

porary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the Federal Deposit Insurance Corporation.

(Pub. L. 95-452, §8C, as added Pub. L. 103-204, §23(a)(2), Dec. 17, 1993, 107 Stat. 2407.)

PRIOR PROVISIONS

A prior section 8C of the Inspector General Act of 1978 was renumbered section 8D by Pub. L. 103-204.

§ 8D. Special provisions concerning the Department of the Treasury

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

(A) ongoing criminal investigations or proceedings;

(B) undercover operations;

(C) the identity of confidential sources, including protected witnesses;

(D) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior;

(E) intelligence or counterintelligence matters; or

(F) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 3056A of title 18, United States Code, or any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note; Public Law 94-524).

(2) With respect to the information described under paragraph (1), the Secretary of the Treasury may prohibit the Inspector General of the Department of the Treasury from carrying out or completing any audit or investigation, from accessing information described in paragraph (1), or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation, access such information, or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent significant impairment to the national interests of the United States.

(3) If the Secretary of the Treasury exercises any power under paragraph (1) or (2), the Secretary of the Treasury shall notify the Inspector General of the Department of the Treasury in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General of the Department of the Treasury shall transmit a copy of such notice to the Committees on Governmental Affairs and Finance of the Senate and the Committees on

Government Operations and Ways and Means of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

(4) The Secretary of the Treasury may not exercise any power under paragraph (1) or (2) with respect to the Treasury Inspector General for Tax Administration.

(b)(1) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the Tax and Trade Bureau. The head of such office shall promptly report to the Inspector General of the Department of the Treasury the significant activities being carried out by such office.

(2) The Inspector General of the Department of the Treasury shall exercise all duties and responsibilities of an Inspector General for the Department of the Treasury other than the duties and responsibilities exercised by the Treasury Inspector General for Tax Administration.

(3) The Secretary of the Treasury shall establish procedures under which the Inspector General of the Department of the Treasury and the Treasury Inspector General for Tax Administration will—

(A) determine how audits and investigations are allocated in cases of overlapping jurisdiction; and

(B) provide for coordination, cooperation, and efficiency in the conduct of such audits and investigations.

(c) Notwithstanding subsection (b), the Inspector General of the Department of the Treasury may initiate, conduct and supervise such audits and investigations in the Department of the Treasury (including the bureau referred to in subsection (b)) as the Inspector General of the Department of the Treasury considers appropriate.

(d) If the Inspector General of the Department of the Treasury initiates an audit or investigation under subsection (c) concerning the bureau referred to in subsection (b), the Inspector General of the Department of the Treasury may provide the head of the office of such bureau referred to in subsection (b) with written notice that the Inspector General of the Department of the Treasury has initiated such an audit or investigation. If the Inspector General of the Department of the Treasury issues a notice under the preceding sentence, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General of the Department of the Treasury and any other audit or investigation of such matter shall cease.

(e)(1) The Treasury Inspector General for Tax Administration shall have access to returns and return information, as defined in section 6103(b) of the Internal Revenue Code of 1986 [26 U.S.C. 6103(b)], only in accordance with the provisions of section 6103 of such Code [26 U.S.C. 6103] and this Act.

(2) The Internal Revenue Service shall maintain the same system of standardized records or accountings of all requests from the Treasury Inspector General for Tax Administration for in-

spection or disclosure of returns and return information (including the reasons for and dates of such requests), and of returns and return information inspected or disclosed pursuant to such requests, as described under section 6103(p)(3)(A) of the Internal Revenue Code of 1986 [26 U.S.C. 6103(p)(3)(A)]. Such system of standardized records or accountings shall also be available for examination in the same manner as provided under section 6103(p)(3) of the Internal Revenue Code of 1986.

(3) The Treasury Inspector General for Tax Administration shall be subject to the same safeguards and conditions for receiving returns and return information as are described under section 6103(p)(4) of the Internal Revenue Code of 1986 [26 U.S.C. 6103(p)(4)].

(f) An audit or investigation conducted by the Inspector General of the Department of the Treasury or the Treasury Inspector General for Tax Administration shall not affect a final decision of the Secretary of the Treasury or his delegate under section 6406 of the Internal Revenue Code of 1986 [26 U.S.C. 6406].

(g)(1) Any report required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on Governmental Affairs and Finance of the Senate and the Committees on Government Reform and Oversight and Ways and Means of the House of Representatives.

(2) Any report made by the Treasury Inspector General for Tax Administration that is required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under such subsection, to the Internal Revenue Service Oversight Board and the Commissioner of Internal Revenue.

(h) The Treasury Inspector General for Tax Administration shall exercise all duties and responsibilities of an Inspector General of an establishment with respect to the Department of the Treasury and the Secretary of the Treasury on all matters relating to the Internal Revenue Service. The Treasury Inspector General for Tax Administration shall have sole authority under this Act to conduct an audit or investigation of the Internal Revenue Service Oversight Board and the Chief Counsel for the Internal Revenue Service.

(i) In addition to the requirements of the first sentence of section 3(a), the Treasury Inspector General for Tax Administration should have demonstrated ability to lead a large and complex organization.

(j) An individual appointed to the position of Treasury Inspector General for Tax Administration, the Assistant Inspector General for Auditing of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(1), the Assistant Inspector General for Investigations of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(2), or any position of Deputy Inspector General of the Office of the Treasury Inspector General for Tax Administration may not be an employee of the Internal Revenue Service—

(1) during the 2-year period preceding the date of appointment to such position; or

(2) during the 5-year period following the date such individual ends service in such position.

(k)(1) In addition to the duties and responsibilities exercised by an inspector general of an establishment, the Treasury Inspector General for Tax Administration—

(A) shall have the duty to enforce criminal provisions under section 7608(b) of the Internal Revenue Code of 1986 [26 U.S.C. 7608(b)];

(B) in addition to the functions authorized under section 7608(b)(2) of such Code, may carry firearms;

(C) shall be responsible for protecting the Internal Revenue Service against external attempts to corrupt or threaten employees of the Internal Revenue Service, but shall not be responsible for the conducting of background checks and the providing of protection to the Commissioner of Internal Revenue; and

(D) may designate any employee in the Office of the Treasury Inspector General for Tax Administration to enforce such laws and perform such functions referred to under subparagraphs (A), (B), and (C).

(2)(A) In performing a law enforcement function under paragraph (1), the Treasury Inspector General for Tax Administration shall report any reasonable grounds to believe there has been a violation of Federal criminal law to the Attorney General at an appropriate time as determined by the Treasury Inspector General for Tax Administration, notwithstanding section 4(d).

(B) In the administration of section 5(d) and subsection (g)(2) of this section, the Secretary of the Treasury may transmit the required report with respect to the Treasury Inspector General for Tax Administration at an appropriate time as determined by the Secretary, if the problem, abuse, or deficiency relates to—

(i) the performance of a law enforcement function under paragraph (1); and

(ii) sensitive information concerning matters under subsection (a)(1)(A) through (F).

(3) Nothing in this subsection shall be construed to affect the authority of any other person to carry out or enforce any provision specified in paragraph (1).

(l)(1) The Commissioner of Internal Revenue or the Internal Revenue Service Oversight Board may request, in writing, the Treasury Inspector General for Tax Administration to conduct an audit or investigation relating to the Internal Revenue Service. If the Treasury Inspector General for Tax Administration determines not to conduct such audit or investigation, the Inspector General shall timely provide a written explanation for such determination to the person making the request.

(2)(A) Any final report of an audit conducted by the Treasury Inspector General for Tax Administration shall be timely submitted by the Inspector General to the Commissioner of Internal Revenue and the Internal Revenue Service Oversight Board.

(B) The Treasury Inspector General for Tax Administration shall periodically submit to the

Commissioner and Board a list of investigations for which a final report has been completed by the Inspector General and shall provide a copy of any such report upon request of the Commissioner or Board.

(C) This paragraph applies regardless of whether the applicable audit or investigation is requested under paragraph (1).

(Pub. L. 95-452, §8D, formerly §8C, as added Pub. L. 100-504, title I, §102(f), Oct. 18, 1988, 102 Stat. 2518; renumbered §8D, Pub. L. 103-204, §23(a)(3), Dec. 17, 1993, 107 Stat. 2408; amended Pub. L. 105-206, title I, §1103(b), (e)(1), (2), July 22, 1998, 112 Stat. 705, 709; Pub. L. 107-296, title XI, §1112(a)(1), Nov. 25, 2002, 116 Stat. 2275; Pub. L. 108-7, div. L, §104(c)(2), Feb. 20, 2003, 117 Stat. 531; Pub. L. 109-177, title VI, §605(e)(3), Mar. 9, 2006, 120 Stat. 255; Pub. L. 110-409, §14(b), Oct. 14, 2008, 122 Stat. 4316; Pub. L. 112-199, title I, §117(b), Nov. 27, 2012, 126 Stat. 1475; Pub. L. 114-317, §§6(2), 7(d)(3)(C), Dec. 16, 2016, 130 Stat. 1604, 1606.)

REFERENCES IN TEXT

The Presidential Protection Assistance Act of 1976, referred to in subsec. (a)(1)(F), is Pub. L. 94-524, Oct. 17, 1976, 90 Stat. 2475, as amended, which enacted and amended notes set out under section 3056 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 8D of the Inspector General Act of 1978 was renumbered section 8E by Pub. L. 103-204.

AMENDMENTS

2016—Subsec. (a)(1). Pub. L. 114-317, §7(d)(3)(C)(i), substituted “subpoenas” for “subpenas” in introductory provisions.

Subsec. (a)(2). Pub. L. 114-317, §7(d)(3)(C)(ii), substituted “subpoena” for “subpena” in two places.

Pub. L. 114-317, §6(2), inserted “from accessing information described in paragraph (1),” after “completing any audit or investigation,” and “, access such information,” after “complete such audit or investigation”.

2012—Subsec. (j). Pub. L. 112-199, §117(b), (c), temporarily substituted “section 3(d)(1)(A)” for “section 3(d)(1)” and “section 3(d)(1)(B)” for “section 3(d)(2)”. See Effective and Termination Dates of 2012 Amendment note below.

2008—Subsec. (k)(1)(C). Pub. L. 110-409 substituted “protection to the Commissioner of Internal Revenue” for “physical security”.

2006—Subsec. (a)(1)(F). Pub. L. 109-177 substituted “section 3056A of title 18” for “section 202 of title 3”.

2003—Subsec. (b)(1). Pub. L. 108-7, §104(c)(2)(A), in first sentence, struck out “, the Office of Internal Affairs of the United States Customs Service, and the Office of Inspections of the United States Secret Service,” after “Tax and Trade Bureau” and, in second sentence, struck out “each” after “The head of”.

Subsec. (c). Pub. L. 108-7, §104(c)(2)(B), substituted “bureau” for “bureaus and services”.

Subsec. (d). Pub. L. 108-7, §104(c)(2)(C), substituted “the bureau” for “a bureau or service” and struck out “or service” after “such bureau”.

2002—Subsec. (b)(1). Pub. L. 107-296 substituted “Tax and Trade Bureau” for “Bureau of Alcohol, Tobacco and Firearms”.

1998—Subsec. (a)(1). Pub. L. 105-206, §1103(e)(2)(A)(i), inserted “of the Department of the Treasury” after “Inspector General” in introductory provisions.

Subsec. (a)(2). Pub. L. 105-206, §1103(e)(2)(A)(ii), inserted “of the Department of the Treasury” after “prohibit the Inspector General”.

Subsec. (a)(3). Pub. L. 105-206, §1103(e)(2)(A)(iii), inserted “of the Department of the Treasury” after “Inspector General” in two places.

Subsec. (a)(4). Pub. L. 105-206, §1103(b)(1), added par. (4).

Subsec. (b). Pub. L. 105-206, §1103(e)(1), (2)(B), struck out “and the internal audits and internal investigations performed by the Office of Assistant Commissioner (Inspection) of the Internal Revenue Service” after “United States Secret Service,” in first sentence, and inserted “of the Department of the Treasury” after “Inspector General” in second sentence.

Pub. L. 105-206, §1103(b)(2), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsecs. (c), (d). Pub. L. 105-206, §1103(e)(2)(C), inserted “of the Department of the Treasury” after “Inspector General” wherever appearing.

Subsec. (e)(1). Pub. L. 105-206, §1103(b)(3)(A), substituted “Treasury Inspector General for Tax Administration” for “Inspector General”.

Subsec. (e)(2). Pub. L. 105-206, §1103(b)(3)(B), (C), redesignated subpar. (C) as par. (2), substituted “Treasury Inspector General for Tax Administration” for “Inspector General”, and struck out former par. (2) introductory provisions and subpars. (A) and (B), which required written notice to Assistant Commissioner (Inspection) of Inspector General’s intent to access returns and return information, that such notice indicate specific returns or information being accessed, contain certification of need for purpose described under section 6103(h)(1) of this title, and identify those employees who may receive such returns or information. Former subpar. (D) redesignated par. (3).

Subsec. (e)(3). Pub. L. 105-206, §1103(b)(3)(D), redesignated subpar. (D) of par. (2) as par. (3) and substituted “Treasury Inspector General for Tax Administration” for “Inspector General”.

Subsec. (f). Pub. L. 105-206, §1103(b)(4), substituted “Inspector General of the Department of the Treasury or the Treasury Inspector General for Tax Administration” for “Inspector General”.

Subsec. (g). Pub. L. 105-206, §1103(b)(5), struck out subsec. (g) which read as follows: “Notwithstanding section 4(d), in matters involving chapter 75 of the Internal Revenue Code of 1986, the Inspector General shall report expeditiously to the Attorney General only offenses under section 7214 of such Code, unless the Inspector General obtains the consent of the Commissioner of Internal Revenue to exercise additional reporting authority with respect to such chapter.”

Subsec. (g)(1). Pub. L. 105-206, §1103(b)(6)(A), (B), redesignated subsec. (h) as (g)(1) and substituted “and the Committees on Government Reform and Oversight and Ways and Means of the House of Representatives” for “and the Committees on Government Operations and Ways and Means of the House of Representatives”.

Subsec. (g)(2). Pub. L. 105-206, §1103(b)(6)(C), added par. (2).

Subsecs. (h) to (l). Pub. L. 105-206, §1103(b)(7), added subsecs. (h) to (l). Former subsec. (h) redesignated (g)(1).

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Operations of House of Representatives treated as referring to Committee on Government Reform and Oversight of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. 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. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE AND TERMINATION DATES OF 2012
AMENDMENT

Amendment by Pub. L. 112-199 to cease to have effect on the date that is 5 years after Nov. 27, 2012, and subsec. (j) of this section to read as it read on the day before Nov. 27, 2012, see section 117(c) of Pub. L. 112-199, set out as a note under section 3 of Pub. L. 95-452 in this Appendix.

Amendment by Pub. L. 112-199 effective 30 days after Nov. 27, 2012, see section 202 of Pub. L. 112-199, set out as an Effective Date of 2012 Amendment note under section 1204 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE

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

§ 8E. Special provisions concerning the Department of Justice

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

- (A) ongoing civil or criminal investigations or proceedings;
- (B) undercover operations;
- (C) the identity of confidential sources, including protected witnesses;
- (D) intelligence or counterintelligence matters; or
- (E) other matters the disclosure of which would constitute a serious threat to national security.

(2) With respect to the information described under paragraph (1), the Attorney General may prohibit the Inspector General from carrying out or completing any audit or investigation, from accessing information described in paragraph (1), or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation, access such information, or to issue such subpoena, if the Attorney General determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent the significant impairment to the national interests of the United States.

(3) If the Attorney General exercises any power under paragraph (1) or (2), the Attorney General shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committees on Governmental Affairs and Judiciary of the Senate and the Committees on Government Operations and Judiciary of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Justice—

(1) may initiate, conduct and supervise such audits and investigations in the Department of Justice as the Inspector General considers appropriate;

(2) except as specified in subsection (a) and paragraph (3), may investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, or may, in the discretion of the Inspector General, refer such allegations to the Office of Professional Responsibility or the internal affairs office of the appropriate component of the Department of Justice;

(3) shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice, allegations of misconduct involving Department attorneys, investigators, or law enforcement personnel, where the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice, except that no such referral shall be made if the attorney is employed in the Office of Professional Responsibility;

(4) may investigate allegations of criminal wrongdoing or administrative misconduct by a person who is the head of any agency or component of the Department of Justice; and

(5) shall forward the results of any investigation conducted under paragraph (4), along with any appropriate recommendation for disciplinary action, to the Attorney General.

(c) Any report required to be transmitted by the Attorney General to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on the Judiciary and Governmental Affairs of the Senate and the Committees on the Judiciary and Government Operations of the House of Representatives.

(d) The Attorney General shall ensure by regulation that any component of the Department of Justice receiving a nonfrivolous allegation of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, except with respect to allegations described in subsection (b)(3), shall report that information to the Inspector General.

(Pub. L. 95-452, § 8E, formerly § 8D, as added Pub. L. 100-504, title I, § 102(f), Oct. 18, 1988, 102 Stat. 2520; renumbered § 8E, Pub. L. 103-204, § 23(a)(3), Dec. 17, 1993, 107 Stat. 2408; Pub. L. 107-273, div. A, title III, § 308, Nov. 2, 2002, 116 Stat. 1784; Pub. L. 114-317, §§ 6(3), 7(d)(3)(D), Dec. 16, 2016, 130 Stat. 1604, 1606.)

PRIOR PROVISIONS

A prior section 8E of the Inspector General Act of 1978, relating to special provisions concerning the Corporation for National and Community Service, was renumbered section 8F by Pub. L. 103-204.

Another prior section 8E of the Inspector General Act of 1978, relating to requirements for Federal entities and designated Federal entities, was successively renumbered section 8F by Pub. L. 103-82, and section 8G by Pub. L. 103-204.

AMENDMENTS

2016—Subsec. (a)(1). Pub. L. 114-317, § 7(d)(3)(D)(i), substituted “subpoenas” for “subpenas” in introductory provisions.