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GAO

Report to the Chairman, Committee on Governmental Affairs
United States Senate

August 1986

TREASURY DEPARTMENT

An Assessment of the Need for a Statutory Inspector General

131122

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Accounting and Financial
Management Division

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August 21, 1986

The Honorable William V. Roth, Jr.
Chairman, Committee on
Governmental Affairs
United States Senate

Dear Mr. Chairman:

In response to your request, we have reviewed the audit and investigative activities conducted by organizational units within the Department of the Treasury. This report discusses the differences and similarities between the organization and operation of these units and those of the statutory offices of inspector general in other executive branch departments and agencies.

The report recommends that the Congress amend the Inspector General Act of 1978 to create a statutory office of inspector general at Treasury and discusses an option for handling the Internal Revenue Service's Office of Inspection.

Unless you publicly announce the contents of this report earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies of this report to the Secretary of the Treasury, appropriate congressional committees and subcommittees, and other interested parties.

Sincerely yours,

Arthur R. Goldbeck for

Frederick D. Wolf
Director

Executive Summary

Purpose

The Congress passed the Inspector General Act of 1978, and other similar legislation, to establish statutory inspectors general that would provide central leadership and independence to agencies' efforts to combat government fraud, waste, and abuse. Eighteen federal departments and agencies have such statutory inspectors general. The Department of the Treasury is one of two cabinet-level departments that has not been included in such legislation. In 1978, the Secretary of the Treasury created an administrative inspector general (IG) in the department, but the IG has limited responsibilities. Most of Treasury's resources are subject to audit and investigation by internal affairs/inspection offices within each of the department's four law enforcement bureaus. The IG's oversight responsibilities for the law enforcement bureaus' activities are unclear. (See chapter 2.)

The Senate Committee on Governmental Affairs requested that GAO determine any differences between the structure and operation of Treasury's internal audit and investigative activities and those provided by the Inspector General Act of 1978, which established most of the statutory inspectors general. The committee also asked GAO to give its recommendation on the need for a statutory inspector general at Treasury.

Background

To heighten a statutory inspector general's independence, the act provides that the inspector general report to the agency head or officer next in rank and that semiannual reports be furnished to the agency head, who transmits them to the appropriate congressional committees.

Legislation has been introduced in this and previous sessions of the Congress to amend the Inspector General Act to include the Department of the Treasury. The House has passed legislation to create a statutory inspector general at Treasury. However, to date, the Senate has not voted on this issue. During congressional hearings, Treasury has supported the concept of a statutory inspector general but has wanted legislation tailored to safeguard sensitive law enforcement information.

Treasury has tried to centralize all internal audit activities (except for those of the Internal Revenue Service) under the inspector general, but these efforts have been precluded by language in the department's appropriations legislation since 1982. The legislation states that no funds would be used to place the law enforcement bureaus "under the operation, oversight, or jurisdiction" of the inspector general. (See chapter 2.)

Results in Brief

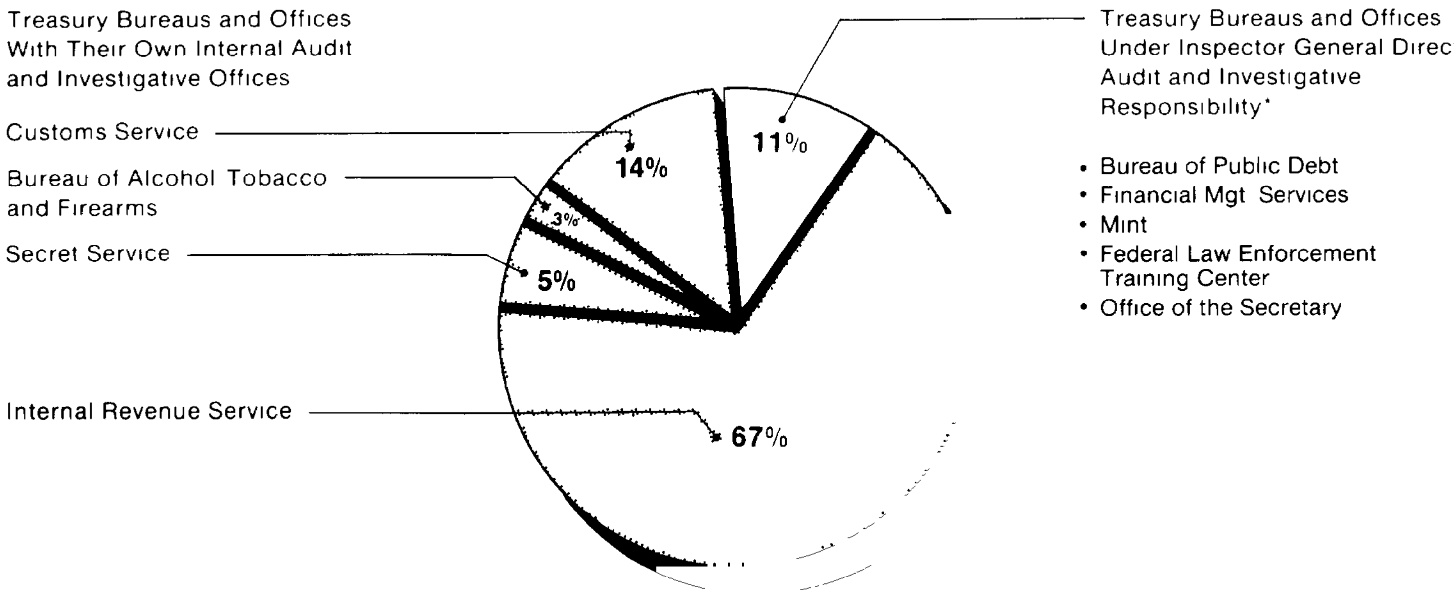
Because Treasury's IG has audit responsibility for only about one tenth of the agency, Treasury's structure of audit and investigative organizations does not provide the central leadership and degree of independence provided by law to those same activities at departments and agencies with statutory inspectors general. Also, Treasury's structure does not provide assurance that the Secretary and the Congress are informed of significant findings resulting from internal audits and investigations in the law enforcement bureaus. (See chapter 2.)

Principal Findings

Treasury's inspector general, who reports directly to the Secretary, has audit and investigative responsibility over only 11 percent of Treasury's operating budget. The remaining 89 percent is audited and investigated by the law enforcement bureaus' internal affairs/inspection staffs, which report to bureau management. Figure I shows the percentage of Treasury's fiscal year 1985 budget authority devoted to each of the department's major bureaus and offices, and those offices subject to inspector general audit and investigation. (See chapter 2.)

Results of internal audits and investigations within the law enforcement bureaus are reported to bureau management. It is at the discretion of the head of internal affairs/inspection to determine which audits are "significant" and report those to the inspector general. With limited exceptions, this is also true for investigations. Therefore, no assurance exists that the Secretary or other Treasury management is informed of audit and investigative issues which could have a departmentwide impact. In addition, the Congress is not routinely informed about Treasury's audit and investigative activities.

Figure 1: Audit and Investigative Responsibilities Within the Department of the Treasury—Major Bureaus and Offices Shown as Percent of Fiscal Year 1985 Agency Budget Authority



*The Office of the Comptroller of the Currency and the Bureau of Engraving and Printing are also under the Inspector General's direct audit and investigative authority but are not funded through Treasury's operating budget

Recommendation

GAO recommends that the Congress amend the Inspector General Act of 1978 to include the Department of the Treasury in order to strengthen management control, provide a high degree of independence, and ensure that the Secretary of the Treasury and the Congress are informed of significant audit and investigative findings. (See chapter 3.)

Matters for Congressional Consideration

In past draft IG legislation, the Congress did not transfer the Internal Revenue Service's Office of Inspection into the proposed Office of Inspector General. If the Congress again excludes the Internal Revenue Service's Office of Inspection, the Congress may wish to give the inspector general responsibility to monitor and evaluate the Office's adherence to auditing principles, policies, and procedures. (See chapter 3.)

Agency Comments

In commenting on a draft of this report, Treasury said it is strongly opposed to establishing a statutory inspector general in the department. (See appendix III.) In the past, Treasury officials have testified in support of the inspector general concept but have proposed language to meet the department's policy formulation, law enforcement, and tax administration responsibilities. For example, they proposed that IRS retain its audit and investigative staff because of concerns over the possible disclosure of confidential tax information.

GAO has considered Treasury's comments but continues to believe a statutory inspector general is needed to better ensure the independence of Treasury internal audits and investigations and to keep the Secretary and the Congress fully informed. While GAO believes that the act, as amended, adequately safeguards against the disclosure of sensitive law enforcement and tax information, some of Treasury's concerns could be further addressed by providing the Secretary of the Treasury with powers similar to those previously provided to the Secretary of Defense. (See chapter 3.)

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Abbreviations

BATF	Bureau of Alcohol, Tobacco and Firearms
GAO	General Accounting Office
HEW	Department of Health, Education, and Welfare
IG	inspector general
IRS	Internal Revenue Service
OIG	Office of Inspector General

Introduction

The Congress passed the Inspector General Act of 1978 in order to centralize the leadership of 12 agencies' audit and investigative functions under a senior agency official who is responsible only to the agency head or deputy and who has the independence needed to detect government fraud, waste, and abuse. The departments of the Treasury and Justice were not included in the 1978 act or in other legislation which has increased the number of departments and agencies having statutory inspectors general to 18

The chairman of the Senate Committee on Governmental Affairs requested that we review the organization and operations of Treasury's internal audit and investigative functions to determine how they differ from those authorized under the Inspector General Act and that we make a recommendation as to the need for a statutory inspector general at Treasury

Inspector General Act

The Inspector General Act of 1978 was enacted by the Congress following a series of events which emphasized the need for more independent and coordinated audits and investigations in federal departments and agencies. First, in 1974, the Secretary of Agriculture abolished the department's administratively established Office of Inspector General (OIG), demonstrating the impermanent nature of a nonstatutory inspector general. Later, in 1974 and 1975, a study by the House Intergovernmental Relations and Human Resources Subcommittee of the Committee on Government Operations disclosed inadequacies in the internal audit and investigative procedures and resources in the Department of Health, Education, and Welfare (HEW), now the Department of Health and Human Services The need to deal more effectively with the danger of loss from fraud and abuse in HEW programs led to the establishment of the first statutory office of inspector general in 1976. The Congress also established an inspector general in the Department of Energy when it created that department in August 1977.

In 1977, the subcommittee began a comprehensive inquiry to determine whether a need existed at other federal departments and agencies for similar statutory offices of inspector general The subcommittee's study revealed serious deficiencies in a number of department and agency audit and investigative efforts, such as

- no central leadership of auditors and investigators,

- a lack of independence exhibited by auditors and investigators reporting to officials who had responsibility for programs that were being audited,
- no procedures to ensure that the Congress was informed of serious problems, and
- no program to look for possible fraud or abuse, but rather a primary reliance on complaints.

As an initial effort to correct these deficiencies, the Inspector General Act of 1978 established 12 additional statutory offices of inspector general to be patterned after the one at HEW. Other legislation has since been passed to establish statutory inspectors general in five additional departments and agencies. (See appendix I)

Statutory inspectors general are responsible for (1) conducting and supervising audits and investigations, (2) providing leadership and coordination, and recommending policies to promote economy, efficiency, and effectiveness, and (3) detecting fraud and abuse in programs and operations of their agencies. Additionally, the Inspector General Act requires the inspectors general to prepare semiannual reports which summarize the activities of the OIG during the preceding 6-month period. These reports are forwarded to the head of the department, who is responsible for transmitting them to the appropriate congressional committees

The Inspector General Act consolidated the audit and investigative responsibilities of each department or agency under the direction of one senior official who reports to the head of the agency or an official next in rank below the agency head. The President appoints the statutory inspectors general, by and with the consent of the Senate The act states that neither the agency head nor the official next in rank shall prevent or prohibit the inspector general from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation. (See figure 3.1.) This enhances the independence of auditors and investigators by ensuring that they do not report to the officials who are directly responsible for the programs under review

The act further enhances independence by requiring inspectors general to comply with the Comptroller General's generally accepted government auditing standards for audits of federal establishments, organizations, programs, activities, and functions One of these standards requires auditors and audit organizations to be personally and organizationally independent and to maintain the appearance of independence so that opinions, conclusions, judgments, and recommendations will be impartial and will be viewed as such by knowledgeable third parties.

Treasury Management and Organization

The Department of the Treasury was created by an act of the Congress on September 2, 1789. Many subsequent acts have delegated additional duties to the department and created its numerous bureaus and divisions. (See appendix II.) The Secretary of the Treasury oversees operations of the department and, as a major policy advisor to the President, is responsible for formulating and recommending financial, economic, and tax policies, among other duties.

The department has six bureaus and offices to carry out its fiscal and monetary policy roles: Office of Comptroller of the Currency, Bureau of Engraving and Printing, Bureau of the Mint, Bureau of Public Debt, U.S. Savings Bonds Division, and the Office of Financial Management Services. Among their various responsibilities, these bureaus and offices regulate the banking industry; design, engrave, and print currency, stamps, and bonds; manufacture coins and medals, and promote the sale of these items.

In addition, Treasury has four major bureaus and offices with law enforcement responsibilities. The Bureau of Alcohol, Tobacco and Firearms (BATF), the Customs Service, and the Internal Revenue Service (IRS) collect respective federal taxes. In addition, these bureaus are responsible for enforcing relevant laws and for detecting and arresting offenders. The Secret Service, the department's fourth law enforcement bureau, is authorized to detect and arrest any person committing any offense against the laws relating to coins, currency, and securities of the U.S. and foreign governments. The Secret Service also protects the President and other designated officials and their families.

Treasury ranks as the third largest employer of civilian personnel among federal departments and agencies. It is also the third largest department based on estimated fiscal year 1985 outlays for the federal budget. In fiscal year 1985, the department was authorized $5.4 billion and over 122,000 staff positions to carry out its missions As can be seen from table 1.1, the department's resources are primarily dedicated to the operation of its law enforcement bureaus

Table 1.1: Treasury's Fiscal Year 1985 Budget Authority and Authorized Staff Positions

(Dollars in Millions)

	FY 1985 budget authority		Staff positions in full-time equivalency	
Bureau/office	**Amount**	**Percent of total**	**Number**	**Percent of total**
Alcohol, Tobacco, and Firearms	$172 1	3	2,982	2
Customs Service	731 2	14	13,746	11
Secret Service	292 6	5	4,265	4
Internal Revenue Service	3,583 7	67	92,792	76
All other offices and bureaus	597 8	11	8,451	7
Total	**$5,377.4**	**100**	**122,236**	**100**

Treasury Exempt From IG Act

During 1977 congressional hearings on the need for a statutory IG at Treasury, department officials cited Treasury's unique role, especially its law enforcement and monetary policy roles, as reason for not being included under the act. The Congress agreed to study the issue further and did not include Treasury among those agencies covered by the 1978 legislation.

Since then, various bills, including one in this session, have been introduced to establish a statutory inspector general at Treasury Treasury officials have supported the concept of a statutory inspector general but have stated that any proposed amendments to include the department under the act should be tailored to meet its diverse mission. These officials noted that Treasury does not administer grants or entitlement programs, except for the revenue sharing program, nor does the department engage in extensive contracting. Treasury officials expressed concern regarding the authority a statutory inspector general would have to review and report on Treasury's law enforcement activities, as well as policy decisions regarding international trade, investment, bank regulation, international and domestic tax, and foreign asset control

In 1982 the Comptroller General wrote to the chairman of the Senate Committee on Governmental Affairs in support of legislation which, among other things, would have established a statutory inspector general at Treasury The Comptroller General noted that to be fully effective a statutory office of inspector general should fulfill two primary objectives.

- be as independent as possible from agency management control over audit and investigative operations, and
- report particularly serious problems to the head of the agency and the Congress.

In 1983 we testified in support of an amendment which would have established a statutory inspector general at Treasury under the Inspector General Act of 1978. During that testimony, we reiterated our support for the Inspector General Act and other legislation "designed to centralize and strengthen internal audit and investigative activities under inspectors general in major departments and agencies." We supported IG legislation in part because it would help ensure that high-level attention is given to promoting economy, efficiency, and effectiveness and in combating fraud, waste, and abuse in federal programs and agency operations. In addition, we believed the legislation would ensure that both the Congress and agency heads receive information on problems in programs and agency operations. We concluded our testimony by stating that the "reasons for establishing statutory IGs in the other major departments and agencies are just as relevant in our opinion...to Treasury given the nature and importance of their missions and responsibilities."

The House passed proposed legislation to include Treasury under the Inspector General Act. However, the Senate did not vote on the proposed legislation.

Objectives, Scope, and Methodology

At the request of the chairman, Senate Committee on Governmental Affairs, we reviewed the organization and operations of the audit and investigation offices in Treasury to ascertain any significant differences between these offices and those that have a statutory inspector general We were also asked to make a recommendation on the need for a statutory inspector general at Treasury.[1]

We analyzed the Inspector General Act of 1978 to determine inspector general duties, responsibilities, and reporting requirements. Additionally, we studied congressional hearings and reports related to efforts to establish a statutory inspector general at Treasury

[1]We were asked to do a similar review at the Department of Justice (Justice Department An Assessment of the Need for a Statutory Inspector General, GAO/AFMD-86-8, February 24, 1986)

We interviewed officials in the Office of Inspector General and at the internal affairs/inspection offices in Treasury's law enforcement bureaus. We documented the planning and reporting procedures used by these offices, as well as their responsibilities for conducting audits and investigations. We interviewed senior-level officials in the department on the feasibility of establishing a statutory inspector general at Treasury. In addition, we obtained data on staffing and funding of each of the internal affairs offices.

We analyzed Treasury directives and policies regarding the administration of the present nonstatutory Office of Inspector General to determine responsibilities and authority over the audit and investigative offices within the department. In addition, we reviewed the types of audits planned, the types of reports issued, and their distributions. We analyzed the fiscal year 1985 operating budget (budget authority) for each of Treasury's major bureaus and offices to determine the audit and investigative coverage given to the inspector general. Our review did not include an assessment of the adequacy of audits and investigations.

We conducted our review between January and June 1985 at the Department of the Treasury and at all of its bureaus which are located in Washington, D.C. Our review was made in accordance with generally accepted government auditing standards. We obtained official comments from Treasury on a draft of this report and have incorporated the department's comments as appropriate. (See appendix III.)

Treasury's Internal Audit and Investigative Functions

In 1978 the Secretary of the Treasury administratively established the position of inspector general, but the responsibilities of the position were limited. Since then, the department has expanded the inspector general's role to include audits and investigations in the non-law enforcement bureaus and offices. However, this gives the inspector general direct authority for auditing and investigating only 11 percent of Treasury's fiscal year 1985 budget authority and 7 percent of the authorized staff.

The department authorized the Office of Inspector General a budget of $4.9 million and 119 staff positions for fiscal year 1985. The IG's staff is located in Washington, D.C., except for one auditor at the Federal Law Enforcement Training Center in Georgia and small staffs in three Bureau of the Mint locations and in one Bureau of Public Debt office.

The four law enforcement bureaus have retained their own internal audit and investigative staffs. The department has proposed further consolidation of the audit functions under the inspector general. However, language included in Treasury's appropriation legislation since 1982 has precluded the use of any funds to place the law enforcement bureaus "under the operation, oversight, or jurisdiction" of the inspector general.

Treasury's Nonstatutory Inspector General

The Treasury inspector general reports directly to the Secretary and Deputy Secretary Initially, the inspector general was authorized to conduct investigations within the Office of the Secretary and those investigations which bureaus and offices did not wish to perform using their own resources.

The Office of Audits was transferred to the inspector general in 1980, giving the inspector general responsibility for audits within the Office of the Secretary In that same year, a Treasury directive gave the inspector general oversight responsibility for all audits and investigations within the department. The inspector general was authorized to

- provide advice and assistance to bureaus and offices,
- review and approve bureau and office annual audit and investigative plans for adequacy in ensuring the highest standards of integrity,
- conduct periodic oversight reviews of internal audit and investigative activities for objectivity, thoroughness, and effectiveness;
- investigate allegations involving senior officials of any Treasury office or bureau;

- participate in the selection of key internal audit and investigative positions; and
- prepare an annual report of all internal audit and investigation activities in the department.

In 1982 Treasury proposed a major reorganization of its audit and investigative staffs. The Secretary planned to consolidate all audit and investigative staffs from the non-law enforcement bureaus and the audit staffs from three law enforcement bureaus (Customs Service; Bureau of Alcohol, Tobacco and Firearms; and Secret Service) under the inspector general. Fifteen investigator positions were also to be transferred to the inspector general from the three law enforcement bureaus, although these three bureaus would retain responsibility for conducting their own internal investigations.

Under the department's planned consolidation, the Internal Revenue Service (IRS) was to be the only bureau within the department to retain its audit and investigative staff intact. In a memorandum to the Secretary, Treasury's inspector general stated that departmental management had considered including the IRS audit function under the inspector general but decided it was unadvisable at that time. The inspector general said the decision had been made because

- the Congress had consistently excluded IRS from the bills establishing a statutory, consolidated OIG;
- the IRS internal audit function had been statutorily created in 1951 and, therefore, bore a different relationship to IRS and to the department than did the other inspection units;
- the size of this unit would have made the consolidation more difficult administratively; and
- the OIG had oversight responsibility for the internal audit and investigative functions within IRS.

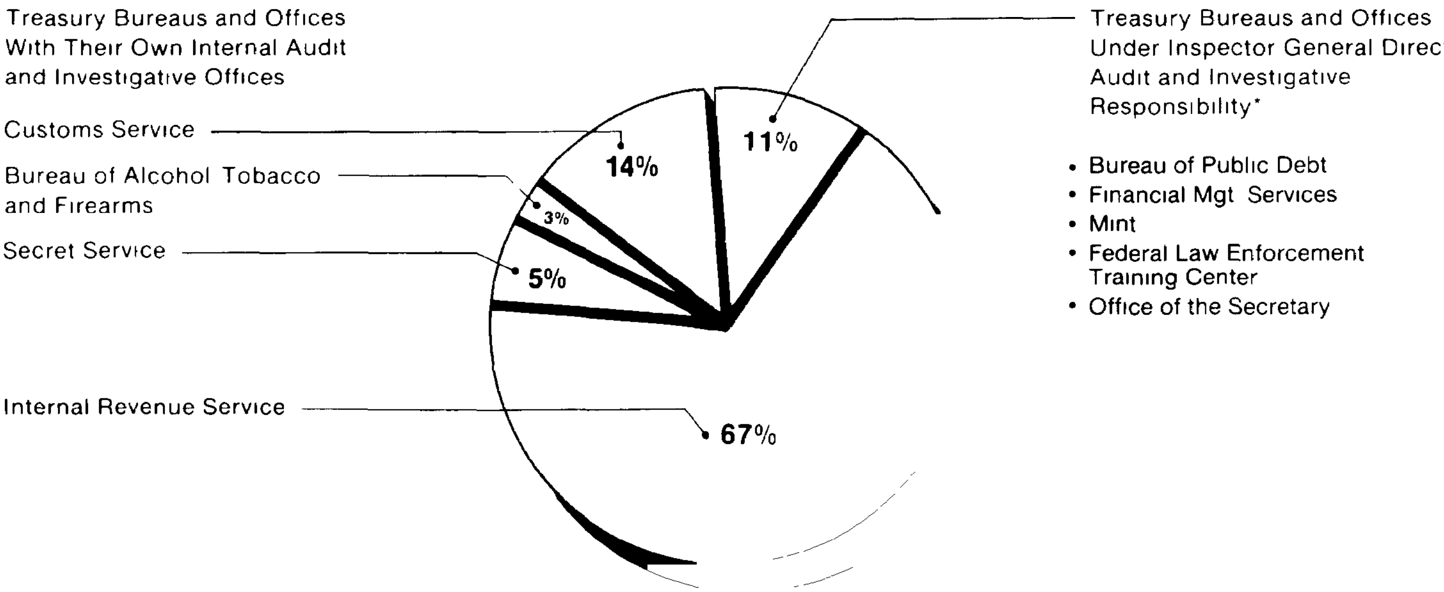
When members of the House and Senate appropriations subcommittees were informed of the consolidation plan, they expressed concerns about the advisability of including the three Treasury law enforcement bureaus (Customs, Secret Service, and BATF) in the consolidation. Specifically, the subcommittee chairmen noted concerns about confidentiality of Secret Service protective activities and of narcotics and firearms investigations conducted respectively by the Customs Service and BATF. The chairmen expressed concerns that freedom-of-information requests could lead to disclosure of sensitive information. They also noted that law enforcement agencies have institutional experience that inspector general offices do not.

A provision was included in Treasury's supplemental appropriation for fiscal year 1982 prohibiting the use of any funds to place the three law enforcement bureaus "under the operation, oversight, or jurisdiction" of the inspector general. Although Treasury has opposed the language, the same provision has been included in subsequent Treasury appropriation legislation.

Consequently, the only portion of the proposed 1982 reorganization which was carried out was the consolidation of the audit and investigative resources of the non-law enforcement bureaus under the Office of Inspector General. This gave the OIG the direct audit and investigative responsibilities that it now has for only 11 percent of the department's fiscal year 1985 budget authority, as shown in figure 2.1. The inspector general retained oversight responsibility for the audit and investigative offices in the law enforcement bureaus as directed in 1980 In addition to their established bureau reporting responsibilities, the heads of the audit and investigative staffs in each of the law enforcement bureaus report to the inspector general for oversight purposes

When a newly appointed IG assumed his duties in 1984, he questioned his oversight authority for the law enforcement bureaus in view of the language in Treasury's appropriations legislation The IG counsel responded that "as oversight arrangements already existed and no funds were (or are) necessary to facilitate transfer of these monitoring functions, existing oversight authority remains unaffected by this or any similar statute." The IG has exercised his oversight responsibilities as provided in the 1980 Treasury directive and has received the cooperation of law enforcement bureaus' internal affairs/inspection offices in conducting departmentwide audits and in detailing staff to the OIG when needed.

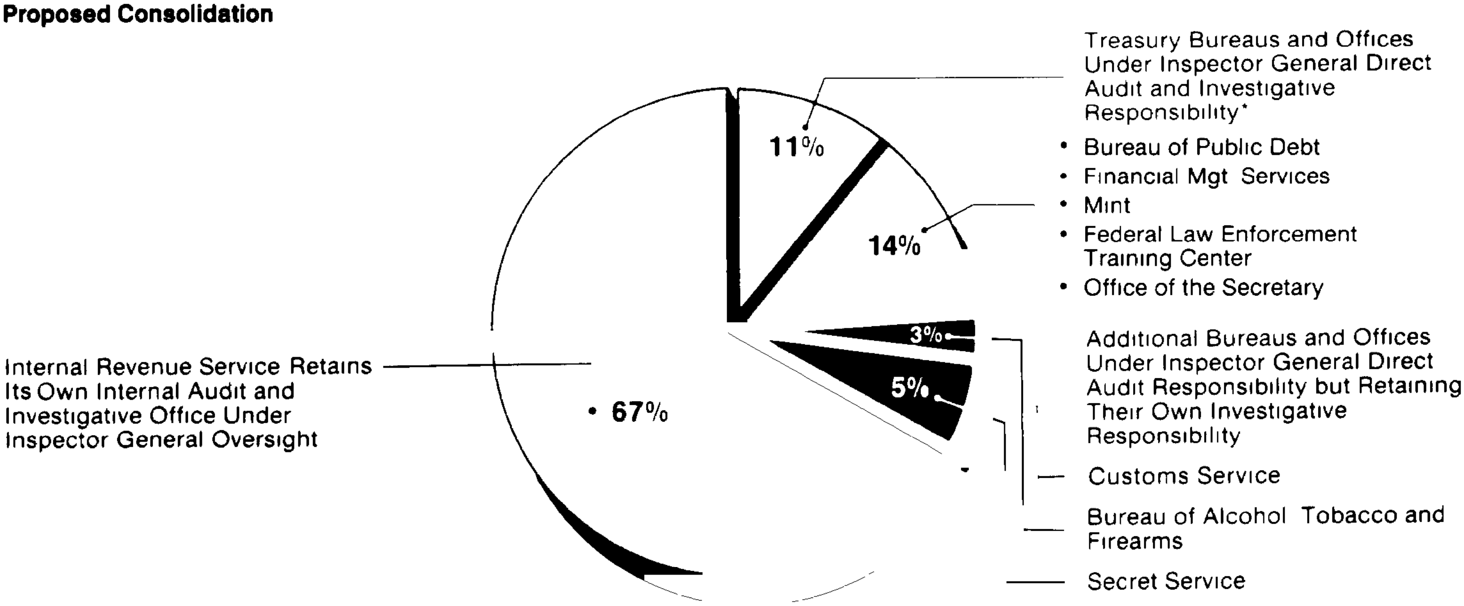
Figure 2.1: Percentage of the Treasury Fiscal Year 1985 Budget Authority Subject to Inspector General Audit and Investigation



*The Office of the Comptroller of the Currency and the Bureau of Engraving and Printing are also under the Inspector General's direct audit and investigative authority but are not funded through Treasury's operating budget

If the department were able to complete the consolidation as proposed in 1982, the inspector general would gain direct internal audit responsibility for the BATF, Customs Service, and Secret Service. IRS, which accounts for 67 percent of Treasury's budget and 76 percent of the authorized staff, would retain its own internal audit and investigation staff subject to IG oversight. Any plan for consolidation which does not include the IRS would only give the IG audit and investigative responsibility for less than one third of Treasury's resources. (See figure 2 2.)

Figure 2.2: Percentage of Treasury's Fiscal Year 1985 Budget Authority Subject to Inspector General Audit Under Treasury's Proposed Consolidation



*The Office of the Comptroller of the Currency and the Bureau of Engraving and Printing are also under the Inspector General's direct audit and investigative authority, but are not funded through Treasury s operating budget

Audit and Investigation Offices in the Law Enforcement Bureaus

The four law enforcement bureaus—Bureau of Alcohol, Tobacco and Firearms; Internal Revenue Service; Customs Service; and Secret Service—each has its own office of internal affairs/inspections[2] which is responsible for internal audits and investigations within its respective bureau. The head of each of these offices reports to the respective bureau director/commissioner. These bureaus have historically operated somewhat autonomously of the department. This autonomy appears to be at least somewhat supported by language in appropriation legislation which has prevented the inspector general from assuming responsibility for audits in these bureaus.

[2]Offices of Internal Affairs in the U S Customs Service and Bureau of Alcohol, Tobacco and Firearms, and Offices of Inspections in the U S Secret Service and the Internal Revenue Service

Each of the internal affairs/inspection offices is organizationally part of the bureau which it audits. In three bureaus (BATF, IRS, and the Customs Service), staff is permanently assigned to the internal audit and investigative unit, with promotion and other personnel decisions made within the internal affairs office Each of these offices plans its audit work based on audits required by law and on input from bureau management, auditors, and the Treasury inspector general. The investigation staffs are primarily reactive groups which respond to allegations of misconduct involving bureau personnel.

The Secret Service Office of Inspections differs from the other three bureaus in staff assignment. This office has 26 investigators who serve rotational assignments of 1 to 2 years as part of their management development process. Four auditors, who compose the balance of the staff, are permanently assigned. The investigators perform internal investigations based on allegations of misconduct and inspections of Secret Service field offices and divisions throughout the country The primary purpose of these inspections is to determine if procedures are being followed, to evaluate Secret Service relations with local law enforcement authorities, and to assess office morale Investigators assigned to the Office of Inspections apply for promotions in divisions and field offices as vacancies occur; therefore, it is possible for an investigator to apply for promotion in an office after conducting an inspection of that office. The Assistant Director (Inspection) is not aware of any conflict that has occurred as a result of this process

Reports prepared by the internal affairs/inspection offices are issued to the director of the particular section or program being reviewed, or to the bureau director A Treasury directive requires the director of each internal affairs/inspection office to report back to the IG on all investigations referred by the IG plus audits and other investigations which he/she believes to be significant. In addition, the internal affairs office directors are expected to cooperate in preparing the IG's annual report to the Secretary. No specific provisions exist for reports to be sent directly to the Secretary or Deputy Secretary.

The individual law enforcement bureaus determine the level of resources for their respective internal affairs offices In addition to the staffs located in Washington, D C., the Customs Service has auditors and investigators in seven regional offices, and BATF has investigators in three regions. Table 2.1 summarizes the budgeted resources for these offices for fiscal year 1985

Table 2.1: Budgeted Resources for Internal Audit and Investigation in Treasury's Law Enforcement Bureaus for Fiscal Year 1985

(Dollars in Millions)

Bureau/office	Staff positions	Budget authority
IRS, Office of Inspections	959	$41 1
Customs Service, Office of Internal Affairs	221	11 9
BATF, Office of Internal Affairs	46	2 8
Secret Service, Office of Inspections	32	2 1
Total	**1,258**	**$57.9**

Treasury's Audit and Investigative Structure Differs From IG Act Requirements

Treasury's current organizational structure for internal audits and investigations differs significantly from requirements of the IG Act. Rather than having an inspector general as the central leader for all audits and investigations, Treasury's IG has been given limited audit and investigative responsibilities. The majority of the department's resources are subject to direct audit and investigation by internal affairs/inspection offices organizationally within the four law enforcement bureaus. This structure does not provide the degree of independence to auditors and investigators envisioned by the IG Act. The inspector general's oversight responsibilities for audits and investigations in the law enforcement bureaus have been subjected to question by language in the department's appropriation legislation.

The IG Act states that those agencies covered by the act shall have an inspector general "to provide policy direction for and to conduct, supervise and coordinate audits and investigations relating to the programs and operations" of the agency. The inspector general is to be the focal point of these activities for the entire department. If Treasury were included under the Inspector General Act of 1978, without modification, the IG would have direct responsibility for conducting audits and investigations in all of Treasury's bureaus and offices.

The act requires the statutory inspectors general to keep the agency head and the Congress "fully and currently informed" concerning fraud and other serious problems, abuses, and deficiencies. Treasury's administrative inspector general is unable to keep the Secretary informed since the inspector general does not receive copies of all audit reports issued by the law enforcement bureaus' internal affairs/inspection offices. In addition, the internal affairs/inspection offices are not required to report to the IG on investigations that are self-initiated or result from internal allegations. Treasury's inspector general is not required to report to the Congress

Treasury's response to our draft report stated that reporting requirements have been strengthened since the draft report was written On February 10, 1986, the department adopted new reporting procedures which require the law enforcement bureaus to report their significant audits and investigations to the inspector general, including investigations which were either self-initiated or the result of internal allegations. This is the basis of monthly reports to the Secretary and Deputy Secretary on significant audit and investigative activities of the inspector general and the law enforcement bureaus.

Existing Treasury directives require the heads of internal affairs/ inspection offices to cooperate with the inspector general in preparing an annual report to the Secretary. This would be one means of informing the Secretary of audit and investigative activities in the law enforcement bureaus. The annual reports for fiscal years 1982 and 1983 were issued on July 10, 1985, and for fiscal year 1984 on November 4, 1985.

The department has no provision for the inspector general to inform the Congress of significant audit and investigative activities. If the act were amended to establish a statutory inspector general at Treasury, the semiannual reporting requirement would fulfill this need.

Treasury's Concerns With Inclusion Under the Inspector General Act

The departments of the Treasury, Justice, State, and Defense were not included in the Inspector General Act of 1978 because their roles were believed to be sufficiently different to warrant further study. Statutory inspectors general have subsequently been established at the departments of State and Defense, leaving Justice and Treasury as the only two cabinet-level departments without a statutory inspector general.

Treasury has testified that it supports the concept of a statutory inspector general but believes special provisions should be made to accommodate its unique fiscal and law enforcement roles. During our review, the department expressed the same basic concerns that it had expressed before the Congress between 1978 and 1983—that an inspector general should not be able to review policy decisions made by departmental management and that the semiannual reporting requirements of the Inspector General Act would require disclosure of information which could compromise ongoing investigations or prosecutions.

Review of Policy Decisions

In a July 5, 1985, letter to us on establishing a statutory IG for the department, Treasury stated that making policy decisions in economic, tax, and fiscal matters is the daily business of department officials.

> "These determinations involve complex analysis and forecasting, as well as expert judgments and opinions that are based upon sensitive fiscal and public policy considerations For instance, the 'second guessing' of economic policy decisions by the inspector general's office could have significant, unintended effects on the financial markets whose performance often reflects these policy decisions Therefore, inspector general involvement in these policy decisions should be limited "

Treasury believes this restriction would be a "narrow one, limited solely to policy decisions. It would in no way preclude the inspector general from conducting any audit or review of any facet of Treasury operations that implements these policies including the administration of programs or operations in these sensitive areas."

While it is true that existing law does not explicitly address the situation raised by Treasury, we believe that in light of the primary responsibilities of IGs under the IG Act and the existing language of the act, which precludes transfer of program responsibilities to the IG, the potential ill effects anticipated by Treasury are unlikely to occur However, the inspector general does, and should, have the authority to review policy decisions after the fact when they affect the efficient and effective operations of the department.

Disclosure of Sensitive Law Enforcement Information

Treasury is also concerned with section 5(a)(4) of the act, which requires the inspector general to submit semiannual reports to the Congress which would include "a summary of matters referred for prosecutive authorities and the prosecutions and convictions which have resulted " According to Treasury's July 5, 1985, letter, the "automatic disclosure" of this information creates

> "great potential for compromising investigations or prosecutions Consequences include revealing relevant facts that alert targets or suspects to sources and methods of investigation and enable them to destroy evidence, prevent arrest, or otherwise sidetrack the investigation, as well as endangering the lives of investigative agents, particularly those performing undercover operations "

In 1982 the Congress amended the Inspector General Act to prohibit public disclosure of certain types of sensitive information. Figure 3.1 provides the relevant language from the amendments.

Figure 3.1: Excerpt From 1982 Amendments to the Inspector General Act

"(e)(1) Nothing in this section shall be construed to authorize the public disclosure of information which is—

"(A) specifically prohibited from disclosure by any other provision of law,

"(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs, or

"(C) a part of an ongoing criminal investigation.

"(2) Notwithstanding paragraph (1)(C), any report under this section may be disclosed to the public in a form which includes information with respect to a part of an ongoing criminal investigation if such information has been included in a public record

"(3) Nothing in this section or in any other provision of this Act shall be construed to authorize or permit the withholding of information from the Congress, or from any committee or subcommittee thereof ".

In its July 5, 1985, letter, Treasury stated it believes that the 1982 amendment to the Inspector General Act is helpful but does not completely resolve its concerns. The amendment allows the reporting of information that has been included in a public record Treasury believes this is a rational exception to the disclosure provisions, but

> "it does not consider the individual circumstances of a given case There are many occasions when the facts of an investigation or information relating to an investigation is included in some very isolated public record, but the investigation nevertheless would suffer from the national exposure of a report to Congress or a congressional hearing "

The 1982 amendment to the Inspector General Act provides specific provisions to protect certain types of sensitive information from unauthorized disclosure. We believe the language in the amendment is sufficiently broad to protect law enforcement information in the Department of the Treasury.

However, the Congress did provide the Secretary of Defense additional legislative authority to protect national defense. Section 8 of the Inspector General Act allows the Secretary to prohibit IG audits and investigations to preserve national security interest. The IG must report any such action to the appropriate congressional committees and the Secretary must submit a statement of reasons to the same committees. If the Congress believes that similar protection is needed for Treasury due to its law enforcement and fiscal responsibilities, the Secretary of the Treasury could be given powers similar to those of the Secretary of Defense.[3]

Oversight of Internal Revenue Service

Proposed legislation to establish a statutory inspector general at Treasury has consistently excluded IRS internal audit and investigative resources from consolidation under the inspector general, as did Treasury's proposal for its administrative consolidation IRS officials believe that the sensitivity of tax administration is a critical consideration in designing the Treasury internal audit and investigative structure.

[3] Also see our report Justice Department An Assessment of the Need for a Statutory Inspector General (GAO/AFMD-86-8, February 24, 1986) where we note several examples where the Congress might consider incorporating language that strikes a balance between the scope of the IG's activities and the need for Justice to protect the confidentiality of information needed to successfully investigate and litigate cases

IRS has voiced concern over the possible disclosure of confidential tax information, similar to the concerns voiced by Treasury officials over the disclosure of sensitive law enforcement data. Again, we believe that the 1982 amendment which provides that the Inspector General Act does not authorize disclosing information which is prohibited from disclosure by another law, adequately protects tax information maintained by IRS.

In addition, IRS is concerned that if its internal audit and investigative staff is combined with that of the Treasury inspector general, access to tax information will not be as tightly controlled as it is now IRS believes that a large "pool" of auditors would be created and too many people would have access to tax records We do not believe that establishment of a statutory inspector general at Treasury would automatically increase the number of auditors with access to tax information in IRS. Under a statutory inspector general, a number of staff could be dedicated to work within the IRS and access to information could be controlled as it is now. However, the Office of Inspector General would coordinate and supervise the work of internal auditors and investigators, and it would keep Treasury management informed of the results of these audits and investigations.

IRS officials believe that adequate protection could be afforded tax information if IRS were to retain its current Office of Inspection operating under the oversight of Treasury's statutory inspector general This would parallel the current oversight responsibility of Treasury's administrative inspector general.

Conclusions

The Department of the Treasury has centralized responsibility for audits and investigations in 6 of its 10 major bureaus and offices under its administrative inspector general, who reports directly to the Secretary of the Treasury The four law enforcement bureaus have retained their own internal audit and investigative offices Consequently, the inspector general has direct audit and investigative authority for only 11 percent of Treasury's fiscal year 1985 budget authority and 7 percent of the authorized staff The Congress, concerned over the possible involvement of internal auditors and investigators in law enforcement issues, has prevented further consolidation of Treasury's audit functions under the IG. However, the inspector general has retained oversight responsibility for internal audits and investigations within the law enforcement bureaus, providing some degree of departmentwide leadership.

We believe there are advantages to Treasury and the Congress in having a statutory inspector general in the third largest cabinet-level department. A statutory inspector general offers permanency to the position not afforded the administrative inspector general, and the Inspector General Act provides a greater degree of independence for internal auditors and investigators. In addition, the Inspector General Act provision for semiannual reports ensures that the Congress will be informed of significant audit and investigative findings.

Agency Comments and Our Evaluation

In responding to our draft report, Treasury stated that our report was generally comprehensive, however, it opposed our proposal to establish a statutory IG at Treasury, even one with somewhat limited authority. Treasury believes a statutory inspector general will have a negative effect on its fiscal policy-making responsibilities and will endanger the confidentiality of law enforcement and tax information. In addition, Treasury stated we failed to reflect accurately the effective work by the department's administrative inspector general. (See appendix III.)

We believe Treasury's concerns over the impact a statutory inspector general would have on fiscal policy decisions is adequately addressed by provisions of the Inspector General Act, which preclude involvement of the inspector general in program operations In addition, the 1982 amendments to the act preclude disclosure of sensitive law enforcement information as well as information whose disclosure is prohibited by other laws, such as tax return information. Our review was not intended to assess the effectiveness of Treasury's current internal audit and investigative offices.

We believe the independence of Treasury's internal audit and investigative operations would be enhanced under a statutory inspector general. We also believe an Office of Inspector General established by statute would better ensure that the Secretary of the Treasury and the Congress are kept fully informed of any serious problems.

Recommendation to the Congress

We recommend that the Congress amend the Inspector General Act of 1978 to establish an Office of Inspector General at Treasury in order to strengthen management's control, to promote efficient and effective operation, to combat fraud, waste, and abuse, and to ensure the Secretary and the Congress are kept fully and currently informed of any serious problems. We favor including IRS under the new statutory IG. However, the Congress could consider special legislative provisions to accommodate Treasury's concerns over the possible disclosure of sensitive law enforcement and tax information.

Matters for Congressional Consideration

If draft legislation does not include the IRS Office of Inspections in the consolidation of internal audit and investigative resources under the statutory inspector general, the Congress may wish to consider a special provision giving the inspector general responsibility for monitoring and evaluating that office's adherence to generally accepted auditing principles, policies, and procedures. Since IRS represents approximately two thirds of Treasury's resources, we believe this provision is necessary, as a minimum, to ensure the highest level of responsibility within Treasury for all internal audits and investigations.

Statutory Inspector General Legislation

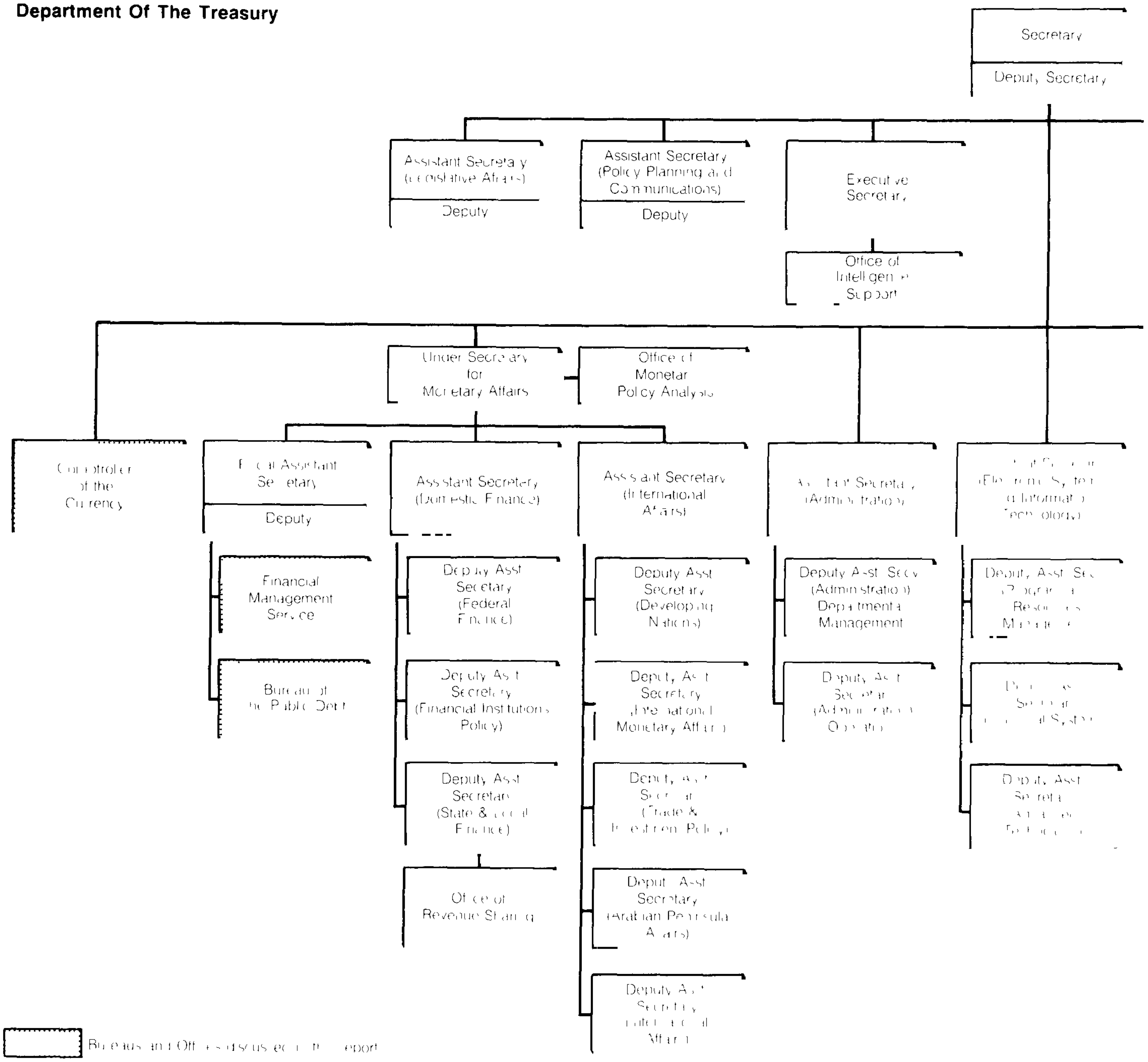
Public Law no.	Departments and agencies	Date enacted
P L 94-505	Health, Education, and Welfare (now Health and Human Services)	10/15/76
P L 95-91	Energy	08/04/77
P L 95-452	Agriculture Interior Commerce Housing and Urban Development Labor Transportation Environmental Protection Agency Veterans Administration General Services Administration National Aeronautics and Space Administration Small Business Administration Community Services Administration[a]	10/12/78
P L 96-88 (amended P L 95-452)	Education	10/17/79
P L 96-465	State	10/17/80
P L 97-113 (amended P L 95-452)	Agency for International Development	12/29/81
P L 97-252 (amended P L 95-452)	Department of Defense	09/08/82
P L 98-76	Railroad Retirement Board[b]	08/12/83

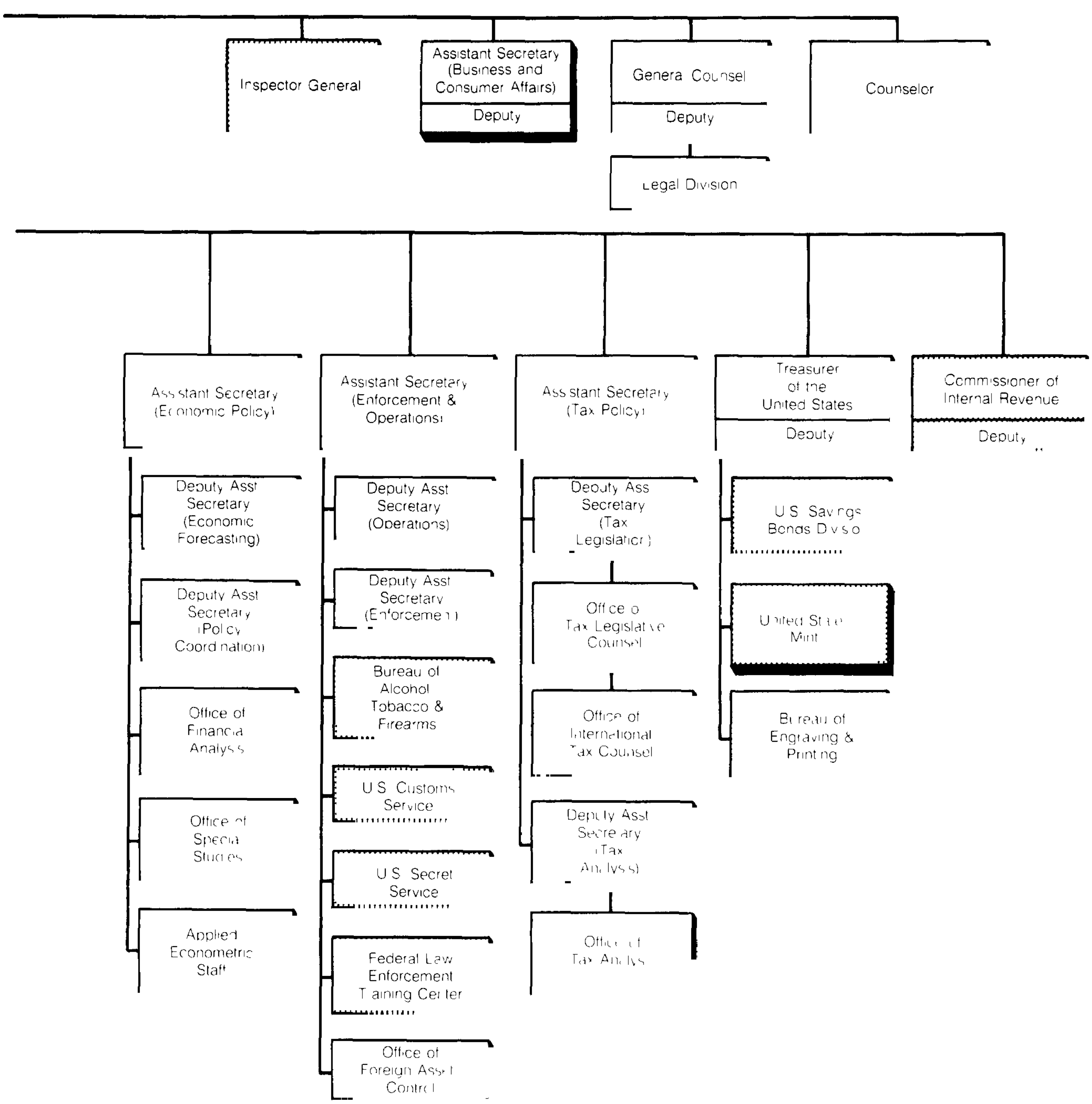
[a]The Community Services Administration is no longer in existence Its Office of Inspector General, created in the 1978 act, is not functioning although it is still authorized

[b]The inspector general for the Railroad Retirement Board has not yet been appointed

Organization of the Department of the Treasury

Department Of The Treasury

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Assistant Secretary (Business and Consumer Affairs)
Deputy
General Counsel
Deputy
Legal Division
Counselor
Assistant Secretary (Economic Policy)
Deputy Asst Secretary (Economic Forecasting)
Deputy Asst Secretary (Policy Coordination)
Office of Financial Analysis
Office of Special Studies
Applied Econometric Staff
Assistant Secretary (Enforcement & Operations)
Deputy Asst Secretary (Operations)
Deputy Asst Secretary (Enforcement)
Bureau of Alcohol Tobacco & Firearms
U S Customs Service
U S Secret Service
Federal Law Enforcement Training Center
Office of Foreign Asset Control
Assistant Secretary (Tax Policy)
Deputy Asst Secretary (Tax Legislation)
Office of Tax Legislative Counsel
Office of International Tax Counsel
Deputy Asst Secretary (Tax Analysis)
Office of Tax Analysis
Treasurer of the United States
Deputy
U S Savings Bonds Division
United States Mint
Bureau of Engraving & Printing
Commissioner of Internal Revenue
Deputy

Comments From the Department of the Treasury

Note GAO comments supplementing those in the report text appear at the end of this appendix

DEPARTMENT OF THE TREASURY
WASHINGTON

May 27, 1986

Dear Mr. Anderson:

This is in reply to your request that the Department of the Treasury comment on GAO's draft report to the Chairman of the Senate Committee on Governmental Affairs which recommends that Congress amend the Inspector General Act of 1978 to establish an Office of Inspector General in the Treasury Department.

Although the draft report is generally comprehensive, it should be revised to reflect the following concerns of the Department. The report should make clear that the Treasury Department would oppose any attempts to include it within the purview of the 1978 Act on the grounds that its current Inspector General is doing an extremely effective job of investigating and reporting on the activities of the Department. The draft report has understated the Inspector General's extensive authority to conduct audits and investigations. In addition, contrary to the recommendation of the report, we believe that a statutory Inspector General would have a chilling effect on the policy-making functions of the Department. We firmly believe that the Inspector General Act of 1978, as amended, is not sufficient to protect sensitive information generated by the Department pursuant to its law enforcement and fiscal responsibilities.

The report fails to reflect accurately the effective work performed by the Inspector General's Office. It does not completely demonstrate the Inspector General's current authority to conduct audits and investigate allegations of impropriety within the Department. While the draft report states simply that the Inspector General has the authority to conduct audits and investigations in the non-law enforcement bureaus, it makes no mention of the Inspector General's additional responsibility for conducting investigations of senior officials in the law enforcement bureaus. The draft report also fails to discuss the Inspector General's responsibility for coordinating multi-bureau audits in both law and non-law enforcement bureaus.

See comment 1

See comment 2

Furthermore, the draft report's conclusion that the Inspector General has direct authority for auditing and investigating only 11 percent of Treasury's fiscal year 1985 operating budget and 7 percent of the authorized staff is misleading because it includes the Internal Revenue Service (IRS) in these percentages. Proposed legislation to establish a statutory Inspector General at Treasury consistently has excluded IRS's internal audit and investigative resources from consolidation under the Inspector General because of concerns that confidential tax information might be disclosed. The accuracy of the draft report regarding the percentage of Treasury's operating budget subject to the Inspector General's direct authority would be enhanced by excluding the operating budgets and authorized staffing levels of IRS. So revised, the report would compare more realistically the Inspector General's current authority with the authority under the proposed statutory Inspector General legislation for the Department.

See comment 3

In this regard, it also should be noted that the statistics in the draft report do not reflect the fact that the Inspector General has direct audit and investigative responsibility for the Office of the Secretary, including Revenue Sharing, the U.S. Savings Bonds Division, the Office of the Comptroller of the Currency (OCC), and the Bureau of Engraving and Printing (BEP). OCC and BEP should not be excluded from the analysis simply because they are not funded through Treasury's operating budget.

See comment 4

Finally, the report does not adequately depict the extent and effectiveness of the Inspector General's current oversight activities. The draft report incorrectly states that the Inspector General is unable to keep the Secretary informed because the Inspector General does not receive copies of all audit reports issued by the law enforcement bureaus' internal affairs/inspection offices. Audit reports of the Bureau of Alcohol, Tobacco, and Firearms, the U.S. Customs Service and the U.S. Secret Service are forwarded routinely to the Inspector General, together with audit finding abstracts, at the time the reports are distributed to departmental and bureau audit follow-up officials. Similarly, IRS forwards to the Inspector General audit finding abstracts for each of its audit reports on a monthly basis.

See comment 5

These reporting requirements have been strengthened since the draft report was written. New reporting procedures instituted in January 1986, and subsequently adopted in written policy on February 10, 1986, require the law enforcement bureaus to report their significant audits and

See comment 6

See comment 7

investigations to the Inspector General, including significant investigations which were either self-initiated or the result of internal allegations. This information is used to provide the Secretary and Deputy Secretary with a monthly report of the most significant audit and investigative activities of the Office of the Inspector General and the law enforcement bureaus. As a result, the Inspector General's Office is now even more effective at keeping the Secretary informed.

The report also should make it clear that Treasury opposes all attempts to create a statutory Inspector General at the Department, including proposals for a statutory Inspector General with more limited authority, because of the sensitivity of its policy-making functions. Unlike other departments with statutory Inspectors General, Treasury essentially is not a program-oriented agency. It does not administer grant and entitlement programs that traditionally have been the focus of Inspector General inquiries. In addition, the Department has opposed attempts to bring Treasury under the 1978 Act because it would have a chilling effect on Treasury's policy-making and law enforcement functions. The draft report indicates that the Inspector General should have the authority to review policy decisions after the fact and suggests that involvement by the Inspector General would not have the ill effects anticipated by Treasury. The Department strongly disagrees with this and finds no support for this conclusion in the draft report.

Treasury officials are charged with making decisions involving economic, tax, and monetary policy based on broad economic and public policy considerations in which the Inspector General has no particular expertise. Subjecting such decision-making to the scrutiny of audit review could dampen the free exchange of ideas necessary for development of economic policy and ultimately have an unintended effect on the financial markets whose performance often reflects these policy decisions. This is particularly true because the Inspector General would be obligated by the Inspector General Act to make semi-annual public reports which would contain recommendations for corrective action in the Department's programs and operations.

The same rationale applies to the area of law enforcement. If Treasury were brought within the scope of the 1978 Act, the Secretary would be powerless to direct the Inspector General to postpone or delay an investigation that he determines could jeopardize an ongoing investigation or litigation conducted under the direction of the Commissioner of Customs, the Director of the Secret Service, and the Director of Alcohol, Tobacco, and Firearms. An Inspector

General would have statutory authority to interfere with any ongoing investigation being conducted by these law enforcement agencies. Officials with direct responsibility and expertise in these areas must exercise their professional judgment independently.

The ill effects described above would be compounded further because the Act's reporting requirements, set forth in section 5, require the Inspector General to disclose information obtained by investigations to Congress. The mandated reports do not address the need to protect from disclosure ongoing investigations, confidential sources, classified information, litigation material and other sensitive information. While the Department supports such disclosure as a general proposition, we believe that the automatic, wholesale disclosure of facts regarding all investigations, including those involving highly sensitive undercover operations, national security or even grand jury materials, could be extremely harmful. In order to accomplish its mission, the Department consistently has followed the policy that information of this nature should not be released on other than a need-to-know basis and does not believe that the Inspector General should be exempted from this policy. These important issues should not be dismissed lightly in the report.

See comment 8

In addition to the concerns described above, the Department has noted other errors in the report that must be corrected. The draft report states that annual reports of Treasury's audit and investigative activities for fiscal years 1982, 1983 and 1984 have not yet been issued. This is incorrect. The annual reports for fiscal years 1982 and 1983 were issued on July 10, 1985, and for fiscal year 1984 on November 4, 1985.

See comment 9

The draft report addresses the possibility that legislation may not include the IRS in the consolidation of internal audit and investigative resources under a statutory Inspector General. In that event, the report suggests the Inspector General be responsible for monitoring and evaluating IRS's adherence to generally accepted auditing principles, policies, and procedures. This suggestion falls short of the oversight authority that Treasury's Inspector General now has and the authority that would be necessary to comply with the quality assurance standards promulgated by the President's Council on Integrity and Efficiency. In our view, the Inspector General should be tasked with periodically reviewing both the internal audit and investigative activities of the IRS Office of Inspection to ensure that the work performed adheres to established policies, procedures, and standards and is carried out efficiently and effectively.

Treasury's Inspector General has operated independently and has been effective in preventing fraud, waste, and abuse without impeding the Department's key policy-making and law enforcement functions. A statutory Inspector General at Treasury would be counterproductive and ultimately would diminish the measure of confidentiality and autonomy that is necessary to carry out the missions of the Department. Because of their importance, these and the other issues discussed above should be stressed in the draft report.

Sincerely,

Sherrie M. Cooksey

Sherrie M. Cooksey
Executive Secretary

Mr. William Anderson
Director, General Government Division
General Accounting Office
441 G Street, N.W., Room 3866
Washington, D.C. 20548

The following are GAO's comments on the Department of the Treasury's letter dated May 27, 1986

GAO Comments

1. Report amended to reflect these responsibilities. See pages 14-15

2. The report cites the inspector general's oversight responsibilities and the cooperation received from the law enforcement bureaus in conducting departmentwide audits. See pages 16-17

3. We do not agree that the Internal Revenue Service should not be included in calculations as are other Treasury bureaus. However, if IRS is not included in the calculations, the inspector general would have direct audit and investigative responsibilities for 29 percent of Treasury's remaining budget authority and 33 percent of the remaining staff authorizations, based on fiscal year 1985 budget authority.

4. We believe that Treasury's budget authority is a fair basis for our analysis.

5. Treasury's policy has not required that all audit and investigation reports be forwarded to the inspector general. Treasury officials told us that this policy has not been the bureaus' practice. Also, see GAO comment 6, below.

6. Report amended to show Treasury's revised reporting policy. See page 21.

7. These matters are discussed on pages 22-26.

8. Report amended to include the more recent information provided by Treasury. See page 21.

9. We believe that having the inspector general responsible for "monitoring and evaluating IRS's adherence to generally accepted audit principles, policies, and procedures" would include Treasury's suggestion that the IG be tasked with reviewing internal audit and investigative activities of the IRS Office of Inspection. If legislation does not include IRS under the inspector general, the legislation should give the IG responsibility for ensuring the IRS Office of Inspection adheres to generally accepted auditing principles, policies, and procedures, and carries out its work efficiently and effectively, as suggested by Treasury.

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