

**Statement of Nikki L. Tinsley
Before the
Subcommittee on Government Management,
Organization, and Procurement
Committee on Oversight and Government Reform
U.S. House of Representatives
June 20, 2007**

Good afternoon, Mr. Chairman and Members of the Subcommittee. I appreciate your giving me the opportunity to be here today to discuss independence, accountability, and other issues affecting the Inspector General (IG) community; H. R. 928, the Improving Government Accountability Act; and proposals to resolve pay disparities encountered by Inspectors General who are career employees. I had the honor of being a part of the IG community for more than 15 years, serving in two administrations as Inspector General of the Environmental Protection Agency. I believe that Inspectors General play a vital role in improving government operations and that working together through the President's and Executive Councils on Integrity and Efficiency they are uniquely positioned to contribute to government reform. While I am devoting most my statement today to discussing pay comparability and the impact it may have on the pool of individuals qualified to perform the duties of Inspector General, I do think it is time for Congress and the Administration to develop a process to hold Inspectors General accountable for their performance. Also, I believe that it is particularly important that the Councils on Integrity and Efficiency have clear authority to take the steps they deem necessary to sustain and increase the professionalism and effectiveness of IG personnel.

The first step to ensuring that Inspectors General are independent and objective takes place during the selection process. Congress intended that Inspectors General be non-partisan, independent, objective, and of the highest integrity. It identified a limited number of career fields from which Inspectors General should be selected, including audit, investigation, public administration, and law. I would add that Inspectors General should have demonstrated ability in organizational leadership and management. Finally, during the selection and confirmation processes it is of critical importance that both the President and the Senate carefully vet candidates to ensure their past performance indicates they have the qualities expected of an Inspector General and would faithfully execute the IG mandate.

Career civil servants provide an excellent pool of candidates for Inspector General due to their experience in government and the non-partisan nature of their positions. Unfortunately, issues related to pay comparability for career employees limit the pool of qualified individuals willing to accept appointments as Inspectors General. Virtually all Inspectors General appointed by the President subject to Senate confirmation (PAS) receive significantly less pay than their subordinates in the Senior Executive Service (SES) who report directly to them and significantly less pay than other SES members accepting PAS appointments. Inspectors General fall into two distinct groups: those who are SES members when appointed as Inspectors General and those who are not. My remarks focus on career SES members who accept appointments as Inspector General.

SES Members Receiving Presidential Appointments

5 U.S.C. § 3392(c)(1) allows members of the SES who are appointed by the President to a position which is not in the SES to elect to retain their SES pay and benefits as if they had remained in the SES position from which they were appointed.

The legislative history of this provision reveals that it was intended to “make it possible for career appointees to serve in top level policy jobs outside the competitive service without losing their status as career employees.” Specifically, it “provides that an employee in the Senior Executive Service, who receives a Presidential appointment outside the Senior Executive Service after receiving such an award, shall continue to receive the annual payments to which he otherwise would be entitled.” The provision allows SES members to transition to their Presidential appointment without apprehension of losing their pay, leave, or retirement benefits. S. Rep. 95-969, at 68, 82 (1978), *reprinted in* 1978 U.S.C.C.A.N. 2723, 2790, 2804.

OPM guidance states that this provision is used to “encourage career executives to serve at the highest levels of the government and to broaden the pool the President can use to choose top managers.” The provision allowed SES members who accepted appointments as Inspectors General to retain their SES pay. However, the 2004 Defense Authorization Act ended pay equity for SES Inspectors General.

Changes Resulting From the National Defense Authorization Act of 2004

The 2004 Defense Authorization Act made SES members’ annual pay increases dependent on performance evaluations. Since Inspectors General occupy a unique position within the Federal government, there is no superior within the agency or department that can evaluate their performance without creating the appearance of a conflict of interest and bringing the Inspector General’s objectivity into question.

Bonuses for Inspectors General

Beginning in 1994, the Administration asked Presidentially-appointed Inspectors General drawn from the ranks of the Senior Executive Service to waive their rights to compete for annual bonuses, thus creating a pay disparity between Inspectors General and other members of the Senior Executive Service, including other SES members accepting Presidential appointments. These awards commonly range from 5% to 20% of the employee’s annual salary. In addition, SES Inspectors General are not considered for Presidential Rank awards ranging from 20% to 35% of the employee’s annual salary that their colleagues are eligible to receive.

Impact on Career SES IG Pay

Past SES members appointed as Inspectors General were often affiliated with their respective agencies and brought an invaluable and welcomed level of knowledge and experience to the IG position. They were routinely rated and recognized as “outstanding” SES performers and received the maximum pay for SES members at the time of their Presidential appointments.

With implementation of the 2004 Defense Authorization Act, Inspectors General who retained their SES status continue to be paid their 2003 salary level, around \$142,500, for perpetuity or until the lowest pay level for SES employees reaches their current pay. Other members of the Senior Executive Service and other PAS who retained their SES pay status can receive salaries up to \$168,000 annually. The financial impact of the restriction on pay and elimination of bonus eligibility can amount to as much as \$84,000 annually. It lowers not only the Inspector General’s standing when compared to other executives, but also his/her retirement annuity.

The 2004 Defense Authorization Act creates a disincentive for current SES members to accept a position as an Inspector General. It inadvertently created the precise situation the Civil Service Reform Act of 1978 sought to avoid with its explicit allowance for Presidential appointees to retain their SES status to ensure the President had the broadest possible pool of candidates to select from when filling these positions.

Options to Address Pay Comparability Issues

- Raise the pay of all Inspectors General consistent with the SES maximum, currently \$168,000 annually. This would keep IGs who elected to retain their SES pay at the same relative position within the SES pay scale they occupied prior to enactment of the Defense Authorization Act of 2004. While the prior SES pay system was not called a *pay for performance* system, pay raises were justified based upon documented performance accomplishments. This option recognizes the unique and nonpartisan nature of the Inspector General position. (Unlike other Presidential-appointees, Inspectors General do not leave their positions during a change of administration.)
- Provide bonuses for Inspectors General comparable to their SES counterparts, calculating bonuses based on the average of those received by other members of the senior executive service in their agency or department.
- Establish a Performance Review Board to evaluate the performance of career SES Inspectors General and authorize salary increases and/or bonuses. Also, this Performance Review Board could be authorized to recommend deserving Inspectors General for Presidential Rank awards.

Mr. Chairman, this concludes my prepared remarks. I would be happy to respond to any questions you and members of the Subcommittee may have.