



OLR RESEARCH REPORT

August 16, 2013

2013-R-0315

STATE INSPECTORS GENERAL

By: Terrance Adams, Legislative Analyst II

You asked us to identify states with inspectors general (IG) and describe the scope of their authority. You also asked for examples of their accomplishments.

SUMMARY

We identified 11 states that have an IG with statewide authority and 26 that have one or more agencies with an IG (five of the states have both types). Agency IGs are most common in health and human services agencies.

In general, IGs are responsible for preventing and detecting fraud, waste, and abuse in state agencies, either upon a filed complaint or their own initiative. IGs' investigatory powers typically include authority to, among other things, (1) issue subpoenas to compel the attendance of witnesses and the production of books, records, and papers; (2) administer oaths; and (3) enter state agency premises without advance notice. They also assist in the development of processes to reduce the risk of fraud, waste, and abuse.

IG accomplishments include (1) identifying opportunities for cost avoidances and recoveries of improper payments and (2) making recommendations for disciplinary actions against employees. They also frequently refer their recommendations to other entities (e.g., prosecutors, ethics commissions, and licensing boards) for further action.

STATES WITH INSPECTORS GENERAL

Table 1 shows states that we identified as having IGs and specifies whether the IGs are statewide, agency-specific, or both. It includes states that have offices with the specific title of inspector general. In some of the excluded states, one or more offices may perform certain functions that parallel an IG's functions. For example, in Connecticut, such offices include the Auditors of Public Accounts, Office of State Ethics, Office of the Attorney General, Office of the Chief's State's Attorney, and the Department of Social Services' Office of Quality Assurance, among others.

Table 1: States with Inspector General Offices

State	Statewide	Agency-Specific	Agency IG Offices
Arizona		X	<ul style="list-style-type: none"> Arizona Health Care Cost Containment System (i.e., the state's Medicaid agency) Department of Transportation
Arkansas		X	<ul style="list-style-type: none"> Medicaid Inspector General
California		X	<ul style="list-style-type: none"> California Highway Patrol Department of Corrections
Colorado		X	<ul style="list-style-type: none"> Department of Corrections
Florida	X	X	<ul style="list-style-type: none"> In addition to a statewide IG, each executive branch agency has an IG
Georgia	X	X	<ul style="list-style-type: none"> Department of Community Health Department of Human Services Department of Public Health
Illinois	X	X	<ul style="list-style-type: none"> Department of Children and Family Services Department of Healthcare and Family Services Department of Human Services Legislative Inspector General Office of the Attorney General Secretary of State State Treasurer
Indiana	X		
Kansas		X	<ul style="list-style-type: none"> Department of Health and Environment, Division of Health Care Finance Department of Transportation
Kentucky		X	<ul style="list-style-type: none"> Cabinet for Health and Family Services Energy and Environment Cabinet Transportation Cabinet

Table 1 (continued)

State	Statewide	Agency-Specific	Agency IG Offices
Louisiana	X		
Maryland		X	<ul style="list-style-type: none"> • Department of Health and Mental Hygiene • Department of Human Resources • Department of Public Safety and Correctional Services
Massachusetts	X		
Michigan		X	<ul style="list-style-type: none"> • Department of Human Services
Minnesota		X	<ul style="list-style-type: none"> • Department of Human Services
Missouri		X	<ul style="list-style-type: none"> • Department of Corrections
Nebraska		X	<ul style="list-style-type: none"> • Inspector General of Child Welfare
Nevada		X	<ul style="list-style-type: none"> • Department of Corrections
New Mexico		X	<ul style="list-style-type: none"> • Human Services Department
New York	X	X	<ul style="list-style-type: none"> • Medicaid Inspector General • Unified Court System • Welfare Inspector General
North Carolina		X	<ul style="list-style-type: none"> • Department of Transportation
Ohio	X		
Oklahoma		X	<ul style="list-style-type: none"> • Department of Human Services
Oregon		X	<ul style="list-style-type: none"> • Department of Corrections
Pennsylvania	X		<ul style="list-style-type: none"> •
South Carolina	X	X	<ul style="list-style-type: none"> • Department of Juvenile Justice
Tennessee		X	<ul style="list-style-type: none"> • TennCare program (located within Department of Finance and Administration) • Department of Human Services
Texas		X	<ul style="list-style-type: none"> • Department of Criminal Justice • Health and Human Services Commission • Juvenile Justice Department
Utah		X	<ul style="list-style-type: none"> • Medicaid (located within Department of Health)
Virginia	X		
West Virginia		X	<ul style="list-style-type: none"> • Department of Health and Human Resources
Wisconsin		X	<ul style="list-style-type: none"> • Department of Health Services

