

(Pub. L. 95-452, § 7, Oct. 12, 1978, 92 Stat. 1105.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 657; title 44 section 3903.

§ 8. Additional provisions with respect to the Inspector General of the Department of Defense

(a) No member of the Armed Forces, active or reserve, shall be appointed Inspector General of the Department of Defense.

(b)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Secretary of Defense with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning—

- (A) sensitive operational plans;
- (B) intelligence matters;
- (C) counterintelligence matters;
- (D) ongoing criminal investigations by other administrative units of the Department of Defense related to national security; or
- (E) other matters the disclosure of which would constitute a serious threat to national security.

(2) With respect to the information described in paragraph (1) the Secretary of Defense may prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena, after the Inspector General has decided to initiate, carry out or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to preserve the national security interests of the United States.

(3) If the Secretary of Defense exercises any power under paragraph (1) or (2), the Inspector General shall submit a statement concerning such exercise within thirty days to the Committees on Armed Services and Governmental Affairs of the Senate and the Committee on Armed Services and the Committee on Government Reform and Oversight of the House of Representatives and to other appropriate committees or subcommittees of the Congress.

(4) The Secretary shall, within thirty days after submission of a statement under paragraph (3), transmit a statement of the reasons for the exercise of power under paragraph (1) or (2) to the congressional committees specified in paragraph (3) and to other appropriate committees or subcommittees.

(c) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Department of Defense shall—

- (1) be the principal adviser to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste, and abuse in the programs and operations of the Department;
- (2) initiate, conduct, and supervise such audits and investigations in the Department of Defense (including the military departments) as the Inspector General considers appropriate;
- (3) provide policy direction for audits and investigations relating to fraud, waste, and abuse and program effectiveness;

(4) investigate fraud, waste, and abuse uncovered as a result of other contract and internal audits, as the Inspector General considers appropriate;

(5) develop policy, monitor and evaluate program performance, and provide guidance with respect to all Department activities relating to criminal investigation programs;

(6) monitor and evaluate the adherence of Department auditors to internal audit, contract audit, and internal review principles, policies, and procedures;

(7) develop policy, evaluate program performance, and monitor actions taken by all components of the Department in response to contract audits, internal audits, internal review reports, and audits conducted by the Comptroller General of the United States;

(8) request assistance as needed from other audit, inspection, and investigative units of the Department of Defense (including military departments); and

(9) give particular regard to the activities of the internal audit, inspection, and investigative units of the military departments with a view toward avoiding duplication and insuring effective coordination and cooperation.

(d) Notwithstanding section 4(d), the Inspector General of the Department of Defense shall expeditiously report suspected or alleged violations of chapter 47 of title 10, United States Code (Uniform Code of Military Justice), to the Secretary of the military department concerned or the Secretary of Defense.

(e) For the purposes of section 7, a member of the Armed Forces shall be deemed to be an employee of the Department of Defense, except that, when the Coast Guard operates as a service of another department or agency of the Federal Government, a member of the Coast Guard shall be deemed to be an employee of such department or agency.

(f)(1) Each semiannual report prepared by the Inspector General of the Department of Defense under section 5(a) shall include information concerning the numbers and types of contract audits conducted by the Department during the reporting period. Each such report shall be transmitted by the Secretary of Defense to the Committees on Armed Services and Governmental Affairs of the Senate and the Committee on Armed Services and the Committee on Government Reform and Oversight of the House of Representatives and to other appropriate committees or subcommittees of the Congress.

(2) Any report required to be transmitted by the Secretary of Defense to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified in such section, to the congressional committees specified in paragraph (1).

(g) The provisions of section 1385 of title 18, United States Code, shall not apply to audits and investigations conducted by, under the direction of, or at the request of the Inspector General of the Department of Defense to carry out the purposes of this Act.

(Pub. L. 95-452, § 8, Oct. 12, 1978, 92 Stat. 1105; Pub. L. 97-252, title XI, §1117(b), Sept. 8, 1982, 96

Stat. 751; Pub. L. 100-504, title I, §110(b), Oct. 18, 1988, 102 Stat. 2529; Pub. L. 104-106, div. A, title XV, §1502(f)(6), Feb. 10, 1996, 110 Stat. 510; Pub. L. 106-65, div. A, title X, §1067(17), Oct. 5, 1999, 113 Stat. 775.)

AMENDMENTS

1999—Subsecs. (b)(3), (f)(1). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1996—Subsec. (b)(3). Pub. L. 104-106, §1502(f)(6)(A), substituted “Committee on National Security and the Committee on Government Reform and Oversight” for “Committees on Armed Services and Government Operations”.

Subsec. (b)(4). Pub. L. 104-106, §1502(f)(6)(B), substituted “congressional committees specified in paragraph (3)” for “Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives”.

Subsec. (f)(1). Pub. L. 104-106, §1502(f)(6)(C), substituted “Committee on National Security and the Committee on Government Reform and Oversight” for “Committees on Armed Services and Government Operations”.

Subsec. (f)(2). Pub. L. 104-106, §1502(f)(6)(D), substituted “congressional committees specified in paragraph (1)” for “Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives”.

1988—Subsec. (e). Pub. L. 100-504 inserted provision at end that when Coast Guard operates as service of another department or agency of Federal Government, member of Coast Guard shall be deemed employee of such department or agency.

1982—Pub. L. 97-252 amended section generally, substituting additional provisions relating to the Inspector General of the Department of Defense for provisions relating to semiannual reports of Secretary of Defense on audit, investigative, and inspection units of Defense Department, availability of such reports to the public, exclusion of national security material, delegation of the Secretary’s duties, submittal of proposed legislation, the establishment of a task force to study operation of audit, investigative and inspection units, membership in the task force, and the submission of a comprehensive report by the task force to the Secretary of Defense and Director of Office of Management and Budget, who were to submit a final report to Congress not later than April 1, 1980.

CHANGE OF NAME

Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-504 effective 180 days after Oct. 18, 1988, see section 113 of Pub. L. 100-504, set out as a note under section 5 of Pub. L. 95-452 in this Appendix.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 8A. Special provisions relating to the Agency for International Development

(a) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Agency for International Development shall supervise, direct, and control all security activities relating to the programs and operations of that Agency, subject to the supervision of the Administrator of that Agency.¹

(b) In addition to the Assistant Inspector Generals provided for in section 3(d) of this Act, the Inspector General of the Agency for International Development shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Security who shall have the responsibility for supervising the performance of security activities relating to programs and operations of the Agency for International Development.

(c) In addition to the officers and employees provided for in section 6(a)(6) of this Act, members of the Foreign Service may, at the request of the Inspector General of the Agency for International Development, be assigned as employees of the Inspector General. Members of the Foreign Service so assigned shall be responsible solely to the Inspector General, and the Inspector General (or his or her designee) shall prepare the performance evaluation reports for such members.

(d) In establishing and staffing field offices pursuant to section 6(c) of this Act, the Administrator of the Agency for International Development shall not be bound by overseas personnel ceilings established under the Monitoring Overseas Direct Employment policy.

(e) The Inspector General of the Agency for International Development shall be in addition to the officers provided for in section 624(a) of the Foreign Assistance Act of 1961 [22 U.S.C. 2384(a)].

(f) As used in this Act, the term “Agency for International Development” includes any successor agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.].¹

(Pub. L. 95-452, § 8A, as added Pub. L. 97-113, title VII, § 705(a)(3), Dec. 29, 1981, 95 Stat. 1544; amended Pub. L. 105-277, div. G, subdiv. A, title XIV, § 1422(b)(2), Oct. 21, 1998, 112 Stat. 2681-792; Pub. L. 106-113, div. B, § 1000(a)(7) [div. A, title II, § 205], Nov. 29, 1999, 113 Stat. 1536, 1501A-422.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (f), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended. Part I of the Foreign Assistance Act of 1961 is classified generally to subchapter I (§ 2151 et seq.) of chapter 32 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106-113, § 1000(a)(7) [title II, § 205(a)], which directed the amendment of subsec. (a) by striking “and” at the end of par. (1), striking the period at the end of par. (2) and inserting “; and”, and

¹ See 1999 Amendment note below.