

IG INDEPENDENCE AND EMPOWERMENT ACT

JUNE 17, 2021.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mrs. CAROLYN B. MALONEY of New York, from the Committee on Oversight and Reform, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 2662]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Reform, to whom was referred the bill (H.R. 2662) to amend the Inspector General Act of 1978, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “IG Independence and Empowerment Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INSPECTOR GENERAL INDEPENDENCE

Sec. 101. Short title.
Sec. 102. Amendment.

TITLE II—CONGRESSIONAL NOTIFICATION OF CHANGE IN STATUS OF INSPECTOR GENERAL

Sec. 201. Short title.
Sec. 202. Change in status of Inspector General offices.
Sec. 203. Presidential explanation of failure to nominate an Inspector General.

TITLE III—VACANCY OF INSPECTOR GENERAL POSITIONS

Sec. 301. Vacancy of Inspector General positions.

TITLE IV—COUNCIL OF INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY TRANSPARENCY

Sec. 401. Short title.
Sec. 402. Additional information to be included in requests and reports to Congress.
Sec. 403. Availability of information to members of Congress regarding certain allegations of wrongdoing closed without referral.
Sec. 404. Semiannual report.
Sec. 405. Additional reports; rules of construction.
Sec. 406. Membership of Integrity Committee.
Sec. 407. Requirement to refer allegations of wrongdoing against Inspector General to Integrity Committee.
Sec. 408. Requirement to report final disposition to Congress.

TITLE V—ADDITIONAL AUTHORITY PROVISIONS FOR INSPECTORS GENERAL

Sec. 501. Short title.
Sec. 502. Additional authority provisions for Inspectors General.

TITLE VI—INVESTIGATIONS OF DEPARTMENT OF JUSTICE PERSONNEL

Sec. 601. Short title.
Sec. 602. Investigations of Department of Justice personnel.

TITLE VII—OFFICE OF INSPECTOR GENERAL WHISTLEBLOWER COMPLAINTS

Sec. 701. Short title.
Sec. 702. Office of Inspector General whistleblower complaints.

TITLE VIII—NOTICE OF ONGOING INVESTIGATIONS WHEN THERE IS A CHANGE IN STATUS OF INSPECTOR GENERAL

Sec. 801. Notice of ongoing investigations when there is a change in status of Inspector General.

TITLE IX—COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY APPROPRIATION

Sec. 901. CIGIE appropriation.

TITLE X—NOTICE OF REFUSAL TO PROVIDE INSPECTORS GENERAL ACCESS

Sec. 1001. Notice of refusal to provide information or assistance to Inspectors General.

TITLE XI—ENHANCEMENTS TO INSPECTOR GENERAL TRAINING

Sec. 1101. Short title.
Sec. 1102. Enhancements to Inspector General Training.

TITLE XII—BUDGETARY EFFECTS

Sec. 1201. Determination of budgetary effects.

TITLE XIII—SEVERABILITY

Sec. 1301. Severability.

TITLE I—INSPECTOR GENERAL INDEPENDENCE

SEC. 101. SHORT TITLE.

This title may be cited as the “Inspector General Independence Act”.

SEC. 102. AMENDMENT.

The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 3(b)—

(A) by striking “An Inspector General” and inserting:

“(1) An Inspector General”;

(B) by inserting after “by the President” the following: “in accordance with paragraph (2)”;

(C) by inserting at the end the following new paragraph:

“(2) The President may remove an Inspector General only for any of the following grounds (and the documentation of any such ground shall be included in the communication required pursuant to paragraph (1)):

“(A) Documented permanent incapacity.

“(B) Documented neglect of duty.

“(C) Documented malfeasance.

“(D) Documented conviction of a felony or conduct involving moral turpitude.

“(E) Documented knowing violation of a law or regulation.

“(F) Documented gross mismanagement.

“(G) Documented gross waste of funds.

“(H) Documented abuse of authority.

“(I) Documented inefficiency.”; and

(2) in section 8G(e)(2), by adding at the end the following: “An Inspector General may be removed only for any of the following grounds (and the documentation of any such ground shall be included in the communication required pursuant to this paragraph):

“(A) Documented permanent incapacity.

“(B) Documented neglect of duty.

“(C) Documented malfeasance.

“(D) Documented conviction of a felony or conduct involving moral turpitude.

“(E) Documented knowing violation of a law or regulation.

“(F) Documented gross mismanagement.

“(G) Documented gross waste of funds.

“(H) Documented abuse of authority.

“(I) Documented inefficiency.”.

TITLE II—CONGRESSIONAL NOTIFICATION OF CHANGE IN STATUS OF INSPECTOR GENERAL

SEC. 201. SHORT TITLE.

This title may be cited as the “Inspector General Protection Act”.

SEC. 202. CHANGE IN STATUS OF INSPECTOR GENERAL OFFICES.

(a) CHANGE IN STATUS OF INSPECTOR GENERAL OF OFFICES.—Paragraph (1) of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by inserting “, is placed on paid or unpaid non-duty status,” after “is removed from office”;

(2) by inserting “, change in status,” after “any such removal”; and

(3) by inserting “, change in status,” after “before the removal”.

(b) CHANGE IN STATUS OF INSPECTOR GENERAL OF DESIGNATED FEDERAL ENTITIES.—Section 8G(e)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by inserting “, is placed on paid or unpaid non-duty status,” after “office”;

(2) by inserting “, change in status,” after “any such removal”; and

(3) by inserting “, change in status,” after “before the removal”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of the enactment of this Act.

SEC. 203. PRESIDENTIAL EXPLANATION OF FAILURE TO NOMINATE AN INSPECTOR GENERAL.

(a) IN GENERAL.—Subchapter III of chapter 33 of title 5, United States Code, is amended by inserting after section 3349d the following new section:

“§ 3349e. Presidential explanation of failure to nominate an Inspector General

“If the President fails to make a formal nomination for a vacant Inspector General position that requires a formal nomination by the President to be filled within the period beginning on the date on which the vacancy occurred and ending on the day that is 210 days after that date, the President shall communicate, within 30 days after the end of such period, to Congress in writing—

“(1) the reasons why the President has not yet made a formal nomination; and

“(2) a target date for making a formal nomination.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3349d the following new item:

“3349e. Presidential explanation of failure to nominate an Inspector General.”.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any vacancy first occurring on or after that date.

TITLE III—VACANCY OF INSPECTOR GENERAL POSITIONS

SEC. 301. VACANCY OF INSPECTOR GENERAL POSITIONS.

(a) IN GENERAL.—Section 3345 of title 5, United States Code, is amended by adding at the end the following:

“(d)(1) Notwithstanding subsection (a), if an Inspector General position that requires appointment by the President by and with the advice and consent of the Senate to be filled is vacant, the first assistant of such position shall perform the functions and duties of the Inspector General temporarily in an acting capacity subject to the time limitations of section 3346.

“(2) Notwithstanding subsection (a), if for purposes of carrying out paragraph (1) of this subsection, by reason of absence, disability, or vacancy, the first assistant to the position of Inspector General is not available to perform the functions and duties of the Inspector General, an acting Inspector General shall be appointed by the President from among individuals serving in an office of any Inspector General, provided that—

“(A) during the 365-day period preceding the date of death, resignation, or beginning of inability to serve of the applicable Inspector General, the individual served in a position in an office of any Inspector General for not less than 90 days; and

“(B) the rate of pay for the position of such individual is equal to or greater than the minimum rate of pay payable for a position at GS–15 of the General Schedule.”.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to any vacancy first occurring with respect to an Inspector General position on or after the date of enactment of this Act.

TITLE IV—COUNCIL OF INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY TRANSPARENCY

SEC. 401. SHORT TITLE.

This title may be cited as the “Integrity Committee Transparency Act of 2021”.

SEC. 402. ADDITIONAL INFORMATION TO BE INCLUDED IN REQUESTS AND REPORTS TO CONGRESS.

Section 11(d) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (5)(B)(ii), by striking the period at the end and inserting “, the length of time the Integrity Committee has been evaluating the allegation of wrongdoing, and a description of any previous written notice provided under this clause with respect to the allegation of wrongdoing, including the description provided for why additional time was needed.”; and

(2) in paragraph (8)(A)(ii), by inserting “or corrective action” after “disciplinary action”.

SEC. 403. AVAILABILITY OF INFORMATION TO MEMBERS OF CONGRESS REGARDING CERTAIN ALLEGATIONS OF WRONGDOING CLOSED WITHOUT REFERRAL.

Section 11(d)(5)(B) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

“(iii) AVAILABILITY OF INFORMATION TO MEMBERS OF CONGRESS.—

“(I) IN GENERAL.—With respect to an allegation of wrongdoing made by a member of Congress that is closed by the Integrity Committee without referral to the Chairperson of the Integrity Com-

mittee to initiate an investigation, the Chairperson of the Integrity Committee shall, not later than 60 days after closing such allegation, provide a written description of the nature of the allegation of wrongdoing and how the Integrity Committee evaluated the allegation of wrongdoing to—

“(aa) the Chair and Ranking Member of the Committee on Oversight and Reform of the House of Representatives;

“(bb) the Chair and Ranking Member of the Committee on Homeland Security and Governmental Affairs of the Senate;

“(cc) a member of the House of Representatives who has the support of any seven members of the Committee on Oversight and Reform of the House of Representatives; or

“(dd) a member of the Senate who has the support of any five members of the Committee on Homeland Security and Governmental Affairs of the Senate.

“(II) REQUIREMENT TO FORWARD.—The Chairperson of the Integrity Committee shall forward any written description or update provided under this clause to the members of the Integrity Committee and to the Chairperson of the Council.”.

SEC. 404. SEMIANNUAL REPORT.

Section 11(d)(9) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended to read as follows:

“(9) SEMIANNUAL REPORT.—On or before May 31, 2022, and every six months thereafter, the Council shall submit to Congress and the President a report on the activities of the Integrity Committee during the immediately preceding six-month periods ending March 31 and September 30, which shall include the following with respect to allegations of wrongdoing that are made against Inspectors General and staff members of the various Offices of Inspector General described under paragraph (4)(C):

“(A) An overview and analysis of the allegations of wrongdoing disposed of by the Integrity Committee, including—

“(i) analysis of the positions held by individuals against whom allegations were made, including the duties affiliated with such positions;

“(ii) analysis of the categories or types of the allegations of wrongdoing; and

“(iii) a summary of disposition of all the allegations.

“(B) The number of allegations referred to the Department of Justice or the Office of Special Counsel, including the number of allegations referred for criminal investigation.

“(C) The number of allegations referred to the Chairperson of the Integrity Committee for investigation, a general description of the status of such investigations, and a summary of the findings of investigations completed.

“(D) An overview and analysis of allegations of wrongdoing received by the Integrity Committee during any previous reporting period, but remained pending during some part of the six months covered by the report, including—

“(i) analysis of the positions held by individuals against whom allegations were made, including the duties affiliated with such positions;

“(ii) analysis of the categories or types of the allegations of wrongdoing; and

“(iii) a summary of disposition of all the allegations.

“(E) The number and category or type of pending investigations.

“(F) For each allegation received—

“(i) the date on which the investigation was opened;

“(ii) the date on which the allegation was disposed of, as applicable; and

“(iii) the case number associated with the allegation.

“(G) The nature and number of allegations to the Integrity Committee closed without referral, including the justification for why each allegation was closed without referral.

“(H) A brief description of any difficulty encountered by the Integrity Committee when receiving, evaluating, investigating, or referring for investigation an allegation received by the Integrity Committee, including a brief description of—

“(i) any attempt to prevent or hinder an investigation; or

“(ii) concerns about the integrity or operations at an Office of Inspector General.”.

SEC. 405. ADDITIONAL REPORTS; RULES OF CONSTRUCTION.

Section 11(d) of the Inspector General Act of 1978 (5 U.S.C. App) is amended by adding at the end the following:

“(14) ADDITIONAL REPORTS.—

“(A) REPORT TO INSPECTOR GENERAL.—The Chairperson of the Integrity Committee shall submit a report immediately whenever the Chairperson of the Integrity Committee becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of an Office of Inspector General. The report shall be sent to the Inspector General who leads the Office of Inspector General at which the serious or flagrant problems, abuses, or deficiencies were alleged.

“(B) REPORT TO CONGRESS.—The Inspector General of the Office identified by the Integrity Committee shall submit any such report to the House Committee on Oversight and Reform and the Senate Committee on Homeland Security and Governmental Affairs within seven calendar days from the time the Inspector General receives the report together with a report by the Inspector General at the Office identified by the Integrity Committee containing any comments such Inspector General deems appropriate.

“(15) RULE OF CONSTRUCTION.—

“(A) PUBLIC DISCLOSURE OF INFORMATION.—Except as provided in subparagraph (B), nothing in this subsection shall be construed to authorize the public disclosure of information which is—

“(i) prohibited from disclosure by any other provision of law;

“(ii) 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

“(iii) a part of an ongoing criminal investigation.

“(B) PROVISION OF REPORT TO REQUESTING MEMBERS OF CONGRESS.—Subject to any other provision of law that would otherwise prohibit disclosure of such information, the information described in subparagraph (A) may be provided to any Member of Congress upon request of the Member.

“(16) PROHIBITED DISCLOSURES.—The Integrity Committee may not provide or otherwise disclose to Congress or the public any information that reveals the personally identifiable information of an individual who alleges wrongdoing to the Integrity Committee under this subsection unless the Integrity Committee first obtains the consent of the individual.”.

SEC. 406. MEMBERSHIP OF INTEGRITY COMMITTEE.

Section 11(d)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (A), by adding at the end the following:

“(iv) The individual appointed under subparagraph (C).”; and

(2) by adding at the end the following:

“(C) APPOINTMENT OF FORMER INSPECTOR GENERAL TO COMMITTEE.—

“(i) APPOINTMENT.—The Chairperson of the Council shall appoint an individual who prior to the date of such appointment served as an Inspector General (as that position is described in section 3(a) and section 8G(a)(6)), and who has upheld the highest standards of integrity and professionalism while serving and since leaving service as an Inspector General, as determined by the Chairperson, to serve as a member of the Committee unless no such individual is available or willing to serve as a member of the Committee at the time of the appointment.

“(ii) INITIAL TERM.—The individual appointed under clause (i) shall serve at the pleasure of the Chairperson of the Council for a 2-year term.

“(iii) ADDITIONAL TERM.—The Chairperson of the Council may reappoint the individual appointed under clause (i) to serve at the pleasure of the Chairperson of the Council for an additional term not to exceed 2 years.

“(iv) COMPENSATION.—

“(I) SPECIAL GOVERNMENT EMPLOYEE DESIGNATION.—The individual appointed under clause (i) shall be considered a special government employee pursuant to section 202(a) of title 18, United States Code.

“(II) COMPENSATION AND TRAVEL EXPENSES.—An individual appointed under clause (i) may not receive compensation at a rate in excess of the rate of basic pay for level IV of the executive schedule under section 5315 of title 5, United States Code, and any such individual, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed

travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title for persons employed intermittently in the Government service.

“(III) ACCEPTANCE OF VOLUNTEER SERVICES.—The Chairperson of the Council may accept volunteer services from the individual appointed under this subparagraph without regard to section 1342 of title 31, United States Code.

“(IV) PROVISIONS RELATING TO REEMPLOYMENT.—

“(aa) The Chairperson of the Council may reemploy annuitants.

“(bb) The employment of annuitants under this paragraph shall be subject to the provisions of section 9902(g) of title 5, United States Code, as if the Council was the Department of Defense.”.

SEC. 407. REQUIREMENT TO REFER ALLEGATIONS OF WRONGDOING AGAINST INSPECTOR GENERAL TO INTEGRITY COMMITTEE.

(a) REQUIREMENT.—Section 11(d)(4) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (A), in the heading, by striking “REQUIREMENT” and inserting “ALLEGATIONS AGAINST STAFF MEMBERS”;

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(3) by inserting after subparagraph (A) the following:

“(B) ALLEGATIONS AGAINST INSPECTORS GENERAL.—An Inspector General shall refer to the Integrity Committee any allegation of wrongdoing against that Inspector General.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(d)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking “(4)(C)” and inserting “(4)(D)”.

SEC. 408. REQUIREMENT TO REPORT FINAL DISPOSITION TO CONGRESS.

Section 11(d)(8) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (A)(iii), by inserting “contemporaneously with the submission of the report under clause (ii),” before “submit”; and

(2) in subparagraph (B), by inserting “, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Reform of the House of Representatives, and other congressional committees of jurisdiction,” after “Integrity Committee”.

TITLE V—ADDITIONAL AUTHORITY PROVISIONS FOR INSPECTORS GENERAL

SEC. 501. SHORT TITLE.

This title may be cited as the “IG Subpoena Authority Act”.

SEC. 502. ADDITIONAL AUTHORITY PROVISIONS FOR INSPECTORS GENERAL.

The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by inserting after section 6 the following new section:

“SEC. 6A. ADDITIONAL AUTHORITY.

“(a) TESTIMONIAL SUBPOENA AUTHORITY.—In addition to the authority otherwise provided by this Act and in accordance with the requirements of this section, each Inspector General, in carrying out the provisions of this Act (or in the case of an Inspector General or Special Inspector General not established under this Act, the provisions of the authorizing statute), is authorized to require by subpoena the attendance and testimony of witnesses as necessary in the performance of the functions assigned to the Inspector General by this Act (or in the case of an Inspector General or Special Inspector General not established under this Act, the functions assigned by the authorizing statute), which in the case of contumacy or refusal to obey, such subpoena shall be enforceable by order of any appropriate United States district court. An Inspector General may not require by subpoena the attendance and testimony of any Federal employee or employee of a designated Federal entity, but may use other authorized procedures.

“(b) LIMITATION OF DELEGATION.—The authority to issue a subpoena under subsection (a) may only be delegated to an official performing the functions and duties of the Inspector General when an Inspector General position is vacant or when the Inspector General is unable to perform the functions and duties of the Office.

“(c) PANEL REVIEW BEFORE ISSUANCE.—

“(1) APPROVAL REQUIRED.—

“(A) REQUEST FOR APPROVAL BY SUBPOENA PANEL.—Before the issuance of a subpoena described in subsection (a), an Inspector General shall submit a request for approval to issue a subpoena to a panel (in this section, referred to as the ‘Subpoena Panel’), which shall be comprised of three Inspectors General of the Council of the Inspectors General on Integrity and Efficiency, who shall be designated by the Inspector General serving as Chairperson of the Council.

“(B) PROTECTION FROM DISCLOSURE.—The information contained in the request submitted by an Inspector General under subparagraph (A) and the identification of a witness shall be protected from disclosure to the extent permitted by law. Any request for disclosure of such information shall be submitted to the Inspector General requesting the subpoena.

“(2) TIME TO RESPOND.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Subpoena Panel shall approve or deny a request for approval to issue a subpoena not later than 10 calendar days after the submission of such request.

“(B) ADDITIONAL INFORMATION FOR PANEL.—If the Subpoena Panel determines that additional information is necessary to approve or deny a request submitted by an Inspector General under paragraph (1)(A), the Subpoena Panel shall request such information from the Inspector General and shall approve or deny the request submitted by the Inspector General under paragraph (1)(A) not later than 20 calendar days after the submission of the request under such paragraph.

“(3) DENIAL BY PANEL.—If a majority of the Subpoena Panel denies the approval of a subpoena, that subpoena may not be issued.

“(d) NOTICE TO ATTORNEY GENERAL.—

“(1) IN GENERAL.—If the Subpoena Panel approves a subpoena under subsection (c), the Inspector General shall notify the Attorney General that the Inspector General intends to issue the subpoena.

“(2) DENIAL FOR INTERFERENCE WITH AN ONGOING INVESTIGATION.—Not later than 10 calendar days after the date on which the Attorney General is notified pursuant to paragraph (1), the Attorney General may object to the issuance of the subpoena because the subpoena will interfere with an ongoing investigation and the subpoena may not be issued.

“(3) ISSUANCE OF SUBPOENA APPROVED.—If the Attorney General declines to object or fails to object to the issuance of the subpoena during the 10-day period described in paragraph (2), the Inspector General may issue the subpoena.

“(e) GUIDELINES.—The Chairperson of the Council of the Inspectors General on Integrity and Efficiency, in consultation with the Attorney General, shall prescribe guidelines to carry out this section.

“(f) INSPECTOR GENERAL DEFINED.—For purposes of this section, the term ‘Inspector General’ includes each Inspector General established under this Act and each Inspector General or Special Inspector General not established under this Act.

“(g) APPLICABILITY.—The provisions of this section shall not affect the exercise of authority by an Inspector General of testimonial subpoena authority established under another provision of law.”;

(2) in section 5(a)—

(A) in paragraph (21)(B), by striking “; and” and inserting a semicolon;

(B) in paragraph (22), by striking the period at the end and inserting “; and”; and

(C) by inserting at the end the following new paragraph:

“(23) a description of the use of subpoenas for the attendance and testimony of witnesses authorized under section 6A.”; and

(3) in section 8G(g)(1), by inserting “6A,” before “and 7”.

TITLE VI—INVESTIGATIONS OF DEPARTMENT OF JUSTICE PERSONNEL

SEC. 601. SHORT TITLE.

This title may be cited as the “Inspector General Access Act”.

SEC. 602. INVESTIGATIONS OF DEPARTMENT OF JUSTICE PERSONNEL.

Section 8E of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking “and paragraph (3)”;

(B) by striking paragraph (3);

- (C) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and
- (D) in paragraph (4), as redesignated, by striking “paragraph (4)” and inserting “paragraph (3)”; and
- (2) in subsection (d), by striking “, except with respect to allegations described in subsection (b)(3),”.

TITLE VII—OFFICE OF INSPECTOR GENERAL WHISTLEBLOWER COMPLAINTS

SEC. 701. SHORT TITLE.

This title may be cited as the “Enhanced Whistleblower Engagement Act”.

SEC. 702. OFFICE OF INSPECTOR GENERAL WHISTLEBLOWER COMPLAINTS.

(a) WHISTLEBLOWER PROTECTION COORDINATOR.—Section 3(d)(1)(C) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

- (1) in clause (i), in the matter preceding subclause (I), by inserting “, including employees of that Office of Inspector General” after “employees”; and
- (2) in clause (iii), by inserting “(including the Integrity Committee of that Council)” after “and Efficiency”.

(b) COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.—Section 11(c)(5)(B) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking “, allegations of reprisal,” and inserting the following: “and allegations of reprisal (including the timely and appropriate handling and consideration of protected disclosures and allegations of reprisal that are internal to an Office of Inspector General)”.

TITLE VIII—NOTICE OF ONGOING INVESTIGATIONS WHEN THERE IS A CHANGE IN STATUS OF INSPECTOR GENERAL

SEC. 801. NOTICE OF ONGOING INVESTIGATIONS WHEN THERE IS A CHANGE IN STATUS OF INSPECTOR GENERAL.

(a) CHANGE IN STATUS OF INSPECTOR GENERAL OF ESTABLISHMENT.—Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting at the end the following:

“(h) Not later than 15 days after an Inspector General is removed, placed on paid or unpaid non-duty status, or transferred to another position or location within an establishment, the acting Inspector General shall submit to the Committee on Oversight and Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, a list of all audits and investigations being conducted, supervised, coordinated by the Office at the time the Inspector General was removed, placed on paid or unpaid non-duty status, or transferred.”.

(b) CHANGE IN STATUS OF INSPECTOR GENERAL OF DESIGNATED FEDERAL ENTITY.—Section 8G(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting at the end the following:

“(3) Not later than 15 days after an Inspector General is removed, placed on paid or unpaid non-duty status, or transferred to another position or location within an designated Federal entity, the acting Inspector General shall submit to the Committee on Oversight and Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, a list of all audits and investigations being conducted, supervised, coordinated by the Office at the time the Inspector General was removed, placed on paid or unpaid non-duty status, or transferred.”.

TITLE IX—COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY APPROPRIATION

SEC. 901. CIGIE APPROPRIATION.

(a) AVAILABILITY OF APPROPRIATED FUNDS.—Section 11(c)(3) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

“(D) AUTHORIZATION OF APPROPRIATIONS.—In addition to any funds available in the Inspectors General Council Fund established under subparagraph (B), there are authorized to be appropriated such sums as may be necessary, to remain available until expended, to carry out the functions and duties of the Council under this subsection.”.

(b) REMOVING COUNCIL FUNDING FROM INDIVIDUAL INSPECTOR GENERAL BUDGET REQUESTS.—Section 6(g) of the Inspector General Act of 1978 is amended—

(1) in paragraph (1), by striking “, and any resources necessary to support the Council of the Inspectors General on Integrity and Efficiency. Resources necessary to support the Council of the Inspectors General on Integrity and Efficiency shall be specifically identified and justified in the budget request”; and

(2) in paragraph (2)—

(A) in subparagraph (B), by adding “and” after the semicolon;

(B) by striking subparagraph (C); and

(C) by redesignating subparagraph (D) as subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on the date that is 30 days after the date of receipt by the Council of the Inspectors General on Integrity and Efficiency of an appropriation for the Council to carry out the functions and duties of the Council under section 11 of the Inspector General Act (5 U.S.C. App. 11), as amended under this section.

TITLE X—NOTICE OF REFUSAL TO PROVIDE INSPECTORS GENERAL ACCESS

SEC. 1001. NOTICE OF REFUSAL TO PROVIDE INFORMATION OR ASSISTANCE TO INSPECTORS GENERAL.

Section 6(c) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

“(3) If the information or assistance that is the subject of a report under paragraph (2) is not provided to the Inspector General by the date that is 30 days after the report is made, the Inspector General shall submit a notice that the information or assistance requested is being unreasonably refused or not provided by the head of the establishment involved or the head of the Federal agency involved, as applicable, to—

“(A) the Committee in the House of Representatives and the Committee in the Senate that has jurisdiction over the establishment involved or the Federal agency involved, as applicable;

“(B) the Committee on Oversight and Reform of the House of Representatives; and

“(C) the Committee on Homeland Security and Governmental Affairs of the Senate.”.

TITLE XI—ENHANCEMENTS TO INSPECTOR GENERAL TRAINING

SEC. 1101. SHORT TITLE.

This title may be cited as the “Inspector General Training Enhancement Act”.

SEC. 1102. ENHANCEMENTS TO INSPECTOR GENERAL TRAINING.

Section 11(c)(1)(E) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting “and establish minimum standards and best practices for training to ensure all Inspectors General receive training to carry out the duties, responsibilities, and authorities under this Act and on emerging areas of the law of relevance to Inspectors General and the work of their offices as identified by the Council” after “Inspector General”.

TITLE XII—BUDGETARY EFFECTS

SEC. 1201. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

TITLE XIII—SEVERABILITY

SEC. 1301. SEVERABILITY.

If any provision of this Act (or the application of that provision to particular persons or circumstances) is held invalid or found to be unconstitutional the remainder of this Act (or the application of that provision to other persons or circumstances) shall not be affected.

SUMMARY AND PURPOSE OF LEGISLATION

The IG Independence and Empowerment Act would amend the Inspector General Act of 1978 to require that an inspector general (IG) is removed only for cause, require Congress to be notified before an IG is placed on non-duty status, require that an acting IG in the event of an IG vacancy be the first assistant in the same office or other senior official within the IG community, and increase accountability and transparency for the Council of Inspectors General on Integrity and Efficiency (CIGIE) Integrity Committee.

The bill would also grant IGs the authority to subpoena witnesses for testimony who are not currently federal employees; provide the Department of Justice (DOJ) IG the authority to initiate investigations into wrongdoing by DOJ attorneys; expand whistleblower trainings for Office of Inspector General (OIG) employees, require notification to Congress of an IG’s ongoing work when an IG is removed, transferred, or placed on non-duty status; provide a single appropriation for CIGIE; require IGs to notify Congress if agencies deny access to requested information; and require CIGIE to establish minimum standards and best practice for IG training.

BACKGROUND AND NEED FOR LEGISLATION

Since enactment of the Inspector General Act of 1978, IGs have provided oversight of the executive branch. IGs play a critical role in independently and objectively working to help recover overpayments by government agencies; identify risks and program improvement areas; and root out fraud, waste, abuse, and gross mismanagement.¹ The work of IGs helps make the entire government more effective and efficient, and continues to yield a remarkable return on investment for American taxpayers.

During a hearing before the Committee’s Subcommittee on Government Operations on April 20, 2021, the Committee considered H.R. 2662 and heard testimony from multiple IGs on issues facing the broader IG community, as well as areas for legislative reform. In her written testimony for this hearing, National Science Foundation IG Allison C. Lerner, CIGIE Chair, summarized the work of IGs over the previous year:

¹ Pub. L. No. 95–452 (1978), as amended.

The work of OIG investigators and investigative attorneys led to more than 4,000 indictments and informations and almost 1,300 successful civil actions. In response to our recommendations, agencies made more than 4,000 suspensions and debarments and took more than 3,500 personnel actions. Altogether, our work resulted in significant improvements to the economy and efficiency of programs governmentwide, with potential savings totaling approximately \$53 billion—a \$17 return on every dollar invested in the OIGs.²

Several of the reforms included in H.R. 2662 have been requested by IGs for over a decade and have been favorably reported by the Committee and passed the House on previous occasions. Several of these reforms were identified by CIGIE as priorities this year in a January 28, 2021, legislative priorities letter from Peace Corps IG Kathy A. Buller, Chair of the CIGIE Legislation Committee.³

REMOVAL PROTECTIONS FOR INSPECTORS GENERAL

Title I of H.R. 2662 would allow an IG to be removed only for the following causes: permanent incapacity, neglect of duty, malfeasance, conviction of a felony or conduct involving moral turpitude, knowing violation of a law or regulation, gross mismanagement, gross waste of funds, abuse of authority, or inefficiency. Title I would require documentation of the cause for removal to be reported directly to Congress.

The need for greater protections for IGs was highlighted when, in 2020, then-President Trump removed multiple IGs in what appeared to be retaliation for investigating misconduct of his own Administration:

- Intelligence Community IG Michael Atkinson was targeted after he sent a letter to notify Congress that a whistleblower raised concerns about the President's conduct on a call with officials from Ukraine. The whistleblower's allegations ultimately led the House to impeach President Trump.⁴
- President Trump fired State Department IG Steve Linick, reportedly at the request of Secretary of State Mike Pompeo.⁵ At the time, Mr. Linick was investigating allegations of mis-

²Committee on Oversight and Reform, Subcommittee on Government Operations, Testimony of Inspector General Allison C. Lerner, Chair, Council of the Inspectors General on Integrity and Efficiency, *Hearing on Restoring Independence: Rebuilding the Federal Offices of Inspectors General* (Apr. 20, 2021) (emphasis added) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Lerner%20Testimony.pdf>).

³Letter from Inspector General Kathy A. Buller, Legislation Committee Chair, Council of the Inspectors General on Integrity and Efficiency, to Lesley A. Field, Acting Executive Chairperson, Council of the Inspectors General on Integrity and Efficiency (Jan. 27, 2021) (online at www.ignet.gov/sites/default/files/untracked/CIGIE_Legislative_Priorities_117th_Congress.pdf). The CIGIE Legislation Committee “provides timely information to the IG community about congressional initiatives; solicits the technical advice of the IG community in response to congressional initiatives; and presents views and recommendations to Congress and the Office of Management and Budget on legislative matters.” *Id.*

⁴*Trump Says He Will Fire Intelligence Watchdog at Center of Ukraine Allegations That Led to Impeachment*, Washington Post (Apr. 3, 2020) (online at www.washingtonpost.com/national-security/trump-says-he-will-fire-intelligence-watchdog-at-center-of-ukraine-allegations-that-led-to-impeachment/2020/04/03/d0b873d4-761c-11ea-87da-77a8136c1a6d_story.html); *Timeline: The Trump Whistleblower Complaint*, The Hill (Sept. 21, 2019) (online at <https://thehill.com/policy/national-security/462464-timeline-the-trump-whistleblower-complaint>).

⁵*Fired State Department Watchdog Who Was Investigating Pompeo Appears Before Congress*, Washington Post (June 3, 2020) (online at www.washingtonpost.com/national-security/fired-state-department-watchdog-who-was-probing-pompeo-to-appear-before-congress/2020/06/02/bc51e098-a4f6-11ea-8681-7d471bf20207_story.html).

conduct by Secretary Pompeo related to the misuse of government resources and the sale of arms to Saudi Arabia without congressional approval.⁶

Bipartisan Members of Congress raised serious concerns about these firings. Senator Mitt Romney (R-UT) stated: “The firings of multiple Inspectors General is unprecedented; doing so without good cause chills the independence essential to their purpose. It is a threat to accountable democracy and a fissure in the constitutional balance of power.”⁷ Senator Lisa Murkowski (R-AK) stated in response to the State Department IG firing, “I’m concerned that our inspectors general be allowed to do the job that they have been hired to do, whether it’s Mr. Linick or others.”⁸

As described in an April 2021 Congressional Research Service (CRS) report, Congress and the Supreme Court have both recognized the importance of IG “independence, autonomy, impartiality, and objectivity to effective oversight of agency programs.”⁹ The Supreme Court has recognized that the autonomy of IGs is “vital to effectuating Congress” intent and maintaining an opportunity for objective inquiries into bureaucratic waste, fraud, abuse, and mismanagement.”¹⁰

As the Senate Report accompanying the original Inspector General Act of 1978 explained:

Above all, the Inspector and Auditors General created in this legislation would have the requisite independence to do an effective job. There is a natural tendency for an agency administrator to be protective of the programs that he administers. In some cases, frank recognition of waste, mismanagement or wrongdoing reflects on him personally. Even if he is not personally implicated, revelations of wrongdoing or waste may reflect adversely on his programs and undercut public and congressional support for them. Under these circumstances, it is a fact of life that agency managers and supervisors in the executive branch do not always identify or come forward with evidence of failings in the programs they administer. For that reason, the audit and investigative functions should be assigned to an individual whose independence is clear and whose responsibility runs directly to the agency head and ultimately to the Congress. . . .

With rare exceptions, the agencies have not adequately policed their own operations and programs. The committee wants Inspector and Auditors General of high ability, stature and an unusual degree of independence—outsiders, at least to the extent that they will have no vested interest

⁶*Trump Ousts State Department Watchdog*, Politico (May 15, 2020) (online at www.politico.com/news/2020/05/15/state-department-inspector-general-fired-261536).

⁷Senator Mitt Romney (@senatorromney), Twitter (May 16, 2020) (online at <https://twitter.com/senatorromney/status/1261799211760222210>).

⁸*Senate Republicans Demand Answers from Trump on IG Firing*, The Hill (May 18, 2020) (online at <https://thehill.com/homenews/senate/498425-senate-republicans-demand-answers-from-trump-on-ig-firing>).

⁹Congressional Research Service, *Congress’s Authority to Limit the Removal of Inspectors General* (Apr. 16, 2021) (online at <https://crsreports.congress.gov/product/pdf/R/R46762>).

¹⁰*NASA v. Fed. Labor Rels. Auth.*, 527 U.S. 229, 240 (1999).

in the programs and policies whose economy, efficiency and effectiveness they are evaluating.¹¹

In June 2020, the Government Accountability Office (GAO) issued a report addressing the impact of political retaliation on IGs and considerations for IG independence, which concluded that “[e]nsuring the independence of IGs is critical to OIGs’ credibility and effectiveness.”¹²

Protecting IGs from political retaliation has previously received bipartisan support from Congress. During the 110th Congress, the House passed a bill with similar provisions to this title by a vote of 404 to 11.¹³ Representative Tom Davis (R-VA) endorsed that legislation limiting the President’s authority to remove IGs in the Committee report on the bill:

We all agree IGs should operate independently, free from political interference. After all, both agency heads and Congress often rely on IG reports to provide frank assessments of the effectiveness of Federal Programs.¹⁴

Numerous IGs have also endorsed for-cause removal protections. In a May 2020 letter to congressional leaders, nine former IGs urged Congress to “codify for-cause removal protections for IGs.”¹⁵ They noted that there are appropriate checks for this protection:

[F]or-cause removal protections do not make underperforming IGs untouchable. If structured properly, these protections always reserve the right of any sitting president to remove an IG when they are ineffective or unwilling to conduct the rigorous oversight required of their office. Under such circumstances, IGs should be removed to make way for individuals willing and able to uphold the important mandate of the office.¹⁶

CRS recently evaluated congressional authority to limit the removal of IGs and concluded that for-cause removal restrictions “appear to be a constitutionally permissible means of encouraging independence for most IGs.”¹⁷ Federal law already extends for-cause protections to the Postal Service IG, who shall “at any time be removed upon the written concurrence of at least 7 Governors, but only for cause.”¹⁸

During the April 2021 Government Operations Subcommittee hearing, Liz Hempowicz, Director of Public Policy at Project on Government Oversight (POGO), testified in support of these removal protections:

¹¹ Senate Committee on Governmental Affairs, *Report to Accompany H.R. 8588*, 95th Cong. (1978) (S. Rept. 95–1071).

¹² Government Accountability Office, *Inspectors General: Independence Principles and Considerations for Reform* (June 8, 2020) (GAO–20–639R) (online at www.gao.gov/assets/gao-20/639r.pdf).

¹³ H.R. 928, 110th Congress (2007).

¹⁴ Committee on Oversight and Government Reform, *Report on the Improving Government Accountability Act* (2007) (H. Rept. 110–354) (online at www.congress.gov/congressional-report/110th-congress/house-report/354).

¹⁵ Project on Government Oversight, *Former Inspectors General Call on Congress to Pass Overdue Reforms to IG System* (May 5, 2020) (online at www.pogo.org/letter/2020/05/former-inspectors-general-call-on-congress-to-pass-overdue-reforms-to-ig-system/).

¹⁶ *Id.*

¹⁷ Congressional Research Service, *Congress’s Authority to Limit the Removal of Inspectors General* (Apr. 16, 2021) (online at <https://crsreports.congress.gov/product/pdf/R/R46762>).

¹⁸ 39 U.S.C. § 202(e).

Last year, after President Trump removed four Inspectors General in quick succession, POGO immediately began hearing from those in the IG community. What we heard was that they were afraid that doing their jobs and going after the facts, wherever they may lead, without regard for how it would reflect on the President or others in political leadership, would cost—would be the end of their careers.

This is not an environment conducive to rigorous and effective oversight. That is why I strongly urge Congress to enact legislation that would require the President to have just cause to fire an Inspector General and to communicate the specific causes underlying that impending removal to Congress.

Granting Inspectors General for-cause removal protections will make it less dangerous to exercise the independence required of them to fulfill their missions.¹⁹

ADDITIONAL NOTIFICATION FOR IG CHANGE IN STATUS AND LONG-STANDING VACANCIES

Title II of H.R. 2662 would require the President to notify Congress 30 days before placing an IG on non-duty status and explain the failure to fill long-standing IG vacancies.

Current law requires a President to provide Congress with an explanation for removing an IG at least 30 days before the removal takes effect.²⁰ When President Trump removed the State Department IG in May 2020, he circumvented the intent of this requirement by immediately placing the IG on administrative leave and immediately appointing a replacement acting IG. President Trump took similar action upon his notification of intent to remove the Intelligence Community IG, making both these terminations essentially effective immediately upon notice.²¹ In another example, when President Obama removed Gerald Walpin, the IG for the Corporation for National and Community Service, IG Walpin was “suspended, with pay, pending his removal.”²²

H.R. 2662 would also require that, when an IG vacancy has lasted for more than 210 days without the President nominating a replacement, the President provide to Congress an explanation for the failure to submit a nomination and a target date for making a nomination.

Currently, 13 IG offices with presidentially-appointed IGs are without a confirmed IG and, in some cases, have been for years.²³ Among these, the Export-Import Bank, Central Intelligence Agency, Department of Defense, and the Office of Personnel Manage-

¹⁹ Committee on Oversight and Reform, Subcommittee on Government Operations, *Hearing on Restoring Independence: Rebuilding the Federal Offices of Inspectors General* (Apr. 20, 2021) (online at <https://oversight.house.gov/legislation/hearings/restoring-independence-rebuilding-the-federal-offices-of-inspectors-general>).

²⁰ Inspector General Act, 5 U.S.C. App. § 3(b).

²¹ *Trump Is Gutting Our Democracy While We're Dealing with Coronavirus*, New York Times (Apr. 6, 2020) (online at www.nytimes.com/2020/04/06/opinion/atkinson-inspector-general-ukraine-fired.html); *Ousted State Department Watchdog Tells Lawmakers He's Unaware if Pompeo Probes Were Stopped*, Politico (June 10, 2020) (online at www.politico.com/news/2020/06/10/steve-linick-mike-pompeo-probes-310568).

²² Letter from Gregory B. Craig, Counsel to the President, to Senator Charles E. Grassley (June 11, 2009) (online at https://a.abcnews.go.com/images/Politics/Craig_letter_to_Grassley.pdf).

²³ Council of the Inspectors General on Integrity and Efficiency Inspector General Vacancies (online at www.oversight.gov/ig-vacancies) (accessed on June 16, 2021).

ment have not had a permanent IG for more than five years.²⁴ Several of these positions have gone without nominees for years at a time as well, and this legislation would require clear and transparent justifications when there is no nominee.

During the May 2021 hearing before the Subcommittee on Government Operations, IG Lerner testified:

One of the greatest challenges facing the IG community is the extensive list of vacant IG positions. As this Committee has long recognized, prolonged vacancies within OIGs undermine the critical oversight work being done within those offices. During the period of such vacancies, acting Inspectors General and career staff carry on the work of their offices, and they do it with the utmost professionalism. Nevertheless, a sustained loss of permanent leadership is not healthy for any office, particularly one entrusted with the important and challenging mission of an OIG. For this reason, ensuring that vacant IG positions are filled with exemplary individuals capable of helping their offices accomplish their vital missions through good times and bad is always one of CIGIE's highest priorities.²⁵

When the House passed the language in title II as a standalone bill in 2019, Rep. Fred Keller (R-PA) summarized the importance of the bill during remarks on the House floor:

Inspectors general play an important role in improving the operations of the Federal Government. They help combat fraud, waste, and abuse throughout executive branch departments and agencies and promote a resourceful and effective Federal Government.

They have assisted us with discharging one of our most important responsibilities, shining the light on areas of the government that need improved efficiency and economy.

However, throughout both Republican and Democratic administrations, there have been numerous vacant inspector general positions. Certain agencies have experienced prolonged periods of absent inspector general leadership.

For example, the Department of the Interior has been without a permanent inspector general since 2009. Likewise, there are approximately 13 vacant inspector general positions for agencies covered by the Inspector General Act.

This bill would require the President to timely notify Congress of a failure to nominate an inspector general for a given agency. The President would also be required to explain why a nomination has not yet been made and provide a target date for that nomination. The bill also calls for increased transparency by requiring the President to

²⁴ *Id.*

²⁵ Committee on Oversight and Reform, Subcommittee on Government Operations, Testimony of Inspector General Allison C. Lerner, Chair, Council of the Inspectors General on Integrity and Efficiency, *Hearing on Restoring Independence: Rebuilding the Federal Offices of Inspectors General* (Apr. 20, 2021) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Lerner%20Testimony.pdf>).

notify Congress if an inspector general is placed on leave or changes status.

Inspectors general are an indispensable tool to Congress. By ensuring the Federal Government is adequately staffed with inspectors general, we are reaffirming our commitment to rooting out government fraud, waste, and abuse.²⁶

REQUIREMENTS FOR ACTING IGS

Title III of H.R. 2662 addresses who can serve as an acting IG in the event of a vacancy due to an absence of a Senate-confirmed individual. The Federal Vacancies Reform Act currently allows the President to designate any Senate-confirmed political appointee, or a senior employee from the agency overseen by the OIG, to serve as an acting IG. Title III would require that the first assistant in an OIG, generally the Principal Deputy or Deputy IG, serve as the acting IG in the event of a vacancy. If the first assistant position is also vacant, then title III would allow the President to designate a senior official at any OIG to serve as acting IG.

This reform would prevent “dual-hatting” arrangements where a political official from within an agency is overseeing that agency as the acting IG. This occurred twice in 2020, when President Trump named an Acting Department of Transportation IG from within the Department of Transportation and an Acting State Department IG from within the State Department. These decisions prompted this Committee and others to conduct oversight over both OIGs to ensure that the offices’ work proceeded unimpeded and officials with conflicts of interest recused themselves.²⁷

In CIGIE’s legislative priorities letter, IG Buller explained how an agency official serving as acting IG could compromise the OIG’s work:

However, the Vacancies Act allows the President to direct a Presidentially appointed, Senate-confirmed (PAS) appointee or a senior management employee in the agency overseen by the OIG to temporarily serve as acting IG. Doing so risks both actual and apparent conflicts that affect the acting IG’s ability to maintain independence, including the independence required by Generally Accepted Government Auditing Standards and other professional standards that IGs must follow. Further, it may erode whistleblowers’ trust that their identities will be protected.²⁸

²⁶ U.S. House of Representatives, Debate on H.R. 1847 (July 17, 2019) (online at www.congress.gov/congressional-record/2019/07/17/house-section/article/H5950 1).

²⁷ Committee on Oversight and Reform, *Press Release: Chairs Release Letter from Acting State Department IG Regarding His Ongoing Conflicts of Interest* (June 5, 2020) (online at <https://oversight.house.gov/news/press-releases/chairs-release-letter-from-acting-state-department-ig-regarding-his-ongoing>); *Democrats Open Investigation into Trump’s Replacement of Acting Transportation Department Inspector General*, Washington Post (May 19, 2020) (online at www.washingtonpost.com/local/trafficandcommuting/democrats-open-investigation-into-replacement-of-acting-transportation-department-inspector-general/2020/05/19/e8e62b52-99f5-11ea-89fd-28fb313d1886_story.html).

²⁸ Letter from Inspector General Kathy A. Buller, Legislation Committee Chair, Council of the Inspectors General on Integrity and Efficiency, to Lesley A. Field, Acting Executive Chairperson, Council of the Inspectors General on Integrity and Efficiency (Jan. 27, 2021) (online at www.ignet.gov/sites/default/files/untracked/CIGIE_Legislative_Priorities_117th_Congress.pdf).

Ms. Hempowicz from POGO elaborated on this whistleblower issue, in written testimony for the Subcommittee on Government Operations hearing:

The implications of a political appointee simultaneously running an agency office and serving as the inspector general in charge of investigating whistleblower complaints into that office present an obvious and inherent conflict. Such a situation would surely chill any agency employees from making whistleblower disclosures to that acting inspector general. Yet there's nothing to prevent this from occurring at any inspector general office at any time. This could result in whistleblowers across government choosing not to disclose waste, fraud, or abuse to their inspector general offices to avoid the increased risk that political leadership may find out who they are.²⁹

At a Committee hearing on May 3, 2021, Rudy Mehrbani, Senior Advisor from the Democracy Fund, testified that this reform would “provide democratic accountability in the future.” He also said that “reforms to ensure that a President can’t install inspectors general, even in an acting capacity, that have perceived or real conflicts of interest is critically important.”³⁰

CIGIE INTEGRITY COMMITTEE TRANSPARENCY

Title IV of H.R. 2662 would increase the transparency in reporting by CIGIE’s Integrity Committee for investigations involving allegations of wrongdoing within OIGs.

Because IGs evaluate the integrity of agency operations, the conduct of IGs themselves must be above reproach. CIGIE’s Integrity Committee serves as the independent and objective oversight organization that investigates and reports on allegations of wrongdoing by IGs and the senior staff within their offices.³¹ Currently, the Integrity Committee reports annually to Congress on various aspects of its operations, including the number of allegations of wrongdoing received, referred to other agencies, or closed without referral. The Integrity Committee also reports dates of receipt and disposition of allegations, as well as the status and findings of its investigations.³²

This title would make the Integrity Committee’s periodic reporting to Congress a semi-annual requirement. The Integrity Committee chairperson would also be required to report immediately to an IG if the Integrity Committee becomes aware of any particularly serious or flagrant problems, abuses, or deficiencies at the IG’s office. The IG would have to transmit this report to Congress within seven days.

²⁹ Committee on Oversight and Reform, Subcommittee on Government Operations, Testimony of Liz Hempowicz, Director of Public Policy, Project on Government Oversight, *Hearing on Restoring Independence: Rebuilding the Federal Offices of Inspectors General* (Apr. 20, 2021) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Hempowicz%20Testimony.pdf>).

³⁰ House Committee on Oversight and Reform, *Hearing on Improving Government Accountability and Transparency* (May 3, 2021) (online at <https://oversight.house.gov/legislation/hearings/improving-government-accountability-and-transparency>).

³¹ Congressional Research Service, *Oversight of the Inspector General Community: The IG Council’s Integrity Committee* (Sept. 21, 2015) (online at www.everycrsreport.com/reports/R44198.html).

³² *Id.*

This title would also add requirements for the Integrity Committee to communicate the length of time spent evaluating investigations for which it requests extensions, information regarding how it evaluates allegations made by a Member of Congress if the review is closed without referral, and analysis of allegations filed. Finally, this title would expand the membership of the Integrity Committee to include a former IG.

At the May 3, 2021, Committee hearing, Ms. Hempowicz from POGO said these reforms “would greatly increase transparency with how both CIGIE and the Integrity Committee operate and oversee inspectors general.”³³

IG TESTIMONIAL SUBPOENA AUTHORITY

H.R. 2662 would also provide additional authority to IGs by including a longstanding priority of CIGIE, testimonial subpoena authority.

Under existing law, IGs cannot compel testimony from individuals who do not work for the government, including former government employees, hampering the IGs’ ability to construct a complete case and hold individuals accountable for wrongdoing. This issue was highlighted recently before the Committee when DOJ IG Michael E. Horowitz testified that, without this authority, his office was unable to interview former Attorney General Jeff Sessions during an investigation of the Trump Administration’s child separation policy.³⁴

In multiple other instances, IGs have been unable to obtain testimony from individuals outside the federal government. For example, the DOJ OIG was unable to obtain cooperation from non-government witnesses in its review of the Carter Page FISA applications and in the Fast and Furious investigation, and the Department of Housing and Urban Development OIG was unable to interview a former official in a review of disaster recovery funds appropriated to Puerto Rico following Hurricanes Irma and Maria.³⁵

Congress, for many years and on a bipartisan basis, has attempted to provide the IG community with this authority.³⁶ In 2014, then-Committee Chairman Darrell Issa (R-CA) stated after the Committee reported favorably a bill with language similar to this title on a voice vote:

With Inspectors General facing obstruction by agencies, this legislation provides much-needed tools to our independent watchdogs as they work to reduce agency waste

³³ House Committee on Oversight and Reform, *Hearing on Improving Government Accountability and Transparency* (May 3, 2021) (online at <https://oversight.house.gov/legislation/hearings/improving-government-accountability-and-transparency>).

³⁴ House Committee on Oversight and Reform, *Hearing on Accountability and Lessons Learned from the Trump Administration’s Child Separation Policy* (Feb. 4, 2021) (online at <https://oversight.house.gov/legislation/hearings/accountability-and-lessons-learned-from-the-trump-administration-s-child>).

³⁵ Department of Justice, Office of the Inspector General, *Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation* (Dec. 2019) (online at www.justice.gov/storage/120919-examination.pdf); Department of Justice, Office of the Inspector General, *A Review of ATF’s Operation Fast and Furious and Related Matters* (Nov. 2012) (online at <https://oig.justice.gov/reports/2012/s1209.pdf>); Department of Housing and Urban Development, Office of Inspector General, *Review of HUD’s Disbursement of Grant Funds Appropriated for Disaster Recovery and Mitigation Activities in Puerto Rico* (Apr. 20, 2021) (online at https://hudoig.gov/sites/default/files/2021-04/HUD%20OIG%20Final%20Report_2019SU008945I.pdf).

³⁶ H.R. 4917, 115th Cong. (2018); H.R. 2395, 114th Cong. (2015); H.R. 5492, 113th Cong. (2014); H.R. 5815, 111th Cong. (2009).

and mismanagement. The provision of testimonial subpoena authority will enhance the ability of Inspectors General to conduct thorough audits and investigations. This reform sends a message of congressional support for full and timely compliance with the important work of Inspectors General, and I thank my colleagues for their support.³⁷

In 2016, Representative Mark Meadows (R-NC), supported a similar provision during floor debate on broad IG legislation that the House passed by voice vote:

The bill we are considering today will make the IGs even more effective by allowing them to follow the facts where they lead. For years, the IGs have asked us to extend to them the authority to issue subpoenas to get answers from government contractors and former Federal employees.

Independent sources, including the DOJ's National Procurement Task Force and the Project on Government Oversight, have also urged Congress to expand the testimonial subpoena authority.

This bill provides the expanded authority that the IGs have asked for, but with safeguards in place to make sure that they protect against the possibility that an IG's investigation would interfere with an ongoing criminal investigation, or do other harm.³⁸

In 2018, Representative Steve Russell (R-OK), the lead sponsor of a bill with substantially similar language in H.R. 2662 that the House passed by voice vote, spoke in favor of his bill on the floor prior to passage:

To effectively identify waste, fraud, and abuse, IGs should be able to conduct a thorough and complete investigation. To conduct a thorough and complete investigation, however, IGs need to be able to talk to the people involved.

Unfortunately, inspectors general haven't always been able to obtain testimony from those key individuals. They collect testimony from Federal employees, but sometimes the employees resign or retire before the inspectors general can review them. In fact, the IG community has informed us of many cases that went cold when witnesses left the agencies or refused to testify voluntarily.

This bill seeks to address these gaps in the evidentiary record by permitting IGs to subpoena the testimony of witnesses during the course of an audit or investigation. The bill establishes procedures to ensure the authority is not abused.³⁹

³⁷House Committee on Oversight and Government Reform, *Press Release: Oversight Committee Approves Bipartisan Inspector General Empowerment Legislation* (Sept. 17, 2014) (online at <https://republicans-oversight.house.gov/release/oversight-committee-approves-bipartisan-inspector-general-empowerment-legislation/>).

³⁸U.S. House of Representatives, Debate on H.R. 2395 (June 21, 2016) (online at www.congress.gov/congressional-record/2016/06/21/house-section/article/H4002-1).

³⁹U.S. House of Representatives, Debate on H.R. 4917 (Sept. 26, 2018) (online at www.congress.gov/congressional-record/2018/09/26/house-section/article/H9070-1).

In her letter setting forth CIGIE legislative priorities, IG Buller explained the need for testimonial subpoena authority:

OIG oversight can be substantially hampered by the inability to compel the testimony of witnesses who have information that cannot be obtained by other means. Congress could address this concern by providing IGs with the authority to subpoena the testimony of certain witnesses as necessary in the performance of OIG oversight. For example, this authority is especially important in cases where a Federal employee resigns. Without testimonial subpoena authority, that employee's resignation can limit an IG audit, investigation, or other review into matters pertaining to that individual's former responsibilities. IGs also face difficulty accessing key information during an inquiry into other individuals or entities with whom the Federal government does business. Examples include subcontractors or subgrantees that have no direct contractual relationship with the Federal government but are suspected of defrauding a federally funded program; in these cases, IGs have limited recourse if employees of contractors refuse to provide information to the IG during an audit or investigation.⁴⁰

At the Committee's hearing on May 3, 2021, Ms. Hempowicz testified that the inability of IGs to compel testimony "completely undermines their ability to conduct fulsome investigations."⁴¹ In addition, in a May 2021 letter to the Committee, DOJ IG Horowitz strongly endorsed this reform, stating:

As I have noted on multiple occasions in testimony before this Committee, both in my past role as Chair of the Council of Inspectors General for Integrity and Efficiency (CIGIE) and as the DOJ IG, I strongly support granting IGs testimonial subpoena authority because the absence of such authority hinders the ability of OIGs to conduct complete oversight. Without this authority, OIGs are unable to obtain potentially critical evidence from former federal employees, employees of federal contractors and grant recipients, and other non-government witnesses unless they voluntarily agree to be interviewed. For example, a federal employee's resignation or retirement enables the former employee to avoid being interviewed by an OIG about serious misconduct the former employee allegedly engaged in while working for the federal government. Similarly, an OIG's inability to compel testimony from federal contractors and grant recipients can result in the OIG being unable to gather sufficient evidence to hold the contractor or grant recipient accountable for waste, fraud, and abuse in

⁴⁰ Letter from Inspector General Kathy A. Buller, Legislation Committee Chair, Council of the Inspectors General on Integrity and Efficiency, to Lesley A. Field, Acting Executive Chairperson, Council of the Inspectors General on Integrity and Efficiency (Jan. 27, 2021) (online at www.ignet.gov/sites/default/files/untracked/CIGIE_Legislative_Priorities_117th_Congress.pdf).

⁴¹ Committee on Oversight and Reform, *Hearing on Improving Government Accountability and Transparency* (May 3, 2021) (online at <https://oversight.house.gov/legislation/hearings/improving-government-accountability-and-transparency>).

connection with the use of federal funds, and therefore affects our ability to recover misused federal funds.⁴²

AUTHORITY FOR THE DEPARTMENT OF JUSTICE IG TO INITIATE
ATTORNEY MISCONDUCT INVESTIGATIONS

Title VI of H.R. 2662 would provide the DOJ IG with the authority to investigate misconduct by DOJ attorneys. Currently, the DOJ OIG must refer allegations of misconduct by DOJ attorneys to the DOJ Office of Professional Responsibility (OPR), rather than initiate an investigation itself. The title addresses this issue by amending the Inspector General Act to repeal the provision requiring this referral.⁴³

Having a statutorily independent entity investigate attorney misconduct would ensure independent oversight, transparency, and accountability. The DOJ OIG—like all federal OIGs—maintains a level of independence from the management of the agency it oversees. OPR does not have the same statutory requirement for independence and is within DOJ’s chain of command.

According to a May 2021 letter to the Committee from DOJ IG Horowitz, the DOJ OIG has the capacity and experience to review professional misconduct cases and would use the same standards currently used by the DOJ OPR. The DOJ OIG employs dozens of attorneys whose backgrounds and experiences are similar to OPR, including former prosecutors and DOJ attorneys specializing in attorney ethics, who would handle professional misconduct allegations. These OIG attorneys are from the same divisions that have long conducted sensitive and complex investigations.⁴⁴

IG Horowitz also noted that under current practice, DOJ OIG may only initiate investigations of attorney professional misconduct with the approval of the Deputy Attorney General. IG Horowitz stated, however, that DOJ has denied every one of OIG’s requests to investigate serious allegations, including the circumstances under which Jeffrey Epstein received a non-prosecution agreement from the Southern District of Florida.⁴⁵ IG Horowitz noted other instances of potential misconduct his office could not investigate under current law, including potential abuses related to use of the Foreign Intelligence Surveillance Act warrants and interference in the 2020 presidential election.⁴⁶ IG Horowitz summarized the issue as follows:

Requiring the OIG to request permission from Department leadership to handle a matter, and empowering the

⁴² Letter from Inspector General Michael E. Horowitz, Department of Justice, to Chairwoman Carolyn B. Maloney and Ranking Member James Comer, Committee on Oversight and Reform (May 24, 2021) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/DOJ%20OIG%20to%20COR%20IG%20legislation%2005.24.21.pdf>).

⁴³ Inspector General Act, 5 U.S.C. App. § 8E.

⁴⁴ Letter from Inspector General Michael E. Horowitz, Department of Justice, to Chairwoman Carolyn B. Maloney and Ranking Member James Comer, Committee on Oversight and Reform (May 24, 2021) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/DOJ%20OIG%20to%20COR%20IG%20legislation%2005.24.21.pdf>).

⁴⁵ Project on Government Oversight, *Acosta-Epstein Deal Sparks Calls for Independent DOJ Misconduct Investigations* (Jan. 10, 2019) (online at www.pogo.org/analysis/2019/01/acosta-epstein-deal-sparks-calls-for-independent-doj-misconduct-investigations/).

⁴⁶ See Department of Justice Office of the Inspector General, *Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation* (December 2019) (online at www.justice.gov/storage/120919-examination.pdf); *The Justice Dept.’s Inspector General Opens an Investigation into Any Efforts to Overturn the Election*, *New York Times* (Jan. 25, 2021) (online at www.nytimes.com/2021/01/25/us/politics/justice-dept-investigation-election-trump.html).

Deputy Attorney General to “block” OIG oversight of a serious misconduct allegation, undermines IG independence and is inconsistent with the Inspector General Act.⁴⁷

In concluding his letter, IG Horowitz expressed strong support for closing this loophole:

The DOJ OIG is the only Inspector General in the federal government that does not have the authority to investigate alleged misconduct, including professional misconduct, by attorneys who work in the agency it oversees. As I have stated many times in past Congressional testimony, there is no principled basis for authorizing OIG oversight of DOJ law enforcement personnel, such as FBI agents, while excluding DOJ lawyers from that same OIG oversight. Providing the DOJ OIG with the authority to exercise jurisdiction in attorney professional misconduct cases would enhance the public’s confidence in the outcomes of these investigations and provide the OIG with the same authority as every other IG.⁴⁸

Similarly, Representative James Comer (R-KY), Ranking Member of the Committee on Oversight and Reform, said on the House floor on November 29, 2018:

It is important to note that this division of authority is a unique situation in the Federal IG community. For instance, the Securities and Exchange Commission Office of Inspector General is responsible for handling misconduct allegations against SEC lawyers, including those with prosecuting authority.⁴⁹

Rep. Comer stressed the “importance of eliminating this discrepancy,” and urged his colleagues to support this provision. He said: “The need for this legislation has also been discussed in multiple hearings before our committee and in reports by watchdog groups.”⁵⁰

Seventeen organizations that represent diverse viewpoints—including, for example, the American Civil Liberties Union, Americans for Prosperity, Brennan Center for Justice at NYU School of Law, Government Accountability Project, and R Street Institute—also support this provision, stating in a March 2021 letter:

Given that DOJ attorneys are among the most powerful federal employees—with the ability to make life-and-death decisions—it is imperative that their professionalism and official actions be beyond reproach. It is therefore critical for an independent watchdog, such as an inspector general, to have the statutory authority to investigate any allega-

⁴⁷ Letter from Inspector General Michael E. Horowitz, Department of Justice, to Chairwoman Carolyn B. Maloney and Ranking Member James Comer, Committee on Oversight and Reform (May 24, 2021) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/DOJ%20OIG%20to%20COR%20IG%20legislation%2005.24.21.pdf>).

⁴⁸ *Id.*

⁴⁹ U.S. House of Representatives, Debate on H.R. 3154 (Nov. 29, 2018) (online at www.congress.gov/congressional-record/2018/11/29/house-section/article/H9717-1).

⁵⁰ *Id.*

tion that may call into question the actions and conduct of DOJ attorneys.⁵¹

Additional reforms

H.R. 2662 would make several additional reforms, including enhanced whistleblower training for OIG employees, disclosure to Congress of ongoing OIG audits and investigations when the President removes an IG, authorization of a single appropriation for CIGIE, notification to Congress when an agency unreasonably refuses to provide information or assistance to IGs, and trainings for IGs in their duties and responsibilities.

CIGIE requested the reforms authorizing a single CIGIE appropriation and notifying Congress when an agency refuses information or assistance to IGs. IG Buller described the need for a single appropriation in the CIGIE legislative priorities letter:

Acting as the collective body of IGs, CIGIE fulfills its twin mission to (1) address integrity, economy, and effectiveness issues that transcend individual Government agencies and (2) increase the professionalism and effectiveness of IG community employees. While CIGIE has steadily increased the amount and scope of its work over its 10 years of existence, this independent agency is still primarily funded through an inefficient and complicated process of interagency collections individually deposited into a revolving fund. OIGs make these individual deposits without clear congressional direction regarding how much funding CIGIE should receive or how much any individual OIG should provide. In contrast, CIGIE has leveraged to great effect limited, one-time appropriations for enhancements to Oversight.gov. In addition, Congress recently authorized a partial appropriation for CIGIE. A direct, annual appropriation will streamline and make more transparent the process by which CIGIE is funded. Moreover, with a direct, annual appropriation, Congress and the President can better align funding with CIGIE's responsibilities and the work congressional stakeholders frequently ask of it.⁵²

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title

The short title is the “IG Independence and Empowerment Act.”

TITLE I—INSPECTOR GENERAL INDEPENDENCE

Sec. 101. Short title

The short title is the “Inspector General Independence Act.”

⁵¹Project on Government Oversight, *Cross-Partisan Coalition Calls on Senate to Enact DOJ Accountability Bill* (Mar. 26, 2021) (online at www.pogo.org/letter/2021/03/cross-partisan-coalition-calls-on-senate-to-enact-doj-accountability-bill/).

⁵²Letter from Inspector General Kathy A. Buller, Legislation Committee Chair, Council of the Inspectors General on Integrity and Efficiency, to Lesley A. Field, Acting Executive Chairperson, Council of the Inspectors General on Integrity and Efficiency (Jan. 27, 2021) (online at www.ignet.gov/sites/default/files/untracked/CIGIE_Legislative_Priorities_117th_Congress.pdf).

Sec. 102. Amendment

Paragraph (1) amends subsection (b) of section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) to add a provision requiring that a President may only remove an IG with documentation transmitted to Congress of the following causes: permanent incapacity, neglect of duty, malfeasance, conviction of a felony or conduct involving moral turpitude, knowing violation of a law or regulation, gross mismanagement, gross waste of funds, abuse of authority, or inefficiency.

Paragraph (2) amends subsection (e) of section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) to add a provision requiring that an IG at a designated Federal entity only be removed with documentation transmitted to Congress of the following causes: permanent incapacity, neglect of duty, malfeasance, conviction of a felony or conduct involving moral turpitude, knowing violation of a law or regulation, gross mismanagement, gross waste of funds, abuse of authority, or inefficiency.

TITLE II—CONGRESSIONAL NOTIFICATION OF CHANGE IN STATUS OF INSPECTOR GENERAL

Sec. 201. Short title

The short title is the “Inspector General Protection Act.”

Sec. 202. Change in status of Inspector General offices

Subsection (a)—Change in Status of Inspector General of Offices

Subsection (a) amends subsection (b) of section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) to require the President to notify Congress when placing an IG of a federal agency on non-duty status, at least 30 days before that change in status takes effect.

Subsection (b)—Change in Status of Inspector General of Designated Federal Entities

Subsection (b) amends subsection (e) of section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) to require the head of a designated Federal entity to notify Congress when placing an IG on non-duty status, at least 30 days before that change in status takes effect.

Subsection (c)—Effective Date

Subsection (c) makes this section effective 30 days after the date of enactment of the Act.

Sec. 203. Presidential explanation of failure to nominate an Inspector General

Subsection (a)—In General

Subsection (a) amends subchapter III of chapter 33 of title 5, United States Code, by adding a new section 3349e to require, if the President fails to make a formal nomination to fill a vacant IG position within 210 days after the vacancy occurred, that the President communicate to Congress within 30 days after the end of that 210 day-period the reasons why the President has not yet made a

formal nomination and a target date for making a formal nomination.

Subsection (b)—Clerical Amendment

Subsection (b) renumbers relevant sections of the United States Code to conform to the amendment made by subsection (a).

Subsection (c)—Effective Date

Subsection (c) makes this section effective as of the date of enactment of the Act and only apply to vacancies occurring after that date.

TITLE III—VACANCY OF INSPECTOR GENERAL POSITIONS

Sec. 301. Vacancy of Inspector General positions

Subsection (a)—In General

Subsection (a) amends section 3345 of title 5, United States Code, to require that, in the event of a vacancy of an IG position that requires Senate confirmation, the first assistant in the same OIG shall serve as the acting IG. In the event that the first assistant position in that office is also vacant, the President may appoint any individual currently serving in an OIG, as long as that individual has served in a position in an OIG for at least 90 days in the year prior to the IG vacancy occurring, and that individual was paid at a GS 15 rate or higher.

Subsection (b)—Application

Subsection (b) makes this section apply only to IG vacancies occurring on or after the date of enactment of the Act.

TITLE IV—COUNCIL OF INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY TRANSPARENCY

Sec. 401. Short title

The short title is the “Integrity Committee Transparency Act of 2021.”

Sec. 402. Additional information to be included in requests and reports to Congress

Paragraph (1) amends subsection (d) of section 11 of the Inspector General Act of 1978 (5 U.S.C. App) to require that the CIGIE Integrity Committee provide additional information to Congress when requiring an extension to evaluate an allegation of wrongdoing for referral to the Integrity Committee Chair for investigation. Specifically, the Integrity Committee’s written notice to applicable Congressional Committees must include descriptions of how long it had been evaluating the allegation of wrongdoing and any previous extension requests related to the allegation, including why the extension was needed.

Paragraph (2) amends further amends subsection (d) of section 11 to require that the Integrity Committee include recommendations for corrective action in its reports of investigations into alleged wrongdoing.

Sec. 403. Availability of information to Members of Congress regarding certain allegations of wrongdoing closed without referral

This section amends subsection (d) of section 11 of the Inspector General Act of 1978 (5 U.S.C. App) by adding a new subparagraph requiring the Integrity Committee to provide a written report to Members of Congress who have made allegations of wrongdoing that were not referred to the Integrity Committee Chair to investigate. The Integrity Committee is required to provide the written report no later than 60 days after the allegation was closed to the Chairs and Ranking Members of the House Committee on Oversight and Reform (COR), Senate Committee on Homeland Security and Governmental Affairs (HSGAC), a member of the House of Representatives who has the support of seven members of COR, and a member of the Senate who has the support of five members of HSGAC. This report shall include a description of the allegation and the Integrity Committee's evaluation of the allegation. The Integrity Committee Chair is further required to forward any written descriptions or updates to the members of the Integrity Committee and CIGIE Chair.

Sec. 404. Semiannual report

This section amends subsection (d) of section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) to increase the Integrity Committee's regular reporting to Congress on its activities, making this a semi-annual requirement.

This section further amends section 11 to include more detailed requirements for the content of the Integrity Committee's semi-annual reports. Specifically, the Integrity Committee is required to include an overview and analysis of allegations received during the reporting period and those still pending from previous reporting periods, including positions and duties of the individuals against whom misconduct was alleged; the categories and types of allegations; and summary of the disposition of the allegations. This section also requires these reports to include a status of investigations, a summary of findings for completed investigations, and descriptions of any difficulties encountered by the Integrity Committee during investigations, including attempts to prevent or hinder the investigation or concerns about integrity or operations at the office of the IG under investigation.

Sec. 405. Additional reports; Rules of construction

This section amends subsection (d) of section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) to require the Integrity Committee Chair to report immediately to an IG if the Integrity Committee becomes aware of any particularly serious or flagrant problems, abuses, or deficiencies at the IG's office. The IG would have to transmit this report to COR and HSGAC within seven days of receiving the report.

This section also adds rules of construction to specify that subsection (d) of section 11 does not authorize the public disclosure of information when it is otherwise prohibited by law, protected from disclosure in the interest of national security or in the conduct of foreign affairs, or is part of an ongoing criminal investigation. In addition, the information may be provided to any Member of Con-

gress upon request of the Member, subject to any other provision of law that would prohibit disclosure. Finally, this section adds an additional rule of construction stating that the Integrity Committee may not disclose any information that includes personally identifiable information without consent of the individual.

Sec. 406. Membership of Integrity Committee

Paragraph (1) amends subsection (d) of section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) to expand the membership of the Integrity Committee as described in paragraph (2) of this section.

Paragraph (2) further amends subsection (d) of section 11 to require that the CIGIE chair appoint a former IG to the Integrity Committee, subject to the willingness and availability of a qualified candidate, as determined by the Chair. The individual appointed would serve a two-year term at the pleasure of the CIGIE Chair that could be extended for an additional term not to exceed two years. This paragraph also provides for various compensation and reimbursements for the former IG appointed to the Integrity Committee and allows the individual to serve as a volunteer.

Sec. 407. Requirement to refer allegations of wrongdoing against Inspector General to Integrity Committee

Subsection (a)—Requirement

Subsection (a) makes technical changes to subsection (d) of section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) and adds a new subparagraph to require an IG refer allegations of wrongdoing against themselves to the Integrity Committee.

Subsection (b)—Technical and Conforming Amendment

Subsection (b) makes further technical changes to section 11 to reflect the amendment in subsection (a).

Sec. 408. Requirement to report final disposition to Congress

Paragraph (1) amends subsection (d) of section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) to ensure that Congress receives final reports of Integrity Committee investigations into alleged wrongdoing at the same time CIGIE's Executive Chair and applicable appointing authority for the inspector general under investigation receives such reports.

Paragraph (2) further amends subsection (d) of section 11 to specify that HSGAC, COR, and other congressional committees of jurisdiction should also receive reports from the CIGIE Executive Chair on the final disposition of the report.

TITLE V—ADDITIONAL AUTHORITY PROVISIONS FOR INSPECTORS GENERAL

Sec. 501. Short title

The short title is the "IG Subpoena Authority Act."

Sec. 502. Additional authority provisions for Inspectors General

Paragraph 1 amends the Inspector General Act of 1978 (5 U.S.C. App.) by adding a new section 6A to authorize IGs to subpoena the attendance and testimony of individuals, other than current federal

employees or current employees of a designated Federal entity, as necessary in carrying out the provisions of the Inspector General Act. This authority may only be delegated to an official performing the functions and duties of the IG in the event of an IG vacancy or the inability of an IG to perform the functions and duties of the Office.

This section creates a panel of three IGs selected by CIGIE to review and approve any proposed subpoena within a specified timeframe. Following approval from the panel, the issuing IG must notify the Attorney General of the subpoena. The Attorney General may object within a specified timeframe to a subpoena because the subpoena will interfere with an ongoing investigation. In addition, this section defines “Inspector General” for the purposes of this section as any IG established under the Inspector General Act or any other law. This section also directs the Chairperson of CIGIE to issue guidelines to carry out this section.

Paragraph 2 amends subsection (a) of section 5 of the Inspector General Act of 1978 (5 U.S.C. App.) to require that a description of the use of witness testimony subpoenas authorized by this Act are reported in IG semiannual reports.

Paragraph 3 amends subsection (g) of section 8A of the Inspector General Act of 1978 (5 U.S.C. App.) to specify that the authority to subpoena witness testimony authorized by this section applies to IGs at designated Federal entities.

TITLE VI—INVESTIGATIONS OF DEPARTMENT OF JUSTICE PERSONNEL

Sec. 601. Short title

The short title is the “Inspector General Access Act.”

Sec. 602. Investigations of Department of Justice personnel

This section amends section 8E of the Inspector General Act of 1978 (Appendix to title 5, United States Code) to repeal a provision requiring the DOJ IG to refer allegations of misconduct involving Department attorneys to the OPR if the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice. This section also makes technical changes to the surrounding paragraphs to reflect the repeal.

TITLE VII—OFFICE OF INSPECTOR GENERAL WHISTLEBLOWER COMPLAINTS

Sec. 701. Short title

The short title is the “Enhanced Whistleblower Protection Act.”

Sec. 702. Office of Inspector General whistleblower complaints

Subsection (a)—Whistleblower Protection Coordinator.

Paragraph (1) of subsection (a) amends subsection (d) of section 3 of the Inspector General Act of 1978 (5. U.S.C. App.) to require that OIG Whistleblower Protection Coordinators educate OIG employees in whistleblower retaliation prohibitions and whistleblower rights, which is already required under current law of OIG Whistleblower Protection Coordinators for agency employees.

Paragraph (2) of subsection (a) further amends section 3 to require that OIG Whistleblower Protection Coordinators assist IGs in coordinating with the CIGIE Integrity Committee, in addition to existing requirements to coordinate among other entities including the Office of Special Counsel, CIGIE, the agency, and Congress.

Subsection (b)—Council of the Inspectors General on Integrity and Efficiency

Subsection (b) amends subsection (c) of section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) to require that CIGIE develop best practices for handling whistleblower reprisal allegations arising from matters internal to an OIG, in addition to existing requirements for developing such best practices for handling general whistleblower disclosures and allegations of reprisal.

TITLE VIII—NOTICE OF ONGOING INVESTIGATIONS WHEN THERE IS A CHANGE IN STATUS OF INSPECTOR GENERAL

Sec. 801. Notice of ongoing investigations when there is a change in status of Inspector General

Subsection (a)—Change in Status of Inspector General of Establishment.

Subsection (a) amends subsection (b) of section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) to require, within 15 days of an IG of a federal agency being removed, placed on non-duty status, or transferred, that the acting IG of that agency submit to the House Committee on Oversight and Reform and the Senate Committee on Homeland Security and Governmental Affairs a list of all audits and investigations in process at that OIG at the time of removal, placement on non-duty status, or transfer.

Subsection (b)—Change in Status of Inspector General of Designated Federal Entities

Subsection (b) amends subsection (e) of section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) to require, within 15 days of an IG of a designated Federal entity being removed, placed on non-duty status, or transferred, that the acting IG of that entity submit to the House Committee on Oversight and Reform and the Senate Committee on Homeland Security and Governmental Affairs a list of all audits and investigations in process at that OIG at the time of removal, placement on non-duty status, or transfer.

TITLE IX—COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY APPROPRIATION

Sec. 901. CIGIE appropriation

Subsection (a)—Availability of Appropriated Funds

Subsection (a) amends subsection (c) of section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) to authorize an appropriation for CIGIE of such sums as may be necessary to carry out the functions and duties of CIGIE.

Subsection (b)—Removing Council Funding from Individual Inspector General Budget Requests

Subsection (b) amends subsection (g) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) to repeal language requiring that IGs include funding requests for CIGIE in annual budget requests. This subsection also makes technical changes to the surrounding paragraphs to reflect the repeal.

Subsection (c)—Effective Date

Subsection (c) makes subsection (b) effective 30 days after the first receipt by CIGIE of an appropriation authorized under subsection (a).

TITLE X—NOTICE OF REFUSAL TO PROVIDE INSPECTORS GENERAL ACCESS

Sec. 1001. Notice of refusal to provide information or assistance to Inspectors General

This section amends subsection (c) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) to require that an IG report to congressional committees of jurisdiction, within 30 days of making a similar report to the establishment or agency head as required under existing law, when an establishment or agency unreasonably refuses an IG request or otherwise does not provide information or assistance to an IG when requested.

TITLE XI—ENHANCEMENTS TO INSPECTOR GENERAL TRAINING

Sec. 1101. Short title

The short title is the “Inspector General Training Enhancement Act.”

Sec. 1102. Enhancements to Inspector General training

This section amends subsection (c) of section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) to require that CIGIE establish minimum standards and best practices for training IGs in the duties, responsibilities, and authorities established by the Inspector General Act, as well as areas of relevant law as identified by CIGIE.

TITLE XII—BUDGETARY EFFECTS

Sec. 1201. Determination of budgetary effects

This section states that the budgetary effects of this Act, for the purposes of the Statutory Pay-As-You-Go Act of 2010, are determined in a separate statement submitted to the Congressional Record by the Chair of the House Budget Committee prior to the House voting on the Act.

TITLE XIII—SEVERABILITY

Sec. 1301. Severability

This section states that if a provision of this Act is determined to be invalid or unconstitutional, it does not make the entire Act invalid or unconstitutional.

LEGISLATIVE HISTORY

FULL IG INDEPENDENCE AND EMPOWERMENT ACT

During the 117th Congress, on April 19, 2021, Representatives Carolyn B. Maloney (D-NY), Chairwoman of the Committee, Steny H. Hoyer (D-MD), Majority Leader of the House, Gerald E. Connolly (D-VA), Chairman of the Subcommittee on Government Operations, Stephen F. Lynch (D-MA), Chairman of the Subcommittee on National Security, Jimmy Gomez (D-CA), Katie Porter (D-CA), and Ted Lieu (D-CA) introduced H.R. 2662, the IG Independence and Empowerment Act, which includes several provisions from other bills. H.R. 2662 was referred to the Committee on Oversight and Reform and the Committee on the Budget. On May 25, 2021, the Oversight Committee considered H.R. 2662 at a business meeting with a quorum present. The Committee ordered the bill reported favorably, as amended, by a record vote of 22 18. In a May 28, 2021, letter (attached to this report), the Committee on Budget waived formal consideration of the bill.

On April 20, 2021, the Subcommittee on Government Operations, Committee on Oversight and Reform, held a hearing to consider proposed reforms included in H.R. 2662. The Subcommittee heard testimony from Allison C. Lerner, National Science Foundation IG and Chair of CIGIE; Kathy A. Buller, Peace Corps IG and Legislation Committee Chair of CIGIE; Clark Ervin, former IG of the Departments of Homeland Security and State; Liz Hempowicz, Director of Public Policy of the Project on Government Oversight (POGO); and Mia M. Forgy, Deputy IG of the U.S. Election Assistance Commission.

On May 3, 2021, the Committee held a hearing to consider proposals in H.R. 2662. The Committee heard testimony from James-Christian Blockwood, Executive Vice President of the Partnership for Public Service; Liz Hempowicz, Director of Public Policy of POGO; Rudy Mehrbani, Senior Advisor of the Democracy Fund; and Zack Smith, Legal Fellow of the Heritage Foundation.

On May 25, 2021, the Committee considered H.R. 2662 at a business meeting with a quorum present. The Committee ordered the bill reported favorably, as amended, by a recorded vote of 22 to 18.

RELATED PROPOSALS FOR REFORMS

H.R. 2662 Title I—Inspector General Independence Act

During the 116th Congress, on May 22, 2020, Representative Carolyn B. Maloney (D-NY), Chairwoman of the Committee, introduced H.R. 6984, the Inspector General Independence Act, with Representative Steny H. Hoyer (D-MD), Majority Leader of the House, Representative Gerald E. Connolly (D-VA), Chairman of the Subcommittee on Government Operations, and Representative Stephen F. Lynch (D-MA), Chairman of the Subcommittee on Na-

tional Security. H.R. 6984 had 16 additional cosponsors. H.R. 6984 was referred to the Committee. The Inspector General Independence Act comprises title I of H.R. 2662.

On May 12, 2020, Representative Nita M. Lowey (D-NY), introduced H.R. 6800, the Heroes Act, with Chairwoman Maloney and ten other committee chairs. H.R. 6800 was referred to the Committees on Appropriations, Budget, and Ways and Means. On May 15, 2020, H.R. 6800 was passed by the House of Representatives by a vote of 208-199. Sections 70102, 70103, 70104 of H.R. 6800, are the same text as title I (the Inspector General Independence Act) and title II (the Inspector General Protection Act) of H.R. 2662.

During the 110th Congress, on February 8, 2007, Representative Jim Cooper (D-TN) introduced H.R. 928, Inspector General Reform Act. Cosponsors of the bill included Representatives Henry A. Waxman, then-Chairman of the Committee, Edolphus Towns, (D-NY), then-Chairman of the Subcommittee on Government Management, Organization, and Procurement, Christopher Shays (R-CT), then-Ranking Member of the Subcommittee on National Security and Foreign Affairs, Bart Gordon (D-TN), Michael N. Castle (R-DE), Dennis Moore, (D-KS), Sanford D. Bishop, Jr. (D-GA). The text of H.R. 928 is similar to title I of H.R. 2662.

The Committee held a markup to consider H.R. 928 on August 2, 2007, and ordered the bill to be reported, as amended, by voice vote. The House of Representatives passed H.R. 928 on October 3, 2007, by a recorded vote of 404 to 11.

H.R. 2662 Title II—Inspector General Protection Act

During the 117th Congress, on January 4, 2021, Representatives Ted Lieu (D-CA) and Jody B. Hice (R-GA), Ranking Member of the Subcommittee on Government Operations, introduced H.R. