

Exposing Corruption

Exploring Solutions

Project On Government Oversight

**Testimony of Danielle Brian, Executive Director
Project On Government Oversight (POGO)
before the
House Oversight and Government Reform Committee's
Government Management, Organization, and Procurement Subcommittee
on
"The Roles and Responsibilities of Inspectors General
within Financial Regulatory Agencies"**

March 25, 2009

Thank you very much Chairwoman Watson and Ranking Member Bilbray for inviting me to discuss one of my favorite topics, the federal Inspector General system. Over the past year and a half, POGO has been investigating both the independence and accountability of that system. Last week, we released our second report, *Inspectors General: Accountability is a Balancing Act*. Our first report, *Inspectors General: Many Lack Essential Tools for Independence*, published in February 2008, identified weaknesses that hampered some IGs' independence, and recommended some changes in the law necessary to ensure IGs were given the independence they require. The IG Reform Act of 2008 as passed included most of the improvements we believed necessary to enhance IG independence. For example, greater transparency of IG budget requests was an important step taken to enhance IG independence. In addition, the law now makes a peer-elected IG as Chair of the IG Council, rather than the Deputy Director of OMB as had formerly been the case.

Since that time POGO has been examining the other side of the essential equation for Inspectors General: Accountability. It is important to remember that because Inspectors General are accorded extraordinary independence in order to do their jobs, they must also be held to the highest levels of accountability. Our recent report focuses on determining how to hold these independent watchdogs accountable both for their conduct and for the quality of their work. Watching the watchdogs is an essential factor in keeping this vital system in balance, and holding IGs accountable is a job that needs to be embraced more thoughtfully by Congress and accomplished more effectively by their peers through the IG Council's Integrity Committee.

The IG system is not a broken one. However, POGO's report calls on IGs to constantly review how they present their findings and whether their reports can be made more meaningful; how they focus their scarce resources on the external or internal activities of their agency; and whether they engage in periodic reassessment to be sure they are capturing the most significant

issues facing their agencies. The report also addresses another critical factor of a successful OIG: Impact and the importance of IGs' letting Congress and the world know about their important work. POGO urged the IG community, particularly at a time when transparency and accountability have taken on greater urgency, to review its priorities.

Our most troubling finding was that many IGs – the very offices charged by Congress with receiving complaints about agency problems – all too often treat those complainants or whistleblowers as mere afterthoughts. I need to point out that this is not a specific concern regarding the IGs here today. However, we strongly urge all OIGs to treat the information from genuine whistleblowers with the significance it merits, and treat the complainants with the dignity and protection they deserve.

Now, more than ever, we need to ensure our IG system is robust. As our country reels from the economic crisis, we are relying more on the IGs of the financial regulatory agencies, the many IGs overseeing the funds spent through the American Recovery and Reinvestment Act, and the Special Inspector General for the TARP. The work of these Inspectors General is essential, not only in detecting and deterring the misuse of public funds, but indeed in restoring confidence in our government's operations.

I believe that H.R. 885 has been offered in that spirit, in order to provide the IGs of the financial regulatory agencies the independence they require. I would respectfully suggest, however, that the tools given IGs last year in the Inspector General Reform Act of 2008 largely accomplished that goal, and making the CFTC, Federal Reserve, NCUA, PBGC, and SEC IGs Presidential appointments will not provide the rest of the needed tools.

I must admit that when I began focusing on the Inspectors General system, I shared the perception that underlies H.R. 885 – that DFE IGs are somehow less independent because they are appointed by their agency heads, rather than by the President. I have come to appreciate, however, that there is some logic to the DFE structure, especially for those agencies that are headed by a multi-person commission rather than an individual agency head. It may in fact be the case that some DFE IGs have more independence because, as one IG put it to me, "I'll have to p. o. five people to be removed as a DFE, but as a Presidential appointee, only one person has to want me gone."

My second reason for believing that H.R. 885, while well-intentioned, may actually be counterproductive is because of the comparability pay structure that many of the financial regulatory agencies have in order to better compete with the private sector. If these IGs were to become Presidential appointments, many of them would actually be paid significantly less than senior officers at the agency, and even some of their own subordinates – a problem that was also addressed by the IG Reform Act of 2008.

Finally, while the legislation provides for the current IGs to remain in place until a Presidential appointee is confirmed, this change would undercut the IGs' authority by making them "acting," at a time when we want these IGs to be confident that they can be bold and protected even when they are the messengers of bad news.

In the end, Congress should be applauded for turning to the Inspectors General and worrying whether IGs are able to be the aggressive watchdogs we need. But if the goal of this legislation is to strengthen the important work of these financial regulatory agency IGs, we're focusing on the wrong issue – making them Presidential appointments may be merely a distraction. I would suggest that rather than converting these IG positions to political appointments, there are other changes that could enhance their roles.

For example, most of these Inspectors General are currently limited to auditing and investigating the work of their agencies and commissions, but are restricted from accessing information directly from the regulated entities. This is an area where expanded authority may very well allow these IGs to better be able to evaluate and improve the work of their agency. These IGs should have the capacity to subpoena both documents and testimony from the entities regulated by their agencies. A second valuable step forward would be to apply the provision from the SIGTARP legislation requiring the head of an agency to certify to Congress whether they are implementing IG recommendations, and to explain why if they are not. This change would have the valuable impact both of elevating that decision to the head of an agency, rather than being made lower in the agency management structure, as well as of making sure Congress is notified of the agency's follow-up – or lack thereof – other than where it is buried in the IG's Semi-Annual Report. A third change would be to provide the IGs with control over their approved budgets, including making hiring and promotion decisions without micromanaging from their agency. Fourth, the OIGs we are talking about today have not benefited from the extra funds provided to the other agencies that have received stimulus funds from the Recovery Act. Increasing the resources available to these IGs, commensurate with the new expectations of their offices, would be another real way of helping them do their work.

Perhaps the most important thing the Congress can do with regard to these Inspectors General is instead to continue paying attention to them. Provide them the opportunity to make recommendations for improvements in their agencies. Hold them accountable for aggressively overseeing the operations of their agencies, which includes making sure the IGs are paying attention to the whistleblowers that are coming to them. That will be the best way the Congress can help this vital oversight tool – the Inspectors General system – do its part in helping to restore the financial regulatory system and ultimately recovering the economy.