

Calendar No. 228

109TH CONGRESS
1ST SESSION

S. 1738

To expand the responsibilities of the Special Inspector General for Iraq Reconstruction to provide independent and objective audits and investigations relating to the Federal programs for Hurricane Katrina recovery.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2005

Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. SUNUNU, Mr. DURBIN, Mr. PRYOR, Mrs. CLINTON, Mr. CARPER, Mr. CHAFEE, Mr. VITTER, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

SEPTEMBER 27, 2005

Reported by Ms. COLLINS, with amendments

[Omit the part struck through and insert the part printed in *italie*]

A BILL

To expand the responsibilities of the Special Inspector General for Iraq Reconstruction to provide independent and objective audits and investigations relating to the Federal programs for Hurricane Katrina recovery.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Special Inspector Gen-
3 eral for Relief and Reconstruction Act of 2005”.

4 **SEC. 2. SPECIAL INSPECTOR GENERAL FOR RELIEF AND**
5 **RECONSTRUCTION.**

6 (a) REDESIGNATION.—(1) Section 3001 of the Emer-
7 gency Supplemental Appropriations Act for Defense and
8 for the Reconstruction of Iraq and Afghanistan, 2004
9 (Public Law 108–106; 117 Stat. 1234; 5 U.S.C. App. 3
10 section 8G note) is amended—

11 (A) in subsection (b), by striking “Office of the
12 Special Inspector General for Iraq Reconstruction”
13 and inserting “Office of the Special Inspector Gen-
14 eral for Relief and Reconstruction”; and

15 (B) in subsection (c)(1), by striking all after
16 “The head of the Office of the Special Inspector
17 General” and inserting “for Relief and Reconstruc-
18 tion is the Special Inspector General for Relief and
19 Reconstruction (in this section referred to as the ‘In-
20 spector General’). If a vacancy occurs after the serv-
21 ice of the individual as provided under subsection (b)
22 of the Special Inspector General for Relief and Re-
23 construction Act of 2005, the Inspector General
24 shall be appointed by the ~~Director of the Office of~~
25 ~~Management and Budget~~ *President, by and with the*
26 *advice and consent of the Senate.*”.

1 (2)(A) The heading of such section is amended to
 2 read as follows:

3 **“SEC. 3001. SPECIAL INSPECTOR GENERAL FOR RELIEF
 4 AND RECONSTRUCTION.”.**

5 (B) The heading of title III of such Act is amended
 6 to read as follows:

7 **“TITLE III—SPECIAL INSPECTOR
 8 GENERAL FOR RELIEF AND
 9 RECONSTRUCTION”.**

10 (b) CONTINUATION IN OFFICE.—The individual serv-
 11 ing as the Special Inspector General for Iraq Reconstruc-
 12 tion as of the date of the enactment of this Act may con-
 13 tinue to serve as the Special Inspector General for Relief
 14 and Reconstruction (with all additional duties and respon-
 15 sibilities as provided under this Act) after that date with-
 16 out reappointment under paragraph (1) of section 3001(c)
 17 of the Emergency Supplemental Appropriations Act for
 18 Defense and for the Reconstruction of Iraq and Afghani-
 19 stan, 2004, but remaining subject to removal as specified
 20 in paragraph (4) of that section.

21 (c) PURPOSES.—Subsection (a) of such section is
 22 amended—

23 (1) in paragraph (1), by inserting “and for
 24 Hurricane Katrina recovery activities” after “Iraq
 25 Relief and Reconstruction Fund”; and

1 (2) in paragraph (3), by striking “the Secretary
2 of State and the Secretary of Defense” and inserting
3 “the Secretary of State, the Secretary of Homeland
4 Security, the Secretary of Defense, and the heads of
5 other Federal agencies, as appropriate,”.

6 (d) RESPONSIBILITIES OF ASSISTANT INSPECTOR
7 GENERAL FOR AUDITING.—Subsection (d) of such section
8 is amended to read as follows:

9 “(d) ASSISTANT INSPECTORS GENERAL.—(1) The
10 Inspector General shall, in accordance with applicable laws
11 and regulations governing the civil service—

12 “(A) appoint 1 or more Assistant Inspectors
13 General for Auditing who shall have the responsi-
14 bility for supervising the performance of auditing ac-
15 tivities relating to—

16 “(i) programs and operations supported by
17 the Iraq Relief and Reconstruction Fund; and

18 “(ii) programs and operations relating to
19 Hurricane Katrina recovery activities; and

20 “(B) appoint 1 or more Assistant Inspectors
21 General for Investigations who shall have the re-
22 sponsibility for supervising the performance of inves-
23 tigative activities relating to such programs and op-
24 erations.”.

1 (e) SUPERVISION.—Such section is further amend-
2 ed—

3 (1) in subsection (e)—

4 ~~(A) in paragraph (1), by striking “the Sec-~~
5 ~~retary of State and the Secretary of Defense”~~
6 ~~and inserting “the Director of the Office of~~
7 ~~Management and Budget, the Secretary of~~
8 ~~State, and the Secretary of Defense”;~~ and

9 (A) *by striking paragraph (1) and inserting*
10 *the following:*

11 “(1)(A) *Except as provided in paragraph (2), the In-*
12 *spector General shall report directly to, and be under the*
13 *general supervision of, the Secretary of State and the Sec-*
14 *retary of Defense with respect to activities relating to the*
15 *Iraq Relief and Reconstruction Fund.*

16 “(B) *Except as provided in paragraph (2), the Inspec-*
17 *tor General shall report directly to, and be under the gen-*
18 *eral supervision of, the Director of the Office of Management*
19 *and Budget and the Secretary of Homeland Security with*
20 *respect to activities relating to Hurricane Katrina recovery*
21 *activities.”; and*

22 (B) in paragraph (2)—

23 (i) by striking “Department of De-
24 fense, the Department of State, or the
25 United States Agency for International

1 Development” and inserting “Federal Gov-
2 ernment”; and

3 (ii) by inserting “and Hurricane
4 Katrina recovery activities” after “Iraq
5 Relief and Reconstruction Fund”;

6 (2) in subsection (f)—

7 (A) in paragraph (1)—

8 (i) by inserting “(A)” after “(1)”;

9 (ii) by redesignating subparagraphs
10 (A) through (E) as clauses (i) through (v),
11 respectively; and

12 (iii) by adding at the end the fol-
13 lowing:

14 “(B) It shall be the duty of the Inspector General
15 to conduct and coordinate audits and investigations of the
16 treatment, handling, and expenditure of amounts appro-
17 priated or otherwise made available for Hurricane Katrina
18 recovery by the Federal Government, and of the programs,
19 operations, and contracts carried out utilizing such funds,
20 including—

21 “(i) the oversight and accounting of the obliga-
22 tion and expenditure of such funds;

23 “(ii) the monitoring and review of reconstruc-
24 tion activities funded by such funds;

1 “(iii) the monitoring and review of contracts
2 funded by such funds;

3 “(iv) the monitoring and review of the transfer
4 of such funds and associated information between
5 and among departments, agencies, and entities of
6 the United States, State and local governments, and
7 private and nongovernmental entities;

8 “(v) the maintenance of records on the use of
9 such funds to facilitate future audits and investiga-
10 tions of the use of such funds; and

11 “(vi) the monitoring of Federal grants and ben-
12 efit programs.”; and

13 (B) in paragraph (4)—

14 (i) by inserting “(A)” after “(4)”;

15 (ii) by striking all after “cooperation
16 of” and inserting “the inspectors general
17 and auditing entities of all other Federal
18 departments and agencies, and State and
19 local government entities.”; and *depart-*
20 *ments and agencies.”; and*

21 (iii) by adding at the end the fol-
22 lowing:

23 “(B)(i) The Inspector General shall ensure, to the
24 greatest extent possible, that the activities of the Inspector
25 General do not duplicate audits and investigations of in-

1 spectors general and other auditors of Federal depart-
2 ments and agencies, and State and local government enti-
3 ties.

4 “(ii) The Inspector General shall notify the inspector
5 general of the relevant agency or department before initi-
6 ating an audit or investigation relating to Hurricane
7 Katrina activities.

8 “(iii) Nothing in this section shall be construed to
9 limit the statutory authority of inspectors general to con-
10 duct audits or investigations relating to Hurricane
11 Katrina activities.”;

12 (3) in subsection (h)(4)(B), by striking “Sec-
13 retary of State or Secretary of Defense” and insert-
14 ing “Director of the Office of Management and
15 Budget and heads of relevant agencies”; and

16 (4) in subsection (h)(5)—

17 (A) by inserting “(A)” after “(5)”;

18 (B) by inserting “for activities relating to
19 Iraq” after “operation of such offices”; and

20 (C) by adding at the end the following:

21 “(B) The Secretary of Homeland Security shall pro-
22 vide the Inspector General with appropriate and adequate
23 office space, together with such equipment, office supplies,
24 and communications facilities and services as may be nec-
25 essary for the operations of such offices for activities relat-

1 ing to Hurricane Katrina, and shall provide necessary
2 maintenance services for such offices and equipment and
3 facilities located therein.”.

4 (f) REPORTS RELATING TO THE IRAQI RELIEF AND
5 RECONSTRUCTION.—Subsection (i) of such section is
6 amended by adding at the end the following:

7 “(7)(A) The Inspector General shall also submit each
8 report under this subsection to the Secretary of State and
9 the Secretary of Defense.

10 “(B)(i) Not later than 30 days after receipt of a re-
11 port under subparagraph (A), the Secretary of State and
12 the Secretary of Defense may submit to the appropriate
13 committees of Congress any comments on the matters cov-
14 ered by the report as the Secretary of State or the Sec-
15 retary of Defense, as the case may be, considers appro-
16 priate.

17 “(ii) A report under this subparagraph may include
18 a classified annex if the Secretary of State or the Sec-
19 retary of Defense, as the case may be, considers it nec-
20 essary.”.

21 (g) REPORTS RELATING TO HURRICANE KATRINA
22 RELIEF AND RECONSTRUCTION.—Subsection (j) of such
23 section is amended to read as follows:

24 “(j) REPORTS RELATING TO HURRICANE KATRINA
25 RELIEF AND RECONSTRUCTION.—(1)(A) At the end of

1 each calendar quarter, beginning with the first full quarter
2 after the date of enactment of the Special Inspector Gen-
3 eral for Relief and Reconstruction Act of 2005, the Inspec-
4 tor General shall submit to the appropriate committees of
5 Congress a report summarizing for the period of that
6 quarter the activities of the Inspector General and of the
7 Hurricane Katrina recovery activities of the Federal Gov-
8 ernment. Each report shall include, for the period covered
9 by such report, a detailed statement of all obligations, ex-
10 penditures, and revenues associated with recovery activi-
11 ties for Hurricane Katrina, including the following:

12 “(i) Obligations and expenditures of appro-
13 priated funds.

14 “(ii) Accounting of the costs incurred to date
15 for Hurricane Katrina recovery, together with the
16 estimate of the Federal Government’s costs to com-
17 plete each project and each program.

18 “(iii) Operating expenses of any Federal de-
19 partments, agencies, or entities receiving appro-
20 priated funds for Hurricane Katrina recovery activi-
21 ties.

22 “(iv) In the case of any contract described in
23 paragraph (2)—

24 “(I) the amount of the contract or other
25 agreement;

1 “(II) a brief discussion of the scope of the
2 contract or other agreement;

3 “(III) a discussion of how the contracting
4 department or agency identified, and solicited
5 offers from, potential contractors to perform
6 the contract, together with a list of the poten-
7 tial contractors that were issued solicitations
8 for the offers; and

9 “(IV) the justification and approval docu-
10 ments on which was based the determination to
11 use procedures other than procedures that pro-
12 vide for full and open competition.

13 “(B) The first quarterly report required to be sub-
14 mitted under subparagraph (A) shall also summarize ac-
15 tivities for Hurricane Katrina recovery undertaken before
16 that quarter.

17 “(2) A contract described in this paragraph is any
18 major contract or other agreement that is entered into by
19 any department or agency of the United States Govern-
20 ment that involves the use of amounts appropriated or
21 otherwise made available for Hurricane Katrina recovery
22 with any public or private sector entity.

23 “(3) Not later than 45 days after the date of enact-
24 ment of the Special Inspector General for Relief and Re-
25 construction Act of 2005, the Inspector General shall sub-

1 mit to the appropriate committees of Congress an interim
2 report on the status of Hurricane Katrina recovery activi-
3 ties of the Federal Government. The interim report shall
4 include the following:

5 “(A) The operational activities of the Office of
6 the Special Inspector General for Relief and Recon-
7 struction.

8 “(B) The status of auditors and investigators
9 deployed to the Gulf of Mexico region of the United
10 States.

11 “(C) A strategic plan for oversight, including
12 audits of no bid contracts.

13 “(D) Vulnerabilities identified and immediate
14 actions to address such vulnerabilities.

15 “(E) Measures taken to coordinate interagency
16 oversight elements.

17 “(4) Not later than March 31, 2006, and semiannu-
18 ally thereafter, the Inspector General shall submit to the
19 appropriate committees of Congress a report meeting the
20 requirements of section 5 of the Inspector General Act of
21 1978 (5 U.S.C. App.).

22 “(5) The Inspector General shall publish each report
23 under this subsection on an accessible Federal Govern-
24 ment Internet Web site.

1 “(6) Nothing in this subsection shall be construed to
2 authorize the public disclosure of information that is—

3 “(A) specifically prohibited from disclosure by
4 any other provision of law;

5 “(B) specifically required by Executive order to
6 be protected from disclosure in the interest of na-
7 tional defense or national security or in the conduct
8 of foreign affairs; or

9 “(C) a part of an ongoing criminal investiga-
10 tion.

11 “(7)(A) The Inspector General shall also submit each
12 report under this subsection to the Director of the Office
13 of Management and Budget, Secretary of ~~Defense~~ *Home-*
14 *land Security*, or heads of other appropriate agencies.

15 “(B) Not later than 30 days after receipt of a report
16 under paragraph (1), the Director of the Office of Man-
17 agement and Budget and the heads of other appropriate
18 agencies may submit to the appropriate committees of
19 Congress any comments on the matters covered by the re-
20 port as the Director of the Office of Management and
21 Budget and heads of relevant agencies consider appro-
22 priate.

23 “(8) The Inspector General shall respond to any rea-
24 sonable summons to appear and testify before any duly
25 constituted committee of Congress.”.

1 (h) TRANSPARENCY.—Subsection (k) of such section
2 is amended—

3 (1) in paragraph (1), by striking “subsection
4 (i), the Secretary of State and the Secretary of De-
5 fense shall jointly” and inserting “subsection (i) or
6 (j), the Director of the Office of Management and
7 Budget and the heads of the relevant departments
8 shall”; and

9 (2) in paragraph (2), by striking “subsection
10 (j)(2) of comments on a report under subsection (i),
11 the Secretary of State and the Secretary of Defense
12 shall jointly” and inserting “subsection (i)(7)(B) or
13 (j)(7)(B) of comments on a report under subsection
14 (i) or (j), the Director of the Office of Management
15 and Budget and the heads of relevant departments
16 shall”.

17 (i) WAIVER.—Subsection (l) of such section is
18 amended—

19 (1) in paragraph (1), by inserting “or para-
20 graph (1) or (3) of subsection (j)” after “subsection
21 (i)”;

22 (2) in paragraph (2), by inserting “or para-
23 graph (1) or (3) of subsection (j)” after “subsection
24 (i)” *each place that term occurs.*

1 (j) APPROPRIATE COMMITTEES OF CONGRESS.—

2 Subsection (m) of such section is amended—

3 (1) in paragraph (1), by striking “and Foreign
4 Relations” and inserting “Foreign Relations, and
5 Homeland Security and Governmental Affairs”; and

6 (2) in paragraph (2), by striking “and Inter-
7 national Relations” and inserting “International Re-
8 lations, and Homeland Security”.

9 (k) FUNDING.—Subsection (n) of such section is
10 amended by adding at the end the following:

11 “(3) There are authorized to be appropriated to the
12 Office of the Special Inspector General for Relief and Re-
13 construction to carry out the responsibilities of the Special
14 Inspector General relating to Hurricane Katrina recovery
15 \$80,000,000 for fiscal year 2006.”.

16 (l) TERMINATION.—Subsection (o) of such section is
17 amended to read as follows:

18 “(o) TERMINATION.—(1)(A) The responsibilities of
19 the Office of the Special Inspector General for Relief and
20 Reconstruction with respect to the Iraq Relief and Recon-
21 struction Fund shall terminate on the date that is 10
22 months after the date, as determined by the Secretary of
23 State and Secretary of Defense, on which 80 percent of
24 the amounts appropriated or otherwise made available to

1 the Iraq Relief and Reconstruction Fund by chapter 2 of
2 title II of this Act have been obligated.

3 “(B) The responsibilities of the Office of the Special
4 Inspector General for Relief and Reconstruction with re-
5 spect to Hurricane Katrina recovery activities shall termi-
6 nate 2 years after the date of enactment of the Special
7 Inspector General for Relief and Reconstruction Act of
8 2005.

9 “(2) The Office of the Special Inspector General for
10 Relief and Reconstruction shall terminate on the later date
11 occurring under subparagraph (A) or (B) of paragraph
12 (1).”.

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