The Journal of Public Inquiry

Spring/Summer 2004

INVITATION TO CONTRIBUTE ARTICLES

The Journal of Public Inquiry is a publication of the Inspectors General of the United States. We are soliciting articles from participating professionals and scholars on topics important to the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency. Articles should be approximately three to five pages, single-spaced, and should be submitted to **Joanne Szafran**, General Services Administration, Office of Inspector General (JPFP), Room 5303, Washington, DC 20405.

To review past editions, visit www.ignet.gov/randp/jpi1.html

The Journal of Public Inquiry

A Publication of the Inspectors General of the United States

CONTENTS

In This Issue

Welcome to the Spring/Summer 2004 edition of *The Journal of Public Inquiry*. In this issue, we spotlight an important discipline within the Inspector General (IG) community, inspections and evaluations. In tandem with current efforts to revise the *Quality Standards for Inspections,* issued by the President's Council on Integrity and Efficiency in March 1993, we present two articles from leaders in this field. Johnnie E. Frazier, the IG for the Department of Commerce, and Chairman of the Inspection and Evaluation (I&E) Committee, details the nature of I&E activities in specific agencies, including a look at some of the more controversial issues facing the community. George F. Grob, who oversees inspections and evaluations for the Department of Health and Human Services Office of Inspector General (OIG), follows with a historical perspective on I&E work produced since passage of the IG Act.

Beginning what we hope will be a customary feature of each issue, we present an article detailing the history of one of our OIG's, in this case, the U.S. Agency for International Development (USAID). Our author, Donna Rosa, is the Special Assistant to the USAID Inspector General.

Another major theme of this issue addresses recent initiatives within the community to develop new and effective vehicles for the promotion of excellence in managerial and leadership skills. John M. Mullins, the Special Assistant to the IG for the Environmental Protection Agency, provides insights into leadership development gleaned from the highly regarded executive seminars now being conducted for the benefit of the IG community at the Federal Executive Institute in Charlottesville, Virginia. Kirt West and Howard Cox of the U.S. Postal Service OIG furnish an overview of the newly formed Inspector General Management Institute.

We conclude this issue with articles on two important subjects that impact virtually every OIG in government. Beth Serepca and Rebecca Underhill, of the Nuclear Regulatory Commission's OIG, demonstrate

how the effective use of Hotlines not only improves government operations, but fosters employee goodwill. In addition, Thomas D. Coogan, Jr. and Rona S. Lige, of the U.S. Postal Service OIG, provide this issue's legal update, focusing on the subpoena process.

We hope you find this issue interesting and informative.

JOHNNIE E. FRAZIER

Inspector General, Department of Commerce and Chair, PCIE Inspection and Evaluation Committee

Inspections and Evaluations

Rounding Out the Power and Potential of the IG Act

John F. Kennedy once said, "Change is the law of life, and those who look only to the past or present are certain to miss the future." Though I doubt the authors of the Inspector General Act had these words in mind, they surely succeeded in crafting legislation whose capacity for sparking innovation and accommodating change would allow it to endure. And indeed, this capacity has enabled Inspectors General (IGs) to find new and creative ways to fulfill their mandate through the years in response to emerging challenges and ever-shifting priorities. Inspections and evaluations are two such innovations that over time have revolutionized the work and impact of the IG community.

Though the Inspector General Act clearly identified audits and investigations as the core functions and primary purposes of IG offices, it established a secondary objective for us: "to provide leadership and coordination, and recommend policies for activities designed to (A) promote economy, efficiency, and effectiveness in the administration of, and (B) prevent and detect fraud and abuse in such [establishments'] programs and operations." This objective opened the door for novel approaches to enhancing Federal agency operations that are planned or in progress, beyond the fairly prescribed activities of detecting problems after the fact, as audits and investigations tend to do. And it is this secondary niche that inspections and evaluations have come to fill so ably. In the process, they have broadened our reach from the program and operations arena to matters of policy—as our respective agencies have come to rely on our input on proposed or in-place policies that ultimately guide their every move. They have provided the

INSPECTIONS & EVALUATIONS . . .

- Determine the effectiveness of agency programs
- Evaluate the management and efficiency of government operations
- Assess program and project vulnerabilities
- Identify best practices or lessons learned
- Provide an advance review of program initiatives, regulations, or procedures

means for responding rapidly to urgent events and issues of national consequence, using flexible methods and techniques, and leveraging multi-disciplinary talents and expertise. They have enabled us to tailor our work to the smallest detail in order to meet specific agency needs.

Consider the challenges we as a nation confront in this post-9/11 era, and the importance of inspections and evaluations becomes clear. Ensuring the security of the public and our critical infrastructure is now a priority for every Federal agency, and roughly $41 billion in Federal resources were dedicated to homeland security this fiscal year alone—twice the FY 2001 amount.[1] The success of these efforts and effective use of these resources have, of course, become a major focus for IGs. With so much at stake, we cannot wait for a program to be in place for very long before determining whether it is having the desired effect. Thus, inspections and evaluations—because of their relatively quick turnaround—have become the tools of choice for assessing and ultimately improving the adequacy of many security-related initiatives.

No one knows this better than Department of Homeland Security (DHS) IG Clark Kent Ervin. His office recently evaluated DHS' methods for determining whether Federal airport screeners were adequately trained. In about 2 months, the

office issued a report that detailed and put an end to poor testing practices. (DHS, in a review of its own conducted prior to the IG's, had pronounced the testing "acceptable.")

Ervin's inspection report made headlines, led to congressional hearings, and prompted swift change. And he notes that this is but one of many examples of timely, critical improvements in DHS operations resulting from inspections and evaluations.

At the Department of Justice (Justice), a recent Office of Inspector General (OIG) evaluation of the U.S. Marshals Service's protection of Federal judges and courts found a system rife with inadequacies: threat assessments were poor and untimely; guidance for determining protective measures appropriate to potential risks did not exist; and information sharing among the Marshals Service's 94 districts was limited, as was its participation on Federal counterterrorism task forces. The resulting inspection and evaluation (I&E) report recommended a number of steps to enhance protective operations. Congress promptly appropriated additional funding to make the needed improvements.

The Environmental Protection Agency (EPA) OIG used evaluation methodology to assess EPA's handling of environmental hazards resulting from the World Trade Center collapse and the effectiveness of its efforts to protect the public from harm. Evaluators found numerous failings in EPA's response and communications capabilities. The final report, which offered 16 recommendations, was a key resource in congressional hearings into

[1] Congressional Budget Office, *Economic and Budget Issue Brief,* April 30, 2004. Accessed July 15, 2004, at http://www.cbo.gov/showdoc.cfm?index=5414&sequence=0.

> *"Inspections and evaluations across the IG community continue to impress me with the extraordinary flexibility they bring to our work and with their capacity to provide quick responses."*
>
> —**Clark Kent Ervin**, Homeland Security IG

9/11 and its aftermath. And when the agency balked at addressing recommendations to improve its cleanup of indoor spaces, several senators and the White House Council on Environmental Quality took action to ensure that EPA assessed the cleanup effort and made improvements as needed.

Many of us have similar stories to tell, and I daresay most would agree, on behalf of their own agencies, with Justice IG Glenn Fine's observation: "Evaluations and inspections have had a dramatic impact on improving Department of Justice operations. They have the flexibility to address critical topics creatively . . . identify needed improvements, and provide the recommendations to help accomplish those improvements."

As IG for the Department of Commerce (Commerce), I too can attest to the power and versatility of inspections and evaluations. Given Commerce's broad and varied missions, many of which have implications for the integrity of the nation as a whole and the well-being of each of its citizens, the ability of my office to respond quickly to emerging threats, unanticipated problems, and even a serious hint of dysfunctionality in the activities or operations of this Department is crucial. Time and again, our strong inspections and evaluations capability has proven itself—uncovering weaknesses in Commerce's enforcement of "dual-use"[2] export control regulations, inadequacies in the operations of overseas trade offices, significant gaps in the security of critical information technology (IT) systems and data and the facilities in which employees work, and serious mismanagement of—and overspending on—acquisitions of weather forecasting technology. And the list of examples goes on. But in every case, an OIG inspection team identified the problems and their root causes, recommended solutions to Commerce officials, and worked with the Department to expedite implementation of our recommendations

---

[2] Dual-use commodities are goods and technologies that have both civilian and military uses.

and restore accountability to the program, process, or operation under review.

Institutionalizing the I&E Concept

While the examples I have cited are from large Federal departments, inspections and evaluations are making a difference in agencies of all sizes and disciplines. Roughly half of the Federal Offices of Inspector General have institutionalized the capability by establishing I&E units. Twenty-six OIGs had I&E units in 2003, with staff of as few as 5 to more than 100. Of these, 18 operate as separate entities within their OIG; 8 are subcomponents of another OIG unit, such as an Office of Audits, or are combined with another OIG entity, such as a management and policy office. Six I&E units have staffs of at least 25 and annual budgets of more than $2.5 million, and these have existed for a decade or more. The largest I&E unit is that of the Department of Health and Human Services OIG—it had a staff of 136 in FY 2003 and a budget of $13.2 million. The remaining units have 23 or fewer employees and budgets of less than $2.2 million.

Some units conduct both inspections and evaluations, but most perform one or the other. While the fine distinctions between the two types of reviews vary among OIGs, an evaluation is typically an in-depth look at a major program, function, or activity, whereas an inspection is a more concise assessment of a specific office, event, issue, or problem. IGs also task their I&E staffs with a variety of related pursuits: (1) producing best practices reports, or "crosscutting" reviews that identify issues or problems common to several entities within an agency or department; (2) conducting unannounced inspections; (3) providing technical support to other units within their OIG; (4) assessing legislative, regulatory, and/or departmental policy; and (5) participating in intra-OIG assessments with audit and investigative staff or on interagency IG teams.

This diverse agenda requires staff with well-rounded experience and expertise in a variety of

disciplines. Most inspectors and evaluators tend to be program analysts (GS-0343)—a job category that encompasses a broad range of backgrounds— and are GS-13s or higher. Some I&E units hire inspectors and evaluators from the auditor series (GS-0511) as well. However, OIGs in agencies with highly specialized missions tend to recruit from more specialized job series. For example, the State Department I&E unit has a large number of foreign service officers, as they understand the intimate workings of State's international operations; the Department of Veterans Affairs' (VA) I&E unit is staffed primarily by physicians and other health care specialists.

VA Inspector General Dick Griffin stresses that having inspectors with strong medical backgrounds is a must for the work of his office. He describes, as a case in point, his OIG's recent review of alleged misconduct and possible manslaughter in a VA-sponsored clinical research trial involving human subjects. Inspectors were on site in Albany, New York, within 24 hours of receiving a request for assistance from Griffin's Office of Investigations, and their findings prompted the Veterans Health Administration (VHA) to suspend research activities throughout the entire VHA system for 90 days. Only skilled medical professionals could have conducted this specialized inquiry, which involved evaluation of comprehensive health care and clinical data, policies, and procedures. Griffin's staff subsequently conducted a follow-up inspection of compliance with the suspension order.

> *"Diverse expertise and specialized experience is invaluable to our ability to be effective in reviewing VA activities."*
>
> —**Dick Griffin**, Veterans Affairs IG

At Commerce, we have two I&E offices: one focuses strictly on major IT systems and acquisitions and has been staffed by computer scientists,

PCIE QUALITY STANDARDS FOR INSPECTIONS

1. **Qualifications:** Individuals assigned to perform inspection work must collectively possess adequate professional proficiency for the tasks required.

2. **Independence:** Individuals performing inspection work must be free from impairments that hinder objectivity. Inspectors must consistently maintain an independent, objective attitude and appearance, and shall be subject to supervisory guidance and review to preclude actual or perceived impairments or bias in conducting inspection work and presenting results.

3. **Due Professional Care:** Due professional care will be used in conducting inspection work and in preparing reports or other products.

4. **Quality Control:** To ensure quality and to expedite the progress of an inspection, proper supervision will be exercised from the start of an inspection to completion of the final inspection report.

5. **Planning:** To ensure adequate planning, inspection work will be coordinated, researched, and designed to achieve the objectives of the inspection.

6. **Data Collection and Analysis:** Information and data obtained about the organization, program, activity, or function being inspected should be consistent with inspection objectives and sufficient enough to provide a reasonable basis for reaching conclusions.

7. **Evidence:** Evidence supporting inspection conclusions should be competent and relevant and lead a prudent person to the same conclusion as that of the inspectors.

8. **Supporting Documentation:** All relevant information generated, obtained, and used in supporting inspection findings, conclusions, and recommendations should be retained.

9. **Timeliness:** Inspections should seek to deliver significant information to appropriate management officials in a timely manner.

10. **Fraud and Other Illegal Acts:** If, during or in connection with an inspection, inspectors become aware of illegal acts or indications of such acts, they should promptly present such information to their supervisors for review and possible referral to the appropriate investigative office.

11. **Reporting:** All inspection reports shall present factual data accurately, fairly and objectively, and present findings and conclusions in a persuasive manner.

12. **Follow-up:** Appropriate follow-up will be performed to assure that any recommendations made to agency officials are adequately considered and appropriately addressed.

mathematicians, contract experts, and other technical personnel. The second unit, which conducts all non-IT inspections and evaluations, has been staffed by economists, international business specialists, human resources professionals, lawyers, and a variety of others whose backgrounds mirror the Department's diverse program and operational areas. Without this range of specialties, we could not effectively evaluate the vast scope of activities that require our attention.

I&E Quality Assurance Assured

Despite the impressive list of enhancements to government operations that inspections and evaluations have prompted through the years, some observers question whether these reviews and their findings are as valuable, reliable, and irrefutable as those of our audits and investigations. In other words, do they meet the highest quality standards expected of IG work? The answer is "yes."

The President's Council on Integrity and Efficiency (PCIE) *Quality Standards for Inspections*, issued in March 1993, establish strict criteria against which to measure our inspections and evaluations, and provide assurance that the integrity of these reviews matches that of our audit and investigative efforts. The beauty of the standards is that they allow the flexibility we need to approach the issues from diverse and at times nontraditional perspectives. It is up to each individual OIG to ensure compliance with the standards by developing internal procedures and controls for guiding the conduct of their own I&E work.

It is up to the PCIE Inspection and Evaluation Committee, and me as its chair, to ensure the standards remain relevant—and we are committed to doing so: the committee is currently reviewing and updating the standards in keeping with the changing I&E environment and requirements, as well as with the Government Accountability Office's revised *Government Auditing Standards* (the *Yellow Book*). We will share the revised draft standards with the entire IG community—your

input is key to ensuring the standards continue to foster I&E work of the highest caliber.

The Legacy and Future of Inspections and Evaluations

From my dual vantage points as Commerce IG and I&E Committee chair, I have been particularly impressed by the significant impact inspections and evaluations have had on the IG Act's goal of making government work better. Nearly every Federal OIG—whether it has a dedicated I&E unit or not—has recognized the value of these tools and used them to great advantage in improving the operations of their respective agencies.

I am proud of the I&E Committee's efforts and successes in supporting and expanding this work, in enhancing the expertise of those who conduct it, in promoting interagency I&E projects, in creating networks and products for information exchange, and in relentlessly seeking to always improve the I&E process itself. I am particularly proud of the IG community for having so willingly embraced the I&E concept. By daring to seize the opportunity for innovation inherent in the IG Act, we have made our mission ever-more vital and the operations of our respective agencies ever-more sound.

But as JFK remarked, "change is the law of life." We can thus expect our mandate to be regularly challenged by new, increasingly complex, and more urgent situations that demand swift resolution. Inspections and evaluations have proven themselves well suited to such challenges. I therefore envision a long and productive future for these critically important OIG tools. 🔔

> *"Vision is the art of reading between the lines, of seeing the potential to do great things, and of creating the ways to do them."*
> **—Anonymous**

GEORGE F. GROB
Assistant Inspector General for Evaluation and Inspections,
Department of Health and Human Services

Inspections and Evaluations

Looking Back, and Forward Too

I will always remember my mother's reaction to my appointment as Assistant Inspector General for Evaluation and Inspections. "We're all so proud of you, George. Just what is it you do anyway?" I have been asked that question over and over again ever since then, particularly within the Inspector General (IG) community. I will try to answer it here. I will also try to shed light on how this function fits into an IG's office, the factors that contribute to its success, and where it might be headed in the future.

As Johnnie Frazier explains in his article in this edition of the Journal, evaluation and inspection units are "niche" enterprises in IG offices, each one adapted to the particular needs of the agency in which the IG office is located. His article provides a bird's eye view of the units, describing what they do and with what effect. I will zoom in on one agency, the Department of Health and Human Services (HHS), where I have worked almost my entire career, half of it in the Office of Inspector General (OIG). I will describe some of that work in greater detail, illustrating not only the subjects of the studies, but also the approaches and methods used. I will also try to show how our work has evolved, adopting an increasingly diverse set of analytic tools and adapting to changing conditions in the Department and to the leadership of the office itself.

Examples at HHS

Finding Out What's "Out There"

Service Delivery Assessments. Our organization originally came into being in response to a strong interest of Departmental officials wanting rapid

feedback on field operations from an independent cadre of professionals. A small unit was created within the OIG to conduct what were then called "service delivery assessments." This unit made quick forays to examine program operations first hand and to test service delivery. For example, they briefed the Secretary on conditions at Head Start grantees, noting empty chairs and unfilled training slots. They simulated efforts of young people to call the national runaway youth hotline, reporting that their phone calls often went unanswered.

While the main body of our work has shifted to more intense scrutiny of fraud and waste, we still conduct a small number of these quick on-site reviews. We visited shopping malls and other public sites where free cholesterol screenings were being offered. We found unsanitary conditions and improper procedures being used in drawing blood and incorrect information being given out with respect to test results. These operations ceased largely as a result of our study. At the request of the Secretary's office, we reviewed methods being used for collecting and processing human tissue. As a result of this study, three national associations involved in tissue collection issued joint standards on collection methods and, following a Senate hearing, the Food and Drug Administration accelerated their efforts to identify and inspect human tissue processing establishments.

Fighting Fraud and Waste

Fraud Detection Reviews. Later, our inspection and evaluation (I&E) operations were combined with staff from the Medicare program who specialized in detecting fraud and waste. This has since become the core of our work. Examples include our detection of improper Medicare payments for incontinence supplies, wound care, seat lift chairs, physical and occupational therapy, and other medical equipment and supplies. Based on a combination of computer analysis, medical record review, and interviews with beneficiaries and medical care providers, we were able to identify weaknesses in claims processing systems and shortcomings in

instructions to providers of medical supplies which when corrected reduced Medicare outlays by hundreds of millions of dollars annually.

For example, savings resulting from our study of incontinence supplies alone amounted to $110 million annually immediately after our recommendations were implemented in 1995. We were able to confirm these savings through follow-up studies.

Market Pricing Studies. As our evaluators became more familiar with programs, especially Medicare, we discovered significant waste that was not due to fraud or failure to comply with program rules, but resulted from the rules themselves, especially payment formulas. Based on our work, legislation was enacted to reduce Medicare payments for home oxygen and ambulatory surgery, again with annual savings in the hundreds of millions of dollars.

Comprehensive Program Vulnerability Reviews. Our next evolution came from confronting some of the most significant problems in the Medicare program, problems that resulted from a combination of fraud, waste, and abuse. To solve them and to convince lawmakers and program administrators to correct them, we had to conduct many separate studies over several years. We also worked closely with our auditor, investigator, and lawyer colleagues to confront these problems on a united front.

The most prominent of these all-out efforts were related to Medicare payments for home

health, nursing home services, and prescription drugs. Our combined efforts resulted in convictions, settlements, audit recoveries, and wholesale changes in Medicare payment formulas and control systems that resulted in many billions of dollars savings and recoveries per year. For example, three years after enactment of new legislation based on our work, annual payments for Medicare home health services dropped by $8.8 billion, from $16.7 to $7.9 billion.

HOME HEALTH

Savings in Billions
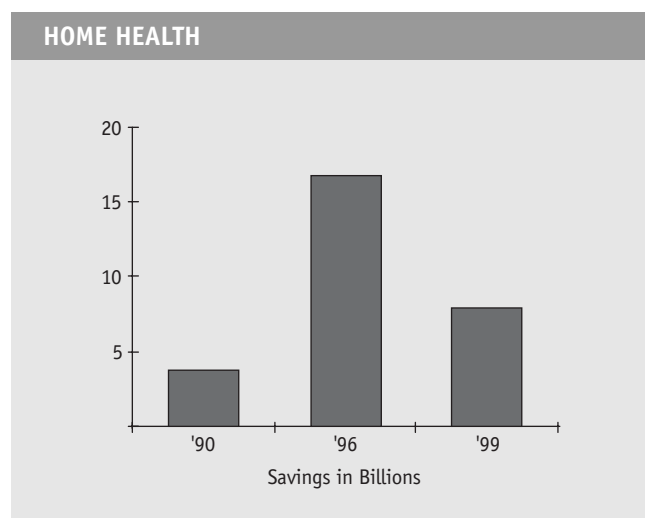
Most recently, the Medicare Modernization Act reduced Medicare payment rates for prescription drugs and medical equipment. The Congressional Budget Office estimated the 10-year savings at more than $20 billion.

Getting Programs Off to a Good Start

Early Implementation Reviews. We conduct inspections of the early experience in implementing programs, usually at the end of their first year of operations, sometimes sooner. These reviews are done when it is too early to conduct compliance reviews or program evaluations. The idea is to prevent problems before they occur and to avoid vulnerabilities from becoming permanent features of programs. We usually initiate these reviews ourselves, but sometimes senior program managers request that we find out what is happening as

grantees or government agencies struggle with the complex tasks of starting a new program—what seems to be working, what is not, what barriers grantees are facing, what, if anything, any of them have been able to do about problems which arise, what innovative practices grantees are experimenting with, and whether and how they are measuring progress, etc. This is especially useful for major, sweeping program changes that will take years to complete but where tight intermediate deadlines have been imposed.

These inspections usually provide descriptive information obtained and organized along lines useful to program managers. Because of the need for speed, such information may be self-reported and not verified. These results are not substitutes for formal evaluations or compliance reviews and are not viewed as such, but sometimes self-reported data is sufficient to detect problems. Recent examples include assessments of the readiness of physicians, hospitals, nursing homes, and home health agencies to ensure the compatibility of their systems for billing Medicare in the Year 2000, the upgrading of public health systems to detect and respond to bioterrorism events, and the implementation of the new Medicare prescription drug benefits. For the latter, we were asked by Medicare program officials to find out what kind of marketing materials Medicare beneficiaries were receiving, whether they can actually buy drugs at prices advertised by discount card providers, and to what extent drug prices are changing.

Serving and Protecting Beneficiaries

Beneficiary Surveys. In the late 1980's and early 1990's, we began conducting annual surveys of Social Security and Medicare beneficiaries. These surveys consistently found high levels of beneficiary satisfaction regarding courtesy, information, and services provided. However, they revealed shortcomings in timeliness and access by telephone. We worked with Social Security and Medicare officials, conducting more detailed surveys to better understand these problems and

develop solutions, which they adopted. At the time, these surveys were regarded as trail blazing innovations. Today client surveys are commonplace, conducted by the Social Security Administration, the Centers for Medicare and Medicaid Services, and many other Federal agencies.

Protection of Beneficiaries. During the course of our work to eliminate fraud vulnerabilities and excessive prices, we discovered that care and conditions in nursing homes were deficient. As a result, we began concentrating on this aspect of programs and designed studies specifically to detect substandard care and the reasons why it was occurring. We examined the quality of nursing home care, protections afforded human research subjects, oversight of hospitals and dialysis facilities, systems for approving prescription drugs, the labeling of dietary supplements, the scope and periodicity of inspections of food producers, and the equity of the distribution of transplant organs. Many of these studies have been the subject of congressional hearings and most have led to improvements in quality oversight. Closely related to this has been a body of work we produced on ways to establish paternity and increase collection of child support from absent parents.

Keys to Success

Over the last 16 years, I often tried to ascertain the circumstances and inherent factors that are associated with successful evaluations. My conclusions are not remarkable, as the keys to success, insofar as I can figure them out, are common to most successful endeavors. Nevertheless, I hope the following discussion is helpful.

Thinking Big

Important Issues. The studies that led to the greatest impact were the ones that tackled the biggest problems—e.g., waste and abuse in home health, nursing homes, prescription drugs, and medical equipment and supplies; quality of care in nursing homes; and protection of human research subjects.

MEDICARE MODERNIZATION ACT
OIG Influence Reflected in:
■ Lower drug costs
■ Medical equipment savings
■ Modernization of appeals system
■ Improvements in contractor operations

Body of Work. Seldom was one report enough to persuade decision makers to make important decisions. Our greatest success, such as those referred to above, were supported by a body of work, each report addressing particular questions raised by policy makers or stakeholders. Trying to cram all the issues into one report takes too long, makes reports difficult to read, and still misses issues which arise during the "hot" period when public discussions of an important subject are taking place.

Consultation

Stakeholder Involvement. The greatest sweep and general positive movement came from projects in which we engaged major external stakeholders from the beginning of the inspection studies— e.g., protection of human research subjects, distribution of transplant organs, oversight of medical care facilities, and Year 2000 readiness.

Collaboration with Management. The most immediate results we obtained came from projects we were requested to perform by senior Departmental officials—e.g., human tissue collection, Year 2000 readiness, and implementation of antibioterrorism measures.

Consultation with Congress. Many of our recommendations were enacted into law, the result of staying in touch with key committees, providing timely reports, responding rapidly to questions, and testifying at hearings.

Responsiveness

Timeliness. Sometimes speed was important. More generally, timeliness was what was needed—results

in time for crucial decision-making, particularly in the budget and legislative arenas. Even if deadlines were not urgent, it was important to provide reports when promised.

Helpfulness, practicality. We tried to offer many solutions to problems, not just one. We tried to stick to feasible solutions.

Reasonableness. We listened to what our colleagues in the Department, stakeholder groups, and congressional committees had to say. We were willing to adjust our recommendations if we thought their advice made sense.

Professionalism

Soundness. We use modern analytic methods and strong evidence. The strength of our proof, however, is related to the objectives of our studies. If we are trying to persuade the Department to take action on a matter that we believe is important, but that management has no interest in or is actually resisting, we will bring to bear a strong battery of evidence, usually tantamount to what an auditor would offer.

On the other hand, if our intended audience, usually Departmental managers, requests our assistance in obtaining independent and objective information, and they want information quickly, we will negotiate the amount and nature of evidence that will satisfy both them and our own standards. We find that this distinction and approach leads to acceptance of our results. A good example of this is the work we were asked to do in the wake of the home health payment reforms mentioned earlier. With a precipitous drop in payment levels, the Secretary and other senior officials asked us to find out if Medicare beneficiaries continued to have access to services. They wanted to know right away. We used a combination of surveys of hospital discharge planners to find out if they were experiencing problems in placing discharged patients into home care and with computerized analysis of hospital length of stays, readmissions, and emergency room care for home health patients. We found no access problems.

Always the OIG

Independence. We have never jeopardized our independence by our collaboration with others. In fact, our internal stakeholders have always recognized and respected our independence. They have consistently told us that it is our independence that makes our work so valuable to them.

OIG Partners. The proposals that made our strongest case, for which we developed both creative and effective solutions and succeeded in getting implemented, were the ones that involved intensive, ongoing collaboration with IG auditors, investigators, and attorneys in areas such as home health, prescription drugs, and medical equipment and supplies.

The IG. Our work has changed over the years, reflecting the interests, goals, and directions of the IGs with whom we have worked. Needless to say, the evaluation function will only work if it is compatible with what the leader of the organization wants it to do. This is also true, of course, for auditors and investigators. But it is particularly germane to evaluators since the function is, as noted in the beginning of this article, a "niche" business. It has to be a niche the IG wants to fill.

The Future

If the past is any indication, I would expect the future of evaluations and inspections to be characterized by:

A Bigger Tool Box of Methods

We have never stopped adding to the methods we use. Our early approach of using quick field outings, something akin to investigative reporting, quickly gave rise to statistical sampling, correlation, and projection. We adopted professional survey methods and pioneered client satisfaction surveys and, more recently, fax surveys, cluster sampling, and the use of mixed methodologies. Our analysts have received training in focus group methods, qualitative analysis, and mapping and graphic techniques. Our ability to manipulate very large

databases has transformed the way we do our work and the power of our evidence. Computers and advanced information technologies are ubiquitous. The extremely bright people we hire arrive on the scene with the latest skills taught in the nation's universities. There is no end in sight to the growth in the number, kinds, and sophistication of methods, equipment, information sources, and staff skills.

More Challenging Fraud

When we first started working on Medicare fraud, it was mostly one health care provider at a time. Health care fraud, however, has grown in complexity and scope with the integration and regionalization, even nationalization, of the health care system itself. The fraud we are now studying is more sophisticated than ever before. Those who want to abuse the system have the same advantages of computers and information technology as we do. They organize themselves across state boundaries and health care sectors (hospitals, nursing homes, laboratories, medical equipment, home health, and more). They do not hesitate to exploit weaknesses in the system and technologies available to them. We have to keep up with them.

New and Bigger Programs

Last year we witnessed the largest ever expansion of Medicare. The Medicare Modernization Act authorized a universal prescription drug benefit for elders and the disabled. It also broadened access to managed care, and reformed the way Medicare is administered. Meanwhile, Federal and state costs of state Medicaid programs surpassed Medicare, making it the number one health insurance program of the nation and putting Medicare in second place. At the same time, with the aging of baby boomers, the number of elderly needing assistance is growing rapidly. Simultaneously, breakthroughs in medical care, fueled to a great extent by HHS sponsored biomedical research, are opening new forms of medical interventions, and making new health care programs possible. We have no choice but to keep up with the size and complexity of these new programs.

New Threats

The threat of terrorism, including use of biological agents, has transformed our lives, both private and professional. Our evaluators still need to learn a lot more about this, and other threats which we have not yet imagined.

More Collaboration

The collaboration of investigators, auditors, evaluators, and attorneys ranks among the most profound changes in our way of approaching problems at the HHS OIG. We also work with law enforcement officials at both Federal and local levels. Recently we have found ourselves becoming involved even more broadly, with OIGs of other Federal departments. Within a recent 1-week period, members of our evaluation unit met to work collaboratively with staff of the Departments of Homeland Security, Housing and Urban Development, and Justice, as well as the Environmental Protection Agency. Given the increasing complexity of our programs, this interdependence of OIG units is likely to increase rather than decrease.

> *The collaboration of investigators, auditors, evaluators, and attorneys ranks among the most profound changes in our way of approaching problems.*

Looking Forward

Who of us would have dreamt that we would be deeply involved in efforts to tame the Year 2000 bug or evaluations of programs to respond to terrorism? Our professional worlds have been completely overhauled by information technology—both in what we evaluate and in the tools we use to do it. I would have guessed little of this 10 years ago. None of us can really predict the future with much success. We have to stay flexible. Evaluation skills give us the ability to do that. If my mother were to ask me now what I will be doing next, I think I would just have to say, "We'll see." 🔔

DONNA ROSA
Special Assistant to the Inspector General, Agency for International Development

History of Oversight Arrangements for Foreign Aid

The Inspector General Act was preceded by an evolving set of arrangements for evaluation, investigation, inspection, and audit services at individual Federal entities. The foreign aid program, in particular, has had a long association with an Inspector General (IG).

The Mutual Security Act expanded foreign aid provided under the Marshall Plan which operated from 1948-1951. Subsequently, as assistance increased, the Department of State's Office of Inspector General (OIG) and Comptroller for Mutual Security were responsible for a financial and statistical annual report to the Congress under the Mutual Security Act of 1954, as amended. The Division of Financial Management worked with other elements of the Department of State to prepare this report. This function was not seen as compromising the independence of judgment and decisions with respect to other financial matters under its jurisdiction. The OIG and Comptroller attended meetings of the Mutual Security Steering Group for the purpose of gathering information related to its responsibilities for evaluations, investigation, audit, and financial management. While oversight arrangements by the IG complied with the Mutual Security Act, independence was questioned by some.

The oversight challenges, the institutional arrangements, and the relationship with Congress contributed to the evolution and advancement of subsequent IGs at civilian agencies. The State Department's Inspector General continued to have broad oversight responsibilities even as the Agency for International Development was established as a component within the Department of State with its own internal evaluation and oversight arrangements.

Early History—Administrative Actions

President John Kennedy directed the Secretary of State to "establish an agency in the Department of State to be known as the Agency for International Development" on November 3, 1961. As U.S. Government foreign assistance programs were consolidated into the U.S. Agency for International Development (USAID) from the International Cooperation Agency and other departments and agencies, USAID had designated officials responsible for accountability and oversight of its programs. Their positions were established administratively.

In July 1962, a Management Inspection Staff was formed to "assist the Administrator by conducting investigations and internal audits and submitting evaluations of the effectiveness of AID operations." The Staff, which conducted reviews similar to performance evaluations and inspections, reported directly to the Administrator's office. This unit, along with the audit activities in the Office of the Controller and the security function, eventually evolved into the USAID Auditor General's office.

Legislation Establishes Inspector General for Foreign Assistance

The Act for International Development of 1961 created the position of Inspector General of Foreign Assistance (IGA)—one of the first Inspectors General in Federal civilian agencies. The legislation required that the President nominate and the Senate confirm the IGA.

The IGA, with duties across several departments and agencies, reported to the Secretary of State. The direct access assured that observations and recommendations would reach the Secretary. Care was taken to prevent the IGA from being dependent on the administrative budget of any of the agencies under its jurisdiction.

The IGA was tasked to arrange, direct, or conduct reviews, inspections, and audits to ascertain the efficiency and economy of programs under its jurisdiction and their consonance with foreign policy. The IGA had responsibilities for substantive reviews of foreign aid covering multiple agencies, unlike tasks normally associated with internal audit activities. This included policy and procedural issues of interest to the State Department's senior-level management. At that time, in contrast, internal audit activities at USAID focused on compliance with established policy rather than on efforts to evaluate the policy itself.

The IGA had authority to suspend all or any part of a project or operation unless the Secretary of State overruled the suspension. Expenses for the IGA—not to exceed $2 million a year—were charged against the appropriations of the programs reviewed (including USAID, the Peace Corps, and the Military Assistance Program). This contributed to the independence of the IGA as it prevented the curtailment of travel funds or other operations to the detriment of the IG's effectiveness. (The Military Assistance and foreign assistance programs were part of the Foreign Assistance Act.)

Congress sought to strengthen the capacity for auditing foreign assistance programs through the IGA office. While the goals and scope were well intentioned from the start, over time, the work product of the Inspector General for Foreign Assistance was questioned. While the IGA's reports were read by the State Department's top officials, the efforts to ensure Department compliance with routine IGA inspection findings did not go smoothly. The inability to obtain management compliance with recommendations also hindered the IGA from achieving results. The recommendations mostly concerned management improvements or policy recommendations without dollar amounts that could be claimed as defined dollar savings. The IGA moved ahead with a broad mandate and ever evolving issues and challenges related to its effectiveness. Some of the IGA experience would later become "lessons learned" in the establishment of subsequent IGs.

In a review of the IGA office, the General Accounting Office (GAO) subsequently reported

that the IGA was ineffective as established and duplicated the work of other better-managed offices (with stronger operational arrangements) that performed evaluations of foreign aid. GAO claimed that it was better positioned to perform such work. Meanwhile, independent of the IGA's operations, internal reorganizations during the late 1960's and 1970's helped USAID strengthen several offices that were to have a role in the formation of its OIG.

Consolidation of Compliance Functions at USAID

The Assistant Administrator for Administration, responsible for the Office of the Controller, gained responsibility for the Office of Security in 1964 and later the Management Inspection Staff.

Management Proposes an Auditor General at USAID

Starting in the mid-1960's and continuing in the 1970's, the need for greater independence of the audit function was generally recognized throughout government. When stories of widespread fraud were reported, the public became concerned about government accountability. As a result, department managers and Congress sought reform through strengthened audit and investigative oversight. As change came to other departments and agencies, it also came to USAID.

The USAID Auditor General began operations in March 1969, largely to the credit of Edward Tennant, Assistant Administrator for Administration, who recommended the creation of an Auditor General at USAID.

Tennant made several observations: (1) the audit function, in the Office of the Controller, was thrice removed in the reporting chain from the Administrator, (2) the controller had dual responsibilities as the "keeper of accounts" and chief auditor, and (3) the controller was very much involved in the subject matter he was responsible for auditing.

Based on sound management practice and inspired by reform initiatives in other Federal agencies, Tennant recommended that the agency's auditors be independent of all operations subject to audit. This applied to USAID's overseas activities located in field missions. At that time, agency auditors posted overseas worked for the mission controller, who worked for the mission director. Some mission directors wanted this function to remain under their direction.

Congress became involved when it learned that a mission director "sat on draft audit reports and refused to permit their release." As a consequence, support grew for organizational independence of the audit function. Some, nevertheless, still believed that the mission director needed an auditing staff as a "line management" tool to alert them to problems and directly respond to the mission director's specific priorities.

Tennant believed that "the Administrator is in the best management position if he has an independent audit staff calling the shots as they see them balanced by the views of the responsible operating officials." Under his proposal, the Auditor General would work with Mission Directors to develop a plan that included their priorities and concerns. Even though independent of the agency's field operations, "auditors want to be used, called upon, respected, and even loved (sometimes) . . ." according to Tennant. He thought that such character traits qualified auditors to dig into special problems when called upon by the missions.

Senior management also had concerns about granting the Auditor General excessive independence. Tennant addressed these concerns in his auditor general plan. The agency's chief auditor would be a member of the executive staff and attend staff meetings and senior councils. In addition, the individual would be a multi-disciplined professional, well attuned to the aid business, with a good understanding of operating abroad, and have a feel for the inherent difficulties of managing USAID's high-risk business, where the partner is

a cooperating country not particularly geared to United States management or accountability standards.

Auditor General Operations Begin

On June 16, 1969, the USAID Administrator John Hannah issued a memorandum entitled "Activation of Auditor General Operations." It read in part:

> The President has announced in his Foreign Aid Message that we will establish 'better means of continuous management inspection' in A.I.D. I am today establishing the Auditor General operation referred to by the President. Mr. Edward F. Tennant is hereby named Auditor General reporting directly to the administrator.
>
> This innovation in the management of A.I.D's programs reflects this Administration's desire to assure that the Agency manages its business in the most effective way possible. All of us in this Agency have a great responsibility with respect to the handling of the public funds, and all of us want to discharge that responsibility properly and effectively. I am convinced a wide-ranging, independent internal review activity will help provide me, and all of our managers, the necessary protective and constructive services absolutely essential to good management . . . Our future emphasis would be teamwork and improved management effectiveness. We must detect problems and issues at the earliest possible stages and promptly effect corrective action. To help accomplish this, the Auditor General operation will be structured to meet both the needs of top management and subordinate management levels. Thus, the Auditor General and his staff will be fully responsible to requests of operating managers for audits and investigations to help them discharge their basic operating responsibilities.

The Office of the Auditor General was subsequently established from units under the Assistant Administrator for Administration. These included the audit division (removed from the Office of Controller), the Office of Security, the inspections and investigations staff, and the compliance and management effectiveness staff. This action placed under central management all of the agency's compliance functions. Strong congressional interest in improved audit activity at USAID added support for this arrangement.

USAID's Office of Auditor General worked closely with the IGA. The Auditor General's audit reports and planning reports (showing the status of each program and project audit and the next audits to be undertaken) were routinely sent to the IGA. This helped avoid duplication.

On October 30, 1969, the Administrator directed the executive staff and mission directors to transfer the mission-based audit activities to the Auditor General's operation. In 1973, Harry C. Cromer became USAID's Auditor General. He was succeeded by Herbert L. Beckington in 1977. While USAID and the Inspector General for Foreign Assistance (IGA) shared information, they disagreed from time-to-time on operating procedures for reviews.

One procedure allowed IGA staff to attend USAID's internal "pre-decisional" project discussions and review files. Under its standard procedures, IGA issued reports and forwarded them to Congress before the agency could comment, which sometimes subjected the agency to criticism. In one case involving a loan program, GAO applauded IGA's approach and expressed the view that ". . . questioning of proposed projects represents one area where IGA can be of substantial assistance to Congressional appropriation committees."

Further, the IGA was viewed as an organization that placed an emphasis on being responsive to Congress but failed to meet the needs of management. Under the IGA, management did not always have an opportunity to act on IGA findings before the reports became public. So, while the IGA conducted audits and investigations to identify savings or wrongdoing, its reports did not support management responsibilities. The IGA reports were not useful to the secretary, according to some.

The Murphy Commission on Reorganization of Government for the Conduct of Foreign Policy

recommended that the IGA be disbanded. The International Development and Food Assistance Act of 1977 authorized the transfer of IGA duties and functions and the office was abolished effective July 1, 1978. Responsibilities of the IGA were divided, with some going to the Inspector General for the Foreign Service at the Department of State. In 1978, the other office in a good position to gain duties was USAID's Auditor General.

Inspector General Act of 1978 Takes Form

Reacting to highly publicized scandals in government programs, Congress held hearings on issues facing departments and agencies and on the features and authorities needed by Inspector General offices. In the spring of 1978, the Senate Subcommittee on Governmental Efficiency and the District of Columbia invited testimony from the IGs of Health, Education and Welfare, the Foreign Service, Department of State, and the Auditor General of the Agency for International Development, Herbert Beckington, among others. Based on the testimony of the Auditor General, Congress determined that USAID would not be part of the IG Act as originally passed in 1978.

Congress had confidence in the workings of the USAID Auditor General. In addition, the State Department (of which USAID was a part) already had an "Inspector General and Controller." So for the time being neither State nor USAID (as part of State) came under the IG Act as first passed.

Three other developments had significant impact on USAID's Auditor General organization. First, an amendment to the Foreign Assistance Act made the Auditor General a statutory office in USAID and required an annual report to Congress. Second, President Carter by Executive Order in December 1978, extended significant features

of the IG Act to all executive departments and agencies. Third, substantial new responsibilities and authorities were granted by amendment to the Foreign Assistance Act.

The new amendments, which provided protection for whistleblowers, required the IG be provided with suitable office space and administrative support, and for the first time, granted subpoena power. The audit and investigation duties, responsibilities, and authorities of the USAID IG were now almost the same as those accorded the Inspectors General established by the 1978 Inspector General Act. Shortly, USAID's Office of Inspector General would be established under the mandate of the Inspector General Act of 1978, as amended.

USAID Comes under the Inspector General Act of 1978

The International Security and Development Cooperation Act, signed on December 29, 1981, brought USAID's OIG under the Inspector General Act of 1978 (IG Act). As an entity under the IG Act, the USAID Office of Inspector General became fully independent within USAID. To meet the IG Act requirements, the first semiannual report of the IG was issued for the period ending March 31, 1982, joining USAID to the modern era of Inspectors General.

In conclusion, the Foreign Assistance program was overseen by an IG for many years during which time much was learned regarding making workable, efficient oversight arrangements which may well have contributed to the professional practices of IGs. So while the programs of foreign assistance were under the oversight of an Inspector General, they did not come under the IG Act until after they were placed in an independent agency and that agency's Inspector General was brought within the IG Act. ☎

JOHN M. MULLINS

Special Assistant to the Inspector General, Environmental Protection Agency

Developing Leaders for the Inspector General Community

Background

On February 12, 2003, a new and expanded agenda for the Offices of Inspector General (OIGs) was proposed with the creation of a pilot leadership development curriculum. As communicated by the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE) in *A Strategic Framework,* (May 2001), the Councils committed to establishing a management development and succession-planning program. The Framework called for specific attention to such competencies as leadership, teamwork, and innovation. These skills are seen as critical to the community and underscored by the recently completed core competency study. With the potential exodus of senior managers and executives in the near term, the Inspector General (IG) community recognized the need to rebuild these skills and create a plan for succession management.

As a means to clarify the new competency requirements, Nikki Tinsley, Chair of the Human Resources Committee for the PCIE, invited interested IGs and their representatives to a meeting. Attendees included representatives of the Federal Executive Institute; Office of Personnel Management; Gaston Gianni, Federal Deposit Insurance Corporation; Kenneth Clarke, U.S. International Trade Commission; Denise Smith, Department of Energy; and Vivian Jarcho, Department of Transportation. After a general discussion of traditional management competencies and course design, the conversation evolved to networks; organizational design, measurement, and best practices; leadership philosophy; and

coaching. The thinking of the group was that given the increased emphasis on results from both the White House, the Congress, civil service reform, and our expanding deficits, there was a need for a new curriculum for the IG community that went beyond traditional competencies, a curriculum that emphasized personal leadership and organizational results. The mission of IGs is expanding and, to address these new challenges, our staffs need new tools and a new curriculum. Out of this discussion emerged the new Leadership Development Curriculum Pilot.

The Curriculum

A Google search today on "leadership development" would produce over 1,400,000 hits. Clearly the subject is of intense interest. In our business of auditing, inspections, criminal investigations, and program evaluations, the "must haves" now include personal leadership; organizational assessment; public policy analysis skills; and knowledge of globalization and best practices. The expectations for public program performance have risen. It is no longer sufficient to hide behind the authorizing legislation when programs have little or no positive impact. The American public, the Congress, and Federal agencies all want results. With this expanded mandate for results, the IG community is in a position of advantage for providing independent and objective reviews on program effectiveness. The Leadership Development Curriculum was designed to position the community for this expanded role. This 2-week course is held at the Federal Executive Institute (FEI) campus in Charlottesville, Virginia. Given the resident setting, the campus provides a protected environment for participants to reflect on their learning, as well as practice, and foster teamwork. The curriculum concentrates on four main areas—building high performance organizations, creativity, coaching for higher performance, and leading in a global environment.

Building High Performance Organizations (HPO)

For those in the IG community who never took business courses in college, ran a business, or studied organizational design, HPO offers a diagnostic model and a list of questions that assist staff in assignment design, root-cause analysis, and the development of recommendations which have the potential for significant program performance improvement. Given the continued interest in the Government Performance and Results Act (GPRA) and the Office of Management and Budget's new Program Assessment Rating Tool (PART), the HPO module provides a systematic approach to organizational analysis and a balanced scorecard of measures to evaluate organizational performance, internal management controls, organizational capacity, and stakeholder satisfaction. It provides a context and understanding of how strategic planning drives organizational performance.

For example, GPRA requires that agencies have strategic plans that establish clear performance goals and measures. The HPO model addresses this with a series of steps and questions called the "Vision to Performance Spiral." This spiral starts with the question—why do we exist? It then moves to strategic thinking and planning, capacity building, and finally to the development of tactical plans. An interesting distinction of the model is that the first step is identifying the "higher moral purpose." This is not the mission statement revisited. Answering this question requires an emotional statement about why we are here. If we were not here what would it matter and to whom? It acknowledges, regardless of whether you work in the public or private sector, that people must feel that their work is important. As we learned from the research of Charles Garfield in his book on peak performers, *The New Heroes of American Business*, "[m]ission is the source of peak performance." "People want meaning. We want to know that our work matters, that we are not just furniture." The energy necessary to take an organization from one level of performance to a higher

level of performance is found not in slogans, fear, or even necessarily new technology. Rather it is the commitment of people to the accomplishment of mission that provides the greatest impact.

A distinction of the HPO model is that before an organization begins strategic planning, the model interjects strategic thinking. HPO does not assume that the future is just an incremental adjustment forward or backward from the recent past. Instead, the model raises additional questions and approaches that should be actively examined before embarking on the construction of a strategic plan. For the IG community, these questions offer valuable insight into how the client organizations view their world and their place in it.

GPRA advances the notion that organizations should have an array of measures beyond outputs to outcomes. Programs must have impact. The HPO model also has its own balanced scorecard of measures to evaluate an organization's performance. Within the HPO Model, performance measures are developed at the organizational, functional, and unit level. Similar to Kaplan and Norton's, *The Balanced Scorecard* or Category 7, Business Results from the Malcolm Baldrige Award Criteria, the HPO model addresses quality of products and services, customer value, and financial performance. Each of these aggregate measures has multiple subordinate measures that provide a comprehensive scorecard of an organization's performance and health. For example, the HPO Model also measures the quality of a given product or service employing the term "pick three." Pick three acknowledges that quality has taken on even more complexity in the 21ˢᵗ century. It also addresses the total measurement of an individual product and service including quality, customer value, and financial performance.

An interesting aspect of the HPO model is how it addresses a key question from PART. PART asks us, "Is your program purpose clear?" One purpose for this question is to identify duplication and unnecessary redundancies. Is this program competing with another Federal program? Are there two or more programs addressing the same need? Is there anything unique and special about what our program does in relation to similar programs? The HPO model has a related question, "What is you mission/niche?" This speaks to whether we provide the right products and services to the right customers with excellent customer value. This question also requires the respondent to identify those aspects of their mission and organization's inherent strengths for which they have "competitive advantage." Given all that we do, what are we the best at? Given our competition or supporting organizations, what can we do better than anyone else? This in part corresponds to another question from PART, "Does the program address a specific interest, program, or need?" Upon completion of the Vision to Performance Spiral, participants have a comprehensive understanding of, and a means to assess, an organization's performance. These tools have the benefit of improving our capabilities of assessing our client's performance. Applied to our IG organizations, the model promises even higher levels of performance.

Creativity

A second area of focus for the leadership curriculum is expanding our capacity for creativity. This module stimulates and equips our IG staff with tools for increasing creativity in their work. Our intent was not to be fast and loose with our findings, but rather to increase the value of our recommendations. Most of us in the IG community will acknowledge that there is a plethora of audit and evaluation recommendations that are made as part of our final reports that the client organizations never implement. Why is this? In some cases, the same recommendations are offered time and time again with no observable improvement in terms of results. How can this be? The module assists us in exploring, brainstorming, evaluating findings, identifying root-cause, and developing solutions that have even greater potential for program performance improvement.

One of the most powerful "take-aways" from the class is the use of the tool Pluses, Potential, Concerns (PPC). For those in the community who are accustomed to identifying the deficiencies of a given situation, this tool forces the participant to first identify the pluses—what is good about the idea, situation, or condition; then the potential—what are the other applications if we expanded this further; and finally the concerns. Note that the tool doesn't ask users to identify defects; instead, it raises concerns. To apply an old axiom, "you find what you're looking for," our community is well trained and rewarded to find waste, fraud, and abuse. And, we do. We also find noncompliance, defects, and deficiencies. We also find programs that are running well. In conducting our work, we find creative approaches and novel adaptations to problems and situations that have the potential for larger application. The expanded mission of this curriculum is not only to find what isn't working well, but also what is working well and increase its adoption. By identifying best practices, we have the potential to significantly increase governmentwide performance. That is where the power of PPC comes in. PPC asks us to look with new eyes and to look for pluses—what's working? What's the potential of this finding to other programs? Finally, what concerns do we have?

In summary, what is important is the impact we have on improving the performance of our client organizations. Increasing our creativity is a key ingredient to that end. This module provides tools and sharpens the skill of the participants to significantly increase the number and value of ideas and recommendations. It also expands the perspective we bring to situations by looking for strengths and opportunities, not only weaknesses and threats. Integrated with the HPO model, these new skills have the potential to significantly improve organizational performance.

Coaching for Higher Performance

A third area for study in the new leadership curriculum is coaching for higher performance. The intent of this module is to improve the coaching abilities of the participants in their roles as supervisors as well as to improve their ability to coach their client organizations to higher performance. Working in small work groups, the participants practice the art of coaching each other and receiving immediate feedback. Over a 2-week period, participants acquire a firm grasp on how to employ coaching in their work. Participants are taught that a key difference between the art of supervision and coaching is the notion that supervision is about "instructing in" where coaching is about "drawing out." Emphasis is placed on asking open-ended questions. Participants are provided a list of possible questions and asked to add their own as they practice their coaching skills on real work issues. A key benefit of applying coaching methods to work situations that participants immediately see is the potential it offers to improve internal communications.

With the use of open-ended questions, issues have the potential to be better understood. This has a secondary benefit of increasing ownership as the issue, problem, or opportunity is discussed in non-judgmental terms and definition, solution and/or actions are developed. Not surprisingly, the ideas developed through coaching are usually even better than those of the coaches. The process builds better ideas, solutions, and actions than one normally would come up with by oneself. The conclusions from this process, therefore, are owned by the developer, not imposed by an outsider. This type of behavior is very helpful when staffs find themselves in interdisciplinary teams where professional work methods, approaches, and criteria are often different. In these situations, no one person will have sufficient technical knowledge to "instruct in." Applying coaching skills in these circumstances will foster a more collegial and collaborative work style and lead to better work products.

Participants are encouraged to apply coaching behaviors with clients in organizational performance improvement. Building off of the HPO model, there are many questions that are perfectly designed as

coaching questions. If these questions are asked of a client organization, they can assist in a better understanding of the organization's goals and strategies. Participants are asked to practice these questions in their small work groups. Participants take turns in the roles of evaluator/coach/consultant, client, and observer. Working with the HPO model, they attempt to analyze strategy, structure, systems, and metrics. Working with the client, they bring their real world experience to the table as they describe the organization's performance gap, identify root cause, explore options for improvement, and develop action plans. Employing these new skills, we have the potential of building increased support for audit and evaluation recommendations.

Global Leader

The final module, the global leader, recognizes that much of our work now is global. It is hard to identify a single issue facing the Federal Government today that does not have a global dimension. The FEI has been tracking this expansion now for over 5 years and has seen the number of Federal executives who acknowledge that their jobs contain global issues grow to nearly 50 percent. The outcome for this module is to provide the participants with a strategic overview of the perspectives and perceptions of leaders in the global environment and the implications of those perspectives and perceptions on the work of the IGs.

As Inspectors General, our international role has grown with the expansion of our clients' mission. In this symbiotic relationship, our oversight now extends to the furthest corners of the globe. While our international roles are fairly obvious in such departments and agencies as the State Department and the Agency for International Development, international roles can be found in most every Federal department and agency. Increasingly, as Figure 1 from the FEI shows, the success of many of our national programs is found not within the United States, but abroad. In a recent survey conducted by the FEI, 49 percent of government executives travel outside of the

United States for business purposes. As one would expect from this fact, 47 percent of these executives work with representatives of other countries and study and/or act on issues that have international implications.

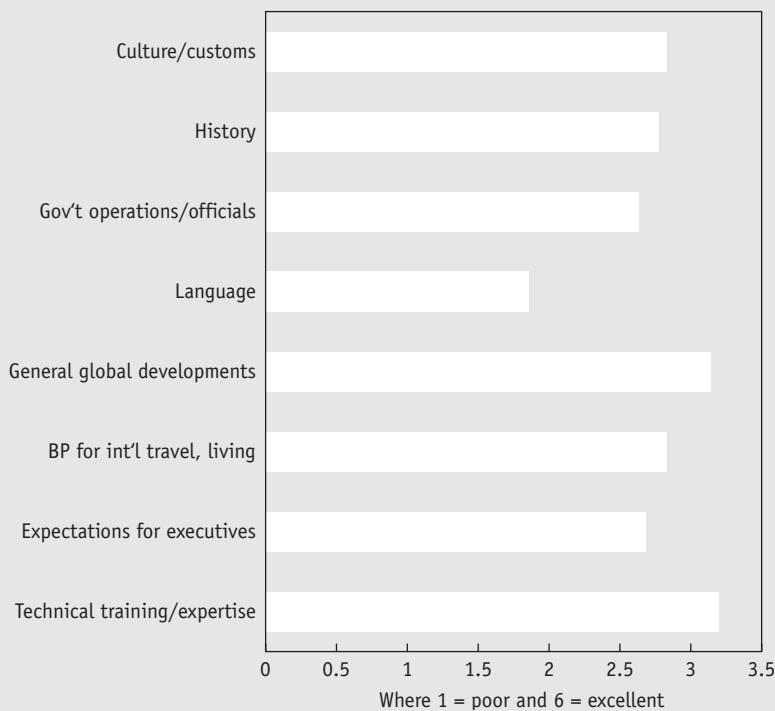**FIGURE 1. WHY A GLOBAL PERSPECTIVE?**

- 49% travel outside the US for business purposes
- 47% work with representatives of other countries
- 47% study/act on issues with international implications
- 28% offer/market programs and services to other countries

Given the statistics stated above, how do executives answer the question of staff readiness in their organizations? Most executives view their departments and agencies as possessing only average proficiency for conducting international work with a significantly lower rating on language skills. While this module is not a course on international relations, it raises the awareness for the participants and starts the dialogue. The key message for the participants is that globalization is here, it is not in the future. As current and future leaders of the IG community, we must acknowledge this new reality and prepare our organizations for this expanded role. Cultural awareness, organizational diversity, language skills, knowledge of history, and other competencies are becoming critical as we do our work.

Applications and Implications

The potential application of this material is considerable. The HPO model introduces a systematic approach to organizational design, management, and assessment. The model provides us with a methodology for expanding our understanding and assessment of organizational performance. Applying this model to our operations should affect our own strategic thinking and planning. This would translate into the way we scope out

FIGURE 2. EXECUTIVES' PERCEIVED PROFICIENCY FOR INTERNATIONAL WORK

Culture/customs

History

Gov't operations/officials

Language

General global developments

BP for int'l travel, living

Expectations for executives

Technical training/expertise

0   0.5   1   1.5   2   2.5   3   3.5

Where 1 = poor and 6 = excellent

participants that use coaching skills increase performance and ownership over their work. Applying coaching to the interview process with clients can and does build support for performance improvement in the sense those ideas are explored and solutions developed jointly.

Finally, globalization is a reality that we must acknowledge and address in our strategic thinking, planning, and operations. Its presence is increasing and, for some in the community, it is a reality that we must address for the first time. Clearly it will impact our internal competency sets and force us to think more about diversity. In this sense diversity is a business requirement that takes on a global dimension in terms of race, ethnicity, culture, language, and law.

and select the types of audits, evaluations, and investigations we conduct; the basis for evaluation; and the recommendations we make. Thus, the implementation of this model is dramatic.

With a new emphasis and set of tools for increasing creativity, we are elevating the importance our community places on creativity in our culture. Increasing our creativity is a must if we are to address long-standing and systematic issues affecting government programs and operations. We need new ideas, new approaches, and greater support if we are to have impact.

Coaching is recognized as an effective tool to improve communications, to get the best out of people, and to increase our understanding of and build support for organizational performance improvement. It is our experience in practice and as observed in the learning environment that

Conclusion

The Leadership Development Curriculum is building a network of managers and executives who have been introduced to a new organizational paradigm, who have developed their own leadership philosophy, and who have acquired new skill sets that have as a central purpose the improvement of governmental programs and operations. These new managers have built and will continue to build relations beyond their offices, thus creating the network for governmentwide collaboration. Expansion of organizational systems criteria, building cultures that nurture and support enhanced creativity and coaching, and embracing the new reality of globalization are all keys to mastering the issues facing government in the 21st century. ♜

KIRT WEST

Inspector General, Legal Services Corporation and Former Director, Inspector General Management Institute

HOWARD COX

Deputy Director, Inspector General Management Institute

The Inspector General Management Institute

An Idea Whose Time Has Come

I n January 2001, the Office of Personnel Management (OPM) issued a study that identified serious deficiencies in the Federal Government's supervisor leadership.[1] The report found:

- agencies need to do a better job of using OPM-developed leadership competencies in selecting first-level supervisors;
- most agencies still emphasize technical expertise and not leadership competencies in making selections of supervisors;
- supervisors believe that leadership development is a low priority for their agency; and
- many supervisors believe poor performing supervisors are ignored while effective supervisors are not adequately recognized and rewarded.

Because the most experienced supervisors are eligible to retire, OPM concluded that the Federal Government needed to make the selection and development of first-level supervisors a top human resource management priority. Otherwise, agencies risk the danger of not being able to carry out

---

[1] U.S. Office of Personnel Management, *Report of a Special Study, Supervisors in the Federal Government: A Wake-up Call,* January 2001.

their missions. The need is even greater now as we meet the challenges of the post September 11 world.

The President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE) Human Resources (HR) Committee heeded this warning and began working with the Federal Executive Institute (FEI) to develop an Inspector General (IG)-specific leadership course in which all the attendees would be from the IG community. This 2-week course has received rave reviews from those who have attended the first couple of sessions. The belief is that this is a terrific course for leadership development in the IG community. Unfortunately, it is only offered twice a year, costs about $6,000, and cannot accommodate more than 60 managers per year.

In 2003, the Postal Service OIG worked with OPM to develop specific supervisor training for its first- and second-level managers. OPM modified its 2-week basic course for supervisors to address some of the specific challenges that we have at the Postal Service where most Federal personnel, contracting, and appropriation laws are not applicable. Postal Service personnel provided some of the hands-on training. We concluded that our supervisors and managers learned more about how to do their jobs from this kind of tailored training. Even though this training was very successful, we found that it was still missing a key ingredient—instructors who had knowledge and an understanding of the IG mission and who could apply this knowledge during lectures and team exercises.

The successes of the FEI course, developed by the HR Committee, and the OPM Postal Service course, led Postal Service Inspector General Dave Williams to resurrect an idea that had been floating around the IG community for a few years, namely, that the IG community needs its own management and supervisor training. No one else knows our mission like we do.

For many years, the IG community has recognized the benefit of IG specific audit and investigative training. The Inspectors General Auditor Training Institute and the Inspector General Criminal Investigator Academy have long been recognized as organizations that provide important training in audit and investigative best practices from an IG perspective. But when it came to finding training for supervisors, with the exception of the FEI course discussed above, IGs had a similar experience to that of the Postal Service OIG. The IG community had to sift through the training courses offered by a number of qualified sources, some of which are quite expensive and yet still lacking specific focus on OIG issues faced by first- and second-level supervisors.[2]

Currently, there are over 1,000 IG managers (GS-14 and above) working in the IG community. Most IGs face a shrinking budget where travel and training funds are often the first to be cut. The tuition charges of even government-sponsored training such as that offered by OPM and FEI often exceed our budgets and force us to send only a few supervisors, if any, to the kind of training that OPM has identified as absolutely critical for agencies to carry out their mission.

To address the problem of finding affordable training that is relevant to the IG mission, the U.S. Postal Service (USPS) OIG has decided to create the Inspector General Management Institute (Institute). Two senior managers with more than 40 years of combined IG experience were assigned to head up this effort. The purpose of the Institute will be to serve as a centralized organization to develop and provide managerial training focused on the unique needs of the IG community. The Institute will be located with the Investigative Academy in Arlington, Virginia, and will provide a centralized location for the development and presentation of progressive training for all IG

[2] The Office of Personnel Management, Federal Executive Institute, USDA Graduate School, agency in-house courses, and private institutions such as the Brookings Institute and Learning Tree are among some of the sources offering supervisor training.

managers. It will also provide an opportunity for networking among IG offices as well as for sharing best practices since everyone attending the course will be an IG employee. By developing an organization that will provide affordable training for all OIG managers, the Institute will ensure that consistent, relevant training is available for all.

Subsequently, we briefed the PCIE and ECIE and then met with the PCIE/ECIE HR Committee whose members agreed to function as an advisory, ad hoc Board of Directors to the Institute. Inspector General employees from numerous offices have been involved in getting the Institute off the ground. Some have participated in focus groups to assist in designing a curriculum that covers a variety of topics that are both timely and important to the IG community. Several other IG employees served on a technical panel to select a contractor to develop the final curriculum. Many IGs have already indicated that they intend to send their supervisors to the basic supervision and management course. The instructors will primarily be current and former OIG managers with professional instructional skills to assure that the course material is recent and relevant and who can relate the material to the day-to-day problems facing OIG supervisors and managers. Among the subjects currently under development for the first introductory course are:

- Organizational Design for the OIG
  - Effective integration of audits, investigations, and inspections
  - Organizational structure

- Managing Human Capital in an IG Environment
  - Recruitment and retention
  - Performance appraisals
  - Career development

- Managing Performance and Investments
  - Budgeting
  - Contracting
  - Resource management

  - Teleworking
- Effective IG relationships
  - Agency management
  - Other Federal and state agencies
  - Congress and GAO

- Managing IG Public and Congressional Affairs
  - Press relationships
  - Testimony preparation
  - Congressional staff relations

- OIG Crisis Management
  - Handling the "hot" audit or investigation
  - OIG under attack

- Managing Product Reviews
  - Effective OIG report writing

- Managing Change and Continuous Improvement
  - Changes in administration or agency leadership
  - Changes confronted with a new IG
  - Supervising a "multi-generational" office

- IG Leadership Theories and Concepts
- Aspects of a Well Run OIG
- Managing Yourself in an IG Environment
- Managing IG Operations

The initial 2-week course is designed for all OIG managers, GS-14 and above, and will be limited to 25 students per course in order to maximize the learning environment. The courses will be designed to include lectures and significant practical exercises. It will also include breakout sessions for first- and second-line supervisors. In addition, we are planning a 1-week follow-up course for senior executive service members where the participants would be assigned a long-term group project to address a significant issue facing the community. The group would develop solutions and publish their findings in *The Journal of Public Inquiry* as a best practice or model policy.

Tuition for the course will be reasonably priced because of a number of factors. First, existing facilities will be used. Second, in order to make the course relevant to the OIG community, many instructors/course developers will be detailed from IG offices and have significant OIG experience. Other instructors will be chosen on a contractual basis, based in large part upon their demonstrated managerial experience in an IG office. Finally, since the majority of OIG managers are local to the training location, IG offices will not incur the travel and per diem expenses normally associated with managerial training from other sources. The first pilot of the 2-week course will be conducted in late fall of 2004. Upon the successful completion of the pilot course, we hope to offer the course between six and eight times in 2005. Eventually, we hope that this introductory course will become mandatory for any new OIG supervisor or manager to attend before assuming their duties.

Our plans for 2006 include turning many of the modules that will be presented in the introductory course into specialized, advanced courses. For instance, the basic course will only have time to briefly touch upon relationships with Congress. We plan to offer a much longer course that addresses how to prepare and present testimony to Congress, as well as developing relationships with your oversight committees. The specialized course would involve the actual preparation of testimony and presentation of such testimony before some current or former congressional staffers. It could also include meeting with congressional staffers on Capitol Hill.

The creation of the Institute, and the design and presentation of its curriculum, marks a significant step in the continuing development and refinement of the IG community. Through the cooperative development of the curriculum, and through the sharing of good and bad lessons learned, the IG community can build upon its 26-year history, and address the growing challenge of designing and managing the IG office of the future. We hope that you will support the Institute. We fully expect that over time it will become the provider of choice for the entire IG community.

To preview the course offerings or to register for courses, visit the Institute's Web page at www.igmi.uspsoig.gov. For information, send an e-mail to registrar@igmi.uspsoig.gov or call (703) 248-2281. 🔔

BETH SEREPCA
Team Leader, Office of Inspector General, Nuclear Regulatory Commission

REBECCA UNDERHILL
Management Analyst, Office of Inspector General, Nuclear Regulatory Commission

Inspector General Hotlines

Improving Government and Still Promoting Goodwill

The U.S. Congress views Inspector General (IG) Hotlines as essential in the fight against fraud, waste, and abuse. Congress views these Hotlines as integral in helping to achieve improvements in government operations. Relatively few fraud and abuse offenses are discovered through routine audits. Instead, the most common method of detecting fraud is actually a result of tips and complaints received, in part, through Hotlines. The Association of Certified Fraud Examiners' 2002 Report to the Nation on Occupational Fraud reported that Hotlines could cut losses by approximately 50 percent.[1] This statistic reveals how important it is to communicate the benefits of a Hotline to help uncover improper business practices.

The findings and conclusions in this article are based on a survey of Hotline operations at small, medium, and large Offices of Inspector General (OIGs) at eight Federal agencies. We interviewed OIG Hotline managers and staffs at these agencies using a data collection instrument developed to assess the role of Hotlines and whether they are effective for discovering fraud, waste, and abuse. We also discussed Hotline program features that worked well and what had changed in the last few years. During these interviews, information was solicited on good practices and innovations the IG community had used to improve Hotline operations. To

[1] Designing A Robust Fraud Prevention Program, by Martin T. Biegelman, *The White Paper,* (January/February 2004).

further examine program changes that have occurred in recent years, we compared results of the current survey to results of a survey administered 5 years ago concerning Federal IG Hotline programs.[2] This comparison highlighted a number of changes that occurred during the past 5 years, most notably that an increasing number of allegations are being sent through the Internet rather than communicated by telephone.

Where Are We Now?

Most people think of a toll-free telephone line when the word Hotline is mentioned. To the IG community, however, the definition has become more expansive. Hotline contacts now include allegations conveyed by letters, mail, telefax, e-mail, and walk-ins. Some Inspectors General favor using live operators to take Hotline calls over the telephone, while others rely solely on e-mail or answering machines.

The number of allegations received by IG Hotlines has increased since our last survey of the OIG community. Based on our survey results, small Federal agencies currently receive several hundred allegations from their Hotlines each year, while the larger Federal agencies receive allegations in the tens of thousands. One agency surveyed received 90,000 contacts in 1 year. A telephone call is still the predominant method used to contact the IG Hotlines, but the Internet is becoming more widely used.

When we last reviewed Hotline operations, we found that most operations provided 24-hour telephone access using a combination of live operators and answering machines. The current trend, however, is to not use answering machines but to rely on live coverage limited to business hours. Almost half of the agencies surveyed did not use voice mail

for after-hour Hotline coverage. Some offices were eliminating the use of answering machines because of callers who overloaded the recording devices with political philosophies, general complaints about government, or problems that cannot be answered by OIGs.

Offices of Inspector General that allow e-mail Hotline contacts receive messages 24 hours a day and check the account several times a day. One agency recognized the efficiency of e-mails and is examining ways to increase the e-mail volume and decrease live telephone coverage. Overall, the IG offices felt that individuals who sent their e-mail messages anonymously gave more direct and useful information than those providing the information through other methods.

The staffing for IG Hotline programs varies. For several small IG offices, the Hotline responsibility is a part-time collateral duty for employees. In contrast, larger IG offices employ staff full time to work on Hotline operations. Personnel at these larger offices range from 3 to as many as 40 employees. Most Hotline employees are program analysts usually working at the grade 13 level, regardless of the size of the agency.

Most IG offices do not use formal criteria to judge whether the allegation should be addressed in-house or referred to a program office within the agency to handle the matter. Rather, these subjective judgments are based on such factors as knowing what the investigative staff would accept as a lead, whether the allegation concerned criminal conduct, or whether it was a personal issue that needed an agency solution.

Several agencies use a flowchart to direct staff decisions. This process guides the staff through a series of yes or no questions to determine whether to refer the allegation to the agency or to handle it internally. In addition, two agencies have a supervisory quality control review to confirm the decision made by Hotline employees

Most IG offices use more than one method to advertise their Hotline, but not every IG office uses the same methods. Common Hotline

---

[2] Results of the earlier survey were discussed in "Inspector General Hotlines: Have They Been Good, at What Cost, What is Lost?" by Beth Serepca and Maurice Moody, *The Journal of Public Inquiry* (Winter 1998).

awareness methods include a display of the Hotline number on audit report back pages, posters advertising the Hotline, inclusion of the anonymous e-mail contact point on the agency Web site, and circulation of the Hotline toll-free telephone number on agency payroll statements.

According to the IG offices, Hotlines yield benefits beyond the cost savings resulting from OIG audits or investigations initiated based on Hotline referrals. These benefits include the public outreach that the program provides. Managers and staff believe that the Hotlines help establish positive connections with the public and increase public confidence in the Federal Government.

Referrals

Regardless of the volume of Hotline allegations, most of the intake results in referrals to program offices, not the IG offices of investigation and audit. Thus, even when allegations received through Hotline programs do not lead to an audit or investigation, the programs do provide valuable assistance to agency officials, for example, by giving the public a way to request program information and assistance. By dedicating resources to their Hotline programs, OIGs are fostering general goodwill and displaying support for other agency programs.

It is also noteworthy that some OIGs have helped their agencies realize sizable dollar savings through audits and investigations following Hotline leads. The staffs at two of the IG offices surveyed stated that the leads from the Hotline resulted in cases that had large cost savings exceeding $1 million. In one instance involving medical fraud, the savings from one investigation was over $2 million.

Burnout and Training Needs

While the survey of IG Hotline programs conducted 5 years ago found that burnout and stress resulted in high turnover among Hotline staffs, the current survey found that burnout was not a

problem and that personnel were content to maintain employment in the Hotline offices. In fact, many of the IG Hotline managers stated that employees rarely depart from their Hotline jobs. Also, while the previous survey highlighted concerns about a lack of training for the Hotline staff, the current review revealed this was no longer an issue. Many agencies reported that employees were well trained both from training specifically for the Hotline program and on-the-job mentoring.

Best Practices

Our survey identified a number of excellent practices employed by individual OIG Hotline offices that others could adopt to build understanding of the importance of Hotlines. One OIG office developed an internal weekly publication of Hotline highlights detailing the number of contacts received and cases closed. Documenting accomplishments in this manner brought pride to the staff by highlighting the office's successes and established the number of leads given to the investigative and audit staffs.

Another excellent practice was the use of a Hotline flowchart to help reduce the subjectivity of decisions on how to handle complaints. Another OIG teamed a Hotline recruit with a more seasoned employee to reduce the stress of learning a new job.

Beyond these individual practices, it appears that to be successful, OIG Hotline services need to be marketed effectively using the gamut of available resources, e.g., posters, business cards, Internet Web pages, and publicizing of toll-free numbers.

Hotline Name

While the dictionary defines Hotline as a direct telephone line established to facilitate immediate communication, our survey found that most IG offices were satisfied with the term even when the Hotline service encompassed e-mail, mail, or

telefaxes. Satisfaction with the name stemmed from the fact that it had public recognition. However, several OIGs had changed the name of their Hotline program to "fraud management division" or "allegation management program."

Conclusion

Inspector General Hotline operations offer users access to agency program information, sometimes at a relatively high cost because of the need to staff the programs effectively, to maintain logs, and follow up on allegations. Frequently, the Hotline contact is an outlet of last resort for people who, after making numerous telephone calls to the agency, remain unsuccessful in obtaining information from agency program offices. Compared with this type of Hotline usage, it is the minority of callers that leave tips that lead to an audit or investigation. Nevertheless, the IG Hotlines help those who otherwise could not receive the information they seek by steering the caller/requestor to the appropriate source to receive an answer. Because of the impact that Federal agencies have on the American public, IG Hotlines offer an important service and help increase public confidence and trust in the agency programs.

The views expressed in this article are those of the authors alone and are not intended to reflect those of the Nuclear Regulatory Commission or its Office of the Inspector General. ☎

THOMAS D. COOGAN, JR.
General Counsel, Office of Inspector General, United States Postal Service

RONA S. LIGE
Attorney, Office of Inspector General, United States Postal Service

Continuously Improving the Inspector General Subpoena Process

Many Offices of Inspector General (OIGs) are transitioning from a paper subpoena process to an electronic one by leveraging technology which is decreasing processing time and cost and is continuing the evolution of how we issue subpoenas. When Congress created OIGs in 1978, government agencies did not have the modern information technology tools we take for granted today, such as computers, fax machines, and e-mail. Some auditors and investigators may remember the days when IG subpoenas were prepared without the benefit of word processing. In the days before computers, it could take several weeks, and sometimes longer, from the time a subpoena was requested until the time it was returned to the requester.

In 2004, the subpoena process now takes as little as several days from request to receipt of records, a significant improvement in efficiency. Subpoena requests can now be e-mailed or faxed for review, processed and reviewed electronically, and sent back to the requester via overnight mail. Technology has not only led to increased efficiency but also has encouraged auditors and investigators to use subpoenas without being concerned that the process would be too cumbersome or cause undue delay. Continuously improving the subpoena process has not stopped, and the people who handle subpoena requests continue to leverage technology and look for other ways to decrease the processing time and costs.

At the Postal Service OIG, we have made significant improvements in our subpoena procedure since Congress created our office in 1996. We went

from a completely paper process, where requesters were mailing or faxing their subpoena requests and the review was done in hard copy, to a more electronic one, where requesters complete their requests online and the review is done mostly electronically. Our vision is to have a completely electronic, paperless process from end-to-end, including serving the subpoena electronically instead of having to travel to deliver the subpoena. This will not only save time and speed the process, but will reduce travel and processing costs for the government and hopefully make the process more efficient for the subpoenaed party. In fact, one day it may be possible for an auditor or investigator to start their day by e-mailing a subpoena request, having the subpoena returned to them electronically, e-mailing the subpoena to the respondent, and having the subpoenaed records returned electronically in the same day.

This article briefly discusses the history of Inspector General subpoenas and the authority given to the OIG auditors and investigators to subpoena information. Next, there is a discussion of how the process has been streamlined to make requesting and obtaining an IG subpoena more convenient and more responsive. The article concludes with some predictions about how IG subpoenas might become even more streamlined in the future.

History and Authority

A subpoena directs the recipient, called the "respondent," to appear at a certain time and place to produce evidence. Courts have been issuing subpoenas for centuries to order someone to appear to give testimony. A technical term for this type of order for testimonial evidence is a subpoena "ad testificandum." Inspector General subpoenas, however, do not direct the respondent to testify but instead to provide documentary evidence. This kind of subpoena for documents is known as a subpoena "duces tecum."

Decades before passage of the IG Act of 1978, Congress granted agencies the power to subpoena information.[1] However, the courts were reluctant to enforce the subpoenas as courts interpreted agencies' desires to gain information through subpoenas as a violation of the Fourth Amendment prohibition against illegal searches.[2] Consequently, a lengthy hearing sometimes ensued if the subpoenaed party did not provide the requested records. Not only was the process cumbersome, but the enforcement and ensuing trial caused considerable delay. It was not unusual for years to go by before an agency would receive the necessary records. The Supreme Court began to change its views on administrative subpoenas, and by 1950 held that administrative subpoenas could be issued "merely on suspicion that the law is being violated, or even because it wants assurance that it is not."[3]

With the passage of the IG Act in 1978, Congress granted Inspectors General the authority to issue subpoenas. Section 6(a)(4) of the Act sets forth the subpoena authority of Inspectors General and authorizes every IG:

> to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court. . . .[4]

This section empowers IGs to subpoena information "necessary" in doing their job. "Necessary," however, does not mean that the information is essential, but merely that it can be useful in conducting an audit or investigation. The authority is

---

[1] *Endicott Johnson Corp. v. Perkins*, 317 U.S. 501 (1943); *Oklahoma Press Publishing Co. v. Walling*, 327 U.S. 186 (1946).

[2] *FTC v. American Tobacco Co.*, 264 U.S. 298 (1924); *Jones v. SEC*, 298 U.S. 1 (1936).

[3] *United States v. Morton Salt Co.*, 338 U.S. 632, 642-43 (1950).

[4] 5 U.S.C. app. 3 § 6(a)(4).

very broad and the decision to issue a subpoena is left to the discretion of the IG. [5]

If a respondent does not comply with the subpoena, then any appropriate United States District Court may order compliance. Fortunately, most subpoenas do not require court-ordered enforcement. The vast majority of respondents comply voluntarily. In fact, often respondents ask for a subpoena to provide them with a record of the request for information. Further, in those unusual instances requiring court-ordered enforcement, the courts nowadays are not reluctant to enforce subpoenas. If a respondent does not produce the requested records, the courts act quickly after being asked by the agency to enforce the subpoena. The proceeding, which is brought by the Department of Justice on behalf of the agency, is typically summary in nature.[6] Ordinarily the agency attorney prepares a concise written statement with input by the requesting agent or auditor and a legal brief that are submitted to the judge who will either rule on the written submission or occasionally hold a short hearing for the attorneys to explain each side's view of the subpoena request. In almost all cases the subpoena is enforced, as long as (1) the investigation or audit is within the IG's authority, (2) the records requested are reasonably related to the inquiry, and (3) the request is not unduly burdensome.[7]

Streamlined Subpoena Process

Moving From Paper Subpoenas to Electronic Subpoenas

Inspector General subpoenas are used to garner important evidence but not as often as they could

be. One reason is not all OIG staff are aware of the tool. Others think the process for obtaining subpoenas is too much trouble or will take too long. No doubt this at times has been true; those negative experiences are ingrained in peoples' memories. However, the process has improved recently, in large part thanks to feedback from investigators, auditors, and responsive counsels' offices. Today, the process has been modernized and streamlined so it is simpler to request a subpoena. Many OIGs have taken steps to make the process more efficient, effective, and user-friendly including moving from a paper subpoena process to an electronic subpoena process and making other process improvements.

At the Postal Service OIG, we created an electronic subpoena system. For us, an electronic subpoena system was a necessity, not a luxury. At the time our office was established in 1997, we had only a small staff to review and process subpoena requests. At first, subpoena requests were either faxed or mailed, requiring the subpoena processors to retype the subpoenas before they could be reviewed. Then the processors had to walk the subpoenas to the reviewers. This was very time-consuming.

To initially fix this inefficiency, our lawyers and information technology professionals developed and deployed a system that allowed investigators and auditors to fill in a spreadsheet with pertinent information about the respondent and the date for responding, and then e-mail the spreadsheet, along with an electronic justification, for processing. Unfortunately, the program that transformed the spreadsheet into the actual subpoena was often slow and still required a lot of manual changes by the subpoena processor.

To further improve the process, we created the electronic subpoena system we use today, where

---

[5] In establishing the Offices of Inspector General, "Congress conferred very broad . . . subpoena powers on each Inspector General." *Winters Ranch Partnership v. Viadero*, 123 F.3d 327, 330 (5th Cir. 1997).

[6] *United States v. Comley*, 890 F. 2d 539, 541 (1st Cir. 1989).

[7] *FTC v. Texaco*, 555 F.2d 862, 882 (D.C. Cir. 1977) ("emphasiz[ing] that the question is whether the demand is

---

unduly burdensome or *unreasonably* broad. Some burden on subpoenaed parties is to be expected and is necessary in furtherance of the agency's legitimate inquiry and the public interest. . . . Broadness alone is not sufficient justification to refuse enforcement of a subpoena.")(citations omitted).

the requester completes a justification online, fills in a few required fields, such as the person to whom the subpoena is being sent, the response date, and items requested, and then submits the request, which goes through an electronic review process. [8] This e-subpoena system has significantly increased productivity. Our maximum legal review time is 3 days, which is subject to a performance measure, but legal review frequently only takes one day.

The process can still be improved, because right now, we still print a hard copy of the subpoena to be signed and served. In the future, we expect that subpoenas will be signed electronically, and then e-mailed to the respondent. Those improvements would reduce turnaround to less than a single day from subpoena processing to service. [9]

We expect the subpoena process to evolve similarly to the process of employee paychecks—where we once received hard copy paychecks, the paycheck is now deposited directly in our bank account, and a pay stub is sent to our homes or offices. In the future, we expect that the subpoena will be e-mailed to the subpoena recipient, with the IG or designee's electronic signature. [10] There will not be a paper copy subpoena mailed at all. The subpoena recipient will have to print a copy of the subpoena if he or she wants to keep a hard copy. Otherwise, the subpoena recipient can keep an electronic copy by saving the e-mail in an electronic folder.

---

[8] See Appendix A for sample screens of the e-subpoena system.

[9] See Appendix B for a chart which depicts the old subpoena timeframes, the current subpoena timeframes, and the future subpoena timeframes.

[10] The Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229 (2000), defines "electronic signature" as "an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record." The Act does not require a person to agree to use or accept electronic records or signatures, but it is moving in the right direction. The Act prohibits denying the legal effect of certain transactions because a signature is in electronic form.

Future of Inspector General Subpoenas

We look forward to a time in the not-so-distant future where it will be standard practice to e-mail subpoenas to respondents and have the respondents e-mail back all relevant records. Currently, respondents can agree to receive subpoenas via e-mail or OIGs can have regulations that specifically allow service by e-mail. OIGs are also free to encourage and work with respondents to have them provide documents via e-mail.

However, even as we get further into the information age, there still may be problems that slow down or impede the process that we should recognize and work to address. For example, sending subpoenas electronically will not work if you have the wrong e-mail address, if the person to whom you are sending the subpoena does not check his or her e-mail, or is out of the office. One control could be to implement an e-mail confirmation process.

There may still be legitimate reasons for serving the subpoena in person. You may want to interview the subpoena recipient to gain more information about the case. You may want to see the office of the subpoena recipient if understanding the logistics of the offices will shed light on the facts of your case. You may want to visit the location of the subpoena recipient. Electronic service may not work in every case, but generally it will streamline the subpoena process and make OIGs more effective and efficient.

Conclusion

By working together, agents, auditors, and attorneys have improved the Inspector General subpoena process. The turnaround time for subpoenas is faster than in the past and the process is easier. By continuing to work together, subpoenas can become a more effective and widely-used tool to assist OIGs in the performance of their responsibilities. 🔔

APPENDIX A

Sample Screens from E-subpoena System

1. The *Subpoena Justification* screen is used to explain why a subpoena is required.

2. The *Respondent Information* screen is used to enter the name, job title, organization, address, and telephone number of the subpoena respondent.
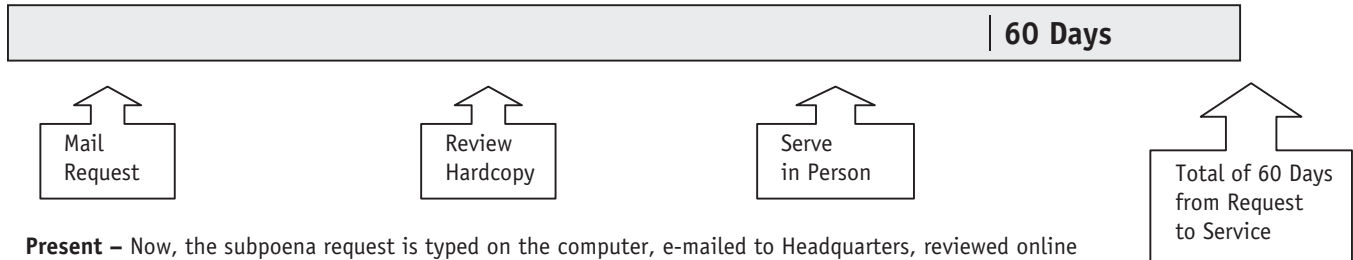

Other Fields

As you can see on the diagram above, other tabs are available to enter information about the subject of the investigation and the items requested. The last tab is the "Process" tab, where the reviewer can approve or deny the subpoena.
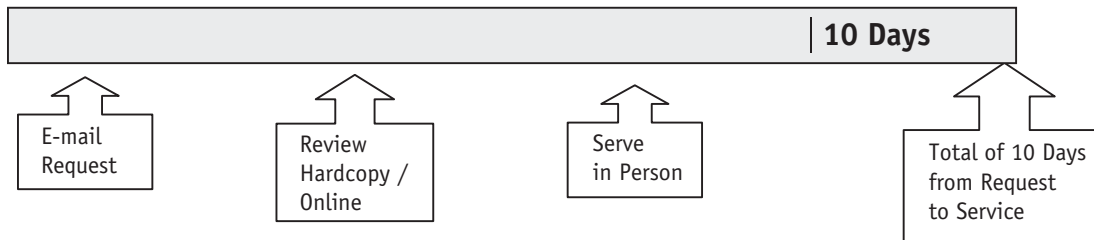
APPENDIX B

Subpoena Timeframes—Past, Present, Future

Past—In 1978, you typed subpoenas without the benefit of word processing. Then you mailed the subpoena to Headquarters for review. Then you had to travel to serve the subpoena and then wait until the records were copied and either handed over (perhaps involving another trip) or mailed back to the office. Sixty days would not have been unusual for an end-to-end subpoena process.

| 60 Days |

Mail Request → Review Hardcopy → Serve in Person → Total of 60 Days from Request to Service

Present – Now, the subpoena request is typed on the computer, e-mailed to Headquarters, reviewed online by some, and in hardcopy by others. The subpoena is still typically served by traveling to hand deliver. This process still takes time because of the record gathering, but can be as short as 10 days.

| 10 Days |

E-mail Request → Review Hardcopy / Online → Serve in Person → Total of 10 Days from Request to Service

Future – In the future, the subpoena request will be typed on the computer, e-mailed to Headquarters, reviewed online, and served via e-mail. It is even possible that the subpoena recipient will e-mail the records back to the requester, for a total time of 1 day.

| 1 Day |

E-mail Request → Review Online → Serve Via E-mail → Total of 1 Day from Request to Service