

# Funding Integrity

## *Comparing Inspector General Funding Approaches*

It is a truth universally acknowledged that inspectors general require adequate funding to effectively perform their duties. Whether or not funding is adequate depends on the funding mechanism, but no particular method for budgetary allocations is used universally. CAPI reviewed different approaches throughout the country to better understand how budgets for inspectors general offices are set. This issue brief describes four different budget approaches used in various jurisdictions and examines their pros and cons. The Appendix lists the offices examined and provides information on their funding methods.

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This brief was prepared by the Center for the Advancement of Public Integrity at Columbia Law School. We can be reached at [CAPI@law.columbia.edu](mailto:CAPI@law.columbia.edu).

### Legislative Appropriation Approach

In the overwhelming majority of jurisdictions, budgets are determined by the legislature, based on the Office of the Inspector General's (OIG) projected operating costs. Generally, the OIG submits a departmental budget proposal to the head of the executive branch in the jurisdiction, who in turn submits a full budget proposal to the legislature. The legislature then passes an appropriations bill after considering the executive's proposal.

This approach may effectively meet the agency's needs within the confines of the overall budget. It could create a malleable budget that is responsive to voter concerns and budgetary constraints, providing the OIG with sufficient funds and reducing the chances of allocating excessive funds, which would result in governmental waste. As a result, in terms of tailoring the budget, this funding practice can be considered an efficient method. But this method also forces the OIG to rely upon public officials for funding, potentially seriously compromising the agency's independence. Some OIGs have jurisdiction over legislators. There is an inherent independence concern with giving the potential targets of an OIG investigation control over the office's funding.

The risks of the legislative appropriation approach are exemplified by recent events in Louisiana, where the state legislature attempted to completely defund the State OIG in response to the office's investigations into well-connected politicians. This occurred in both 2012 and 2016, with the legislature claiming on both occasions that the reason for defunding was the OIG's redundancy with other oversight agencies.<sup>1</sup> While both attempts ultimately failed, the Louisiana Legislature did successfully reduce the OIG budget by 20% in 2016.<sup>2</sup> This budget reduction resulted in the loss of three field level investigator positions and ultimately limited the number of investigations the agency could undertake.<sup>3</sup>

Ultimately, then, though the most common, the legislative appropriation approach may greatly limit an OIG's independence, and therefore its oversight capacity.

<sup>1</sup> Mike Hasten, *La. Senate committee plan restores House cuts, saves Avoyelles, Pineville prisons*, DAILY TOWN TALK, May 29, 2012, <https://advance.lexis.com/api/permalink/c3e49cf5-9f4f-4eff-8d10-a0d61294b562/?context=1000516> (last visited Sep 7, 2017); Louisiana House Committee votes to close down State Inspector General, PLAQUEMINE POST SOUTH, May 19, 2016, at 8A, <https://advance.lexis.com/api/permalink/b0f6d6d4-aa71-4e7a-947a-a080fde5d272/?context=1000516> (last visited Sep 7, 2017).

<sup>2</sup> OFFICE OF THE LOUISIANA INSPECTOR GENERAL, 2016 ANNUAL REPORT (2017) available at <http://oig.louisiana.gov/assets/docs/2016%20ANNUAL%20REPORT%20FINAL%20II%20203-21-2017.pdf>.

<sup>3</sup> Id.

## Term Appropriation Approach

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Montgomery County, Maryland uniquely employs a variant of the legislative appropriation approach. The OIG makes a budgetary proposal to the legislative entity, and the ultimate budgetary decisions are still made by public officials. However, unlike the legislative appropriation approach, the term appropriation approach requires the inspector general to create projections for the entire length of his or her term, as opposed to just the upcoming year. In light of these projections, the public officials make a binding decision for the upcoming year and recommends a budget for the remaining years. The budget may, in later years, be changed from the original recommendation, if accompanied by a reasonable explanation.

Since this approach also bases the budget on the OIG's proposals, it retains much of the flexibility of the legislative appropriation approach. One possible concern is that projecting too far into the future could make the appropriations out of sync with the agency's actual needs. But if the agency's budgetary needs change over the years, the inspector general could inform the appropriate officials, and the budget potentially could be adjusted accordingly.

The greater concern with this approach, as with the first approach, is OIG independence. This approach is a slight improvement upon the legislative appropriation approach: By forcing public officials to explain budget changes, it becomes harder to reduce the OIG's budget either in retaliation or for political reasons. Regardless, public officials determined to reduce the OIG's budget would likely be able come up with publicly acceptable justifications, even if those were not actually the underlying reasons. As such, the term appropriation approach does little more than the legislative appropriation approach to maintain OIG independence. And the tradeoff may be in efficiency: forcing OIGs to predict their budgets years out removes some of the ability to match funding with agency needs, which is the best feature of the legislative appropriation model.

## Fixed Percentage Approach

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The second approach, used by Chicago and Montreal, reduces the discretionary power that public officials exercise over OIG funding. Under this approach, the OIG's budget is determined in whole or in part by a fixed percentage of a particular sum of money: total annual funds appropriated to executive agencies by the city council (Chicago) or the city's total operating budget (Montreal). For the Chicago OIG and the Montreal OIG, this fixed percentage operates as a budgetary floor; without amending the law, the city government may not appropriate less than the fixed percentage. Additionally, as discussed below, Miami-Dade County is partially funded by a fixed percentage of the total annual revenues from the county's contracts. A jurisdiction could conceivably use this approach to fix an OIG's budget to a percentage of any dollar amount in the jurisdiction's budget, revenue, or other finances.

The benefit of such an approach is clear; reducing public officials' discretionary power over the OIG budget could grant the OIG a greater degree of independence. However, in jurisdictions where the fixed percentage operates as both the budgetary floor and ceiling, the budget will likely be less tailored to the agency's particular funding needs. Instead, the fixed budget may be either excessive or deficient, causing waste or starving the agency. Regarding OIG budget tailoring, Chicago Inspector General Joseph Ferguson noted, "Ideally, funding would be set to support a level of operation that permits the OIG to meaningfully inhabit and execute its mission, but no more, in order to assure some degree of fiscal accountability while allowing operational independence to proceed without fear of crippling reprisal."

Additionally, regarding concerns of waste, the Montreal OIG returns any unspent funds to the city surplus. According to Montreal Inspector General Denis Gallant, in the event of insufficient funds, it is possible that the Montreal OIG would then be able to ask for funding from the previously returned funds. However, because this issue has never arisen, it is unclear whether the OIG would have access to funds returned to the city surplus.

Inspector General Gallant notes, “Knowing there is a fixed budget, the [Montreal OIG] knows how much money is provided to the agency for the year, thus allowing [us] to make the day-to-day decisions based on that anticipated budget. It’s not a surprise at the end of the year.”

Furthermore, although this approach offers increased agency independence, the OIG is still subject to the expenditure authority of another agency or office in actually obtaining its funds. Government agencies generally receive disbursement of their appropriated funds from the jurisdiction’s finance department, budget department, or comptroller office. Because of this, even if an OIG has funding independence from other government bodies, the OIG likely will not exercise independent expenditure authority because access to their appropriated funds is controlled by the office managing the jurisdiction’s budget disbursements, and such offices generally lie within the executive branch. A chief executive who wishes to hamper OIG investigations thus could still potentially pressure the OIG through its purse strings. Note that this limit on independence can apply to any of the approaches described in this brief.

### **Fixed Percentage Plus Approach**

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The third approach, adopted by Miami-Dade County, fuses aspects of the legislative appropriation and the fixed percentage approaches. The majority of the OIG’s budget comes from a fixed percentage, giving the office 0.25% of the revenues from County contracts, through a fee entitled the IG Contract Fee. For the 2015-2016 fiscal year, the most recently reported period, the Miami-Dade OIG collected approximately \$2,725,000 in revenue from fees and charges. Additionally, the OIG’s budget can be supplemented with money from the county’s general fund. As in the legislative appropriation approach, the Board of County Commissioners decides how much money to allocate from the general fund based on the OIG’s proposed budget. Furthermore, the Miami-Dade OIG has Memoranda of Understanding with various County departments where the OIG has committed substantial financial resources, for which they receive direct reimbursements.

This approach represents a compromise between the legislative appropriation and fixed percentage methods. Notably, it allows the legislature to increase funding if the fixed allocation is deficient.

As for independence, this approach likewise finds the middle ground. While the OIG is not completely independent and must rely upon public officials if the fixed percentage funds are insufficient, the majority of its budget remains fixed. This frees the OIG from fears about crippling budget cuts that could necessitate serious layoffs and hinder investigations—as occurred in Louisiana. Miami-Dade’s Inspector General, Mary Cagle, believes this balanced approach has worked well in practice, as her office has consistently been provided adequate funding and has maintained an appropriate level of independence.

### **Conclusion**

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None of these approaches is perfect. All fail to keep the OIG fully insulated from political concerns, and there is a fine balancing act between financial independence and budgetary malleability. These budget approaches reflect value judgments. When creating or reorganizing an OIG, jurisdictions should carefully consider what they hold as their top priorities for an inspector general.

## Appendix

Legislative Appropriation*	Fixed Percentage	Fixed Percentage Plus
Jurisdiction	Budget decision	Source of Law
Chicago	Receives at least 0.14% of total annual funds appropriated by the City Council.	Chicago, Ill., Municipal Code § 2-56-010
District of Columbia	The Inspector General submits a budget proposal to the Mayor, who then forwards it to the Council of the District of Columbia. The Council may make recommendations, but the ultimate decision is made by the Mayor.	D.C. Code § 1-301.115a(a)(2)(A)
Florida	The OIG must submit a budget request, which is developed in consultation with the Office of Policy and Budget as well as the state House and Senate. Each house then comes up with its own appropriations bill, with any differences being resolved by a joint committee, and the Governor may veto individual line items.	Fla. Stat. § 216.023(1)
Georgia	The OIG submits a requested budget to Governor's Office of Planning and Budget. Any significant changes made by the Governor's office will be done after conferring with the OIG. The proposed budget will then be submitted to state legislative chambers for approval.	O.C.G.A. § 45-12-78(a); § 45-12-79; § 45-12-80
Indiana	The budget is determined through an appropriations process managed through the State Budget Agency. The Governor sets the compensation for the Inspector General.	Ind. Code § 4-2-7-2; § 4-12-1-7
Louisiana	Budget is determined by the legislature with a statutory requirement that the funding be "adequate"	La. R.S. § 49:220.22
Miami-Dade County	The office is funded by the amount of 0.25% of annual county contracts. This amount may be supplemented with money from the General Fund (approved by the Board of County Commissioners). Further, they have a Memoranda of Understanding with various County departments where the OIG has committed substantial financial resources, by which they receive direct payments.	Miami-Dade, Fla., County Code § 2-1076(d)(6)
Montgomery County	By 4 months after the Inspector General is appointed, the Inspector General must submit to the Executive and Council a projected budget for the Office of the Inspector General for the entire 4-year term. In the resolution approving the operating budget for the next fiscal year, the Council must also recommend a projected budget for the Office of the Inspector General for the 3 following fiscal years. The Council must specify in any later budget resolution how the Office budget for that fiscal year differs from the projected budget the Council previously recommended.	Montgomery, Md., County Code § 2-151(f)
Montreal	The budget must be at least a fixed percentage (0.11%) of the City's operating budget.	Charter of Ville de Montréal § 57.1.21
New York	The OIG proposes a budget to the Governor, who then proposes a budget to the State Legislature for approval. This is the same process used for all executive agencies.	N.Y. CLS St. Fin. § 22
New York City	The DOI makes a budget proposal, which then must be approved by City Council.	NYC Charter § 100
Philadelphia	The OIG's proposed budget is sent to the Mayor, who includes the proposal in his budget proposal. The Mayor's Budget proposal is submitted to the City Council for approval.	Philadelphia Home Rule Charter § 6-105
South Carolina	Like all other agencies in South Carolina, the OIG submits a requested budget to the Governor, who makes his proposed budget to both chambers of the State Legislature. The State Legislature then makes amendments and passes the final budget allocation.	S.C. Code § 1-6-20; § 11-11-30; § 11-11-70; § 11-11-100
Virginia	The OIG consults with the Virginia Department of Planning and Budget to create a proposed budget. The proposal goes to the Governor as a recommendation for his proposed budget. The Governor's budget then goes to the General Assembly for approval. The Governor has line-item veto power.	Va. Code Ann. § 2.2-1504; § 2.2-1508

\* Other OIGs researched that use the legislative appropriation approach include: Broward County (Florida) OIG, Cook County (Illinois) OIG, Essex County (New Jersey) OIG, Illinois State OEIG, Lee County (Florida) OIG, Massachusetts State OIG, Pennsylvania State OIG, and City of Yonkers (New York) OIG.