on behalf of the President's Council on Integrity and Efficiency (PCIE), representing the IG community. He testified in support of a fixed term, not necessarily 9 years, due to concerns that IG's currently serve at the President's pleasure and can be removed with a simple notification, without cause. Mr. Gianni added that language saying removal could only be for cause could be a means to address this concern. Additionally, he testified that there is general support in the IG community for S. 870, but there is not consensus for some provisions, such as the consolidation of IG offices. Additionally, some IG's would prefer that the bill also include provisions regarding the Paperwork Reduction Act and the scope of IG investigative authority.

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Mr. Gianni advocated the provision of permanent law enforcement authority to IG's to make statutory what is already exercised administratively, to have consistency across agencies with this authority, and to have accountability on how the power is used. Senator Collins criticized the Department of Justice (DOJ) for changing its views significantly over the past two years: after first urging her to delete this authority from her legislation (which she did), Mr. Gess of DOJ testified that the agency now advocates its inclusion. Complicating matters, DOJ recently announced that the temporary blanket authority that is currently provided to IG's for law enforcement authority will be rescinded as of January 1, 2001. Mr. Gess responded that the IG community "did a good job" in advocating for such authority and changed DOJ's position and that the agency would work with IG's so as not to jeopardize investigations next year.

Although Chairman Thompson stressed that IG issues obviously are important due to his scheduling this hearing during such a busy time, he did not make a commitment regarding when markup of S. 870 would occur. With the short legislative calendar remaining in this Congress, it is increasingly unlikely that S. 870 would move this year.

The witness list is attached; testimony is available in OCA.

Attachment: As stated

cc: SECY
 OGC
 OGC/Cyr
 EDO
 NRR
 NMSS
 RES
 OIP
 OCAA
 OPA
 OIG
 CFO
 CIO

Witness List

Senate Governmental Affairs Committee

Hearing on S. 870, Inspector General Act Amendments

July 19, 2000

Joshua Gotbaum
Office of Management and Budget

Gaston Gianni, Inspector General at FDIC
Vice Chair-President's Council on Integrity and Efficiency

Nicholas Gess, Associate Deputy Attorney General
Department of Justice