INSPECTORS' GENERAL AUTHORITY

Statewide IGs are typically appointed by the governor and have authority over most executive branch agencies. Agency IGs are typically appointed by either the governor or the agency head and have authority over all or some of the agency's activities. Most IG offices are established by statute, but some are created through an executive order.

In general, IGs are responsible for preventing and detecting fraud, waste, and abuse in state agencies. (The Massachusetts IG also has authority over municipal agencies.) They also (1) assist agencies in developing policies and procedures to reduce the risk of such activities and (2) recommend legislation for this purpose.

Activities Investigated

Most IG offices are charged with investigating fraud, waste, and abuse in state agencies or by agency contractors and clients (e.g., Medicaid recipients and providers), but the laws and executive orders that establish IG offices generally do not define these activities. However, in its 2012 annual report, Ohio's Office of the Inspector General (OIG) provided descriptions of these activities and others, as well as examples of each, as shown in Table 2.

Table 2: Examples of Activities Investigated by IGs

<i>Activity</i>	<i>Description</i>	<i>Examples</i>
Fraud	An intentional or reckless act designed to mislead or deceive	<ul style="list-style-type: none"> • Fraudulent travel reimbursement • Falsifying financial records to cover up a theft • Intentionally misrepresenting the cost of goods and services • Falsifying payroll information or other government records
Waste	A reckless or grossly negligent act that causes state funds to be spent in a manner that was not authorized or which represents significant inefficiency and needless expense	<ul style="list-style-type: none"> • Purchasing unneeded supplies or equipment • Purchasing goods at inflated prices • Failing to reuse major resources or reduce waste generation

Table 2 (continued)

Activity	Description	Examples
Abuse	The intentional, wrongful, or improper use or destruction of state resources, or a seriously improper practice that does not involve prosecutable fraud	<ul style="list-style-type: none"> • Failing to report damage to state equipment or property • Improper hiring practices • Significant unauthorized time away from work • Misuse of overtime or compensatory time • Misuse of state money, equipment, or supplies
Corruption	An intentional act of fraud, waste, or abuse, or the use of public office for personal, pecuniary gain for oneself or another	<ul style="list-style-type: none"> • Accepting kickbacks or other gifts or gratuities • Bid rigging • Contract steering
Conflict of Interest	A situation in which a person is in a position to exploit his or her professional capacity in some way for personal benefit	<ul style="list-style-type: none"> • Purchasing state goods from vendors who are controlled by or employ relatives • Outside employment with vendors • Using confidential information for personal profit or to assist outside organizations

Source: Ohio OIG, 2012 Annual Report

Investigations

IGs investigate fraud, waste, and abuse either upon a filed complaint or their own initiative. Their investigatory powers typically include the authority to, among other things, (1) issue subpoenas to compel the attendance of witnesses and the production of books, records, and papers; (2) administer oaths; and (3) enter state agency premises without advance notice.

State laws often require agencies under investigation to cooperate with IG investigators, such as by making their premises, equipment, personnel, books, records, and papers readily available to them. Such laws typically allow IG investigators to (1) question any officer or employee of the agency or any person transacting business with it and (2) inspect or copy books, records, or papers the agency possesses.

Subsequent Actions

Once an investigation is complete, the IG typically publishes a report with recommendations for follow-up action by the agency (e.g., seek to recover improper payments or discipline an employee). With respect to agency clients and contractors, recommendations may include disqualifying the client from participation or barring the contractor from entering into future contracts. IGs also frequently refer their recommendations to other entities (e.g., prosecutors, ethics commissions, and licensing boards) for further action.

In general, IGs themselves do not have the authority to enforce or implement the recommendations they make. Exceptions include Massachusetts and South Carolina, where the law allows the IG, with the attorney general's approval, to institute civil recovery actions. Additionally, Pennsylvania's IG can prosecute welfare fraud by filing criminal complaints.

EXAMPLES OF ACCOMPLISHMENTS

As described above, while some IGs have the authority to seek cost recoveries, in most cases their accomplishments consist of making recommendations for action by agencies or other entities. These recommendations include (1) identifying opportunities for cost avoidances and recoveries of improper payments and (2) making recommendations for disciplinary actions against employees.

Table 3 lists examples of cost-related accomplishments by IG offices.

Table 3: Examples of IGs' Cost-Related Accomplishments

<i>State</i>	<i>Office</i>	<i>Report Year</i>	<i>Accomplishments</i>
Massachusetts	State	2012	<ul style="list-style-type: none">• \$12.6 million in fines, repayments, and penalties• Identified \$233.5 million in potential cost savings (\$225 million of which were classified as annual savings)

Table 3 (continued)

State	Office	Report Year	Accomplishments
Michigan	Department of Human Services	FY 2012	Identified: <ul style="list-style-type: none"> • \$69.5 million in cost avoidance from front-end eligibility investigations • \$22.6 million in recipient fraud • \$14.4 million in cost savings from disqualifying program violators • \$5.6 million in provider, contractor, and employee fraud • \$2.2 million in benefit trafficking fraud
New York	Medicaid Inspector General	2011	<ul style="list-style-type: none"> • \$2.5 billion in cost avoidance • Identified \$220.5 million in improper payments • Ended Medicaid participation for 766 providers
Pennsylvania	State	FY 2012	<ul style="list-style-type: none"> • \$75.5 million in welfare fraud prevention • \$42 million in reimbursement and restitution • \$2.19 million through the disqualification of future benefits • \$3.3 million in restitution through filing criminal complaints

Source: Agencies' annual reports

IG investigations may also result in disciplinary actions against employees, including reprimands, counseling, suspensions, or terminations. In some cases, employees choose to resign rather than face disciplinary measures. Additionally, some investigations lead to referrals for criminal prosecutions.

Table 4 lists specific examples of employee activities that IGs investigated and that resulted either in disciplinary action or the employee choosing to resign.

Table 4: Examples of Employee Misconduct Investigated by IGs

State	Office	Report Year	Misconduct
Illinois	State	FY 2012*	<ul style="list-style-type: none"> • Prohibited political activity • Cheating on a promotional exam • Conducting personal business on state time with state resources • Using an official position for personal gain • Soliciting gifts from a regulated entity • Storing pornographic images on a state computer • Improper expenditure approvals • Sexual harassment • Knowingly submitting false inspection reports • Improperly accessing and releasing confidential data
Ohio	State	2012	<ul style="list-style-type: none"> • Personal use of a state park cabin • Requiring administrative staff to work on official's personal matters • Testifying before the legislature, in an official capacity, in support of a bill that would benefit the official's private employer • Recreational hunting on state time • Liquor control agent accepting campaign contributions from liquor permit holders • Using a state credit card to purchase gasoline for personal use • Altering money orders from taxpayers and depositing them into a personal account • Fraudulently issuing General Educational Development (GED) certificates • Bid rigging

Source: Agencies' annual reports

* Includes investigations from prior years with findings made public in FY 2012.

ADDITIONAL RESOURCES

Association of Inspectors General: <http://inspectorsgeneral.org/>

Annual reports from selected inspector general offices:

Illinois:

http://www2.illinois.gov/oeig/Documents/OEIG_FY_2012_Annual_Report.pdf

Massachusetts: <http://www.mass.gov/ig/about-us/annual-reports/annrpt2012.pdf>

Michigan (Department of Human Services):
http://www.michigan.gov/documents/dhs/OIG_2012Annual_Report_426162_7.pdf

New York (Medicaid):
http://www.omig.ny.gov/images/stories/annual_report/2011_annual_report.pdf

Ohio:
<http://watchdog.ohio.gov/Portals/0/pdf/annualreport/2012AnnualReport.pdf>

Pennsylvania:
http://www.oig.state.pa.us/portal/server.pt/gateway/PTARGS_0_2_131797_19548_766095_43/http%3B/pubcontent.state.pa.us/publishedcontent/publish/cop_hhs/oig/oig_annual_report/annual_report_2012.pdf

TA:ro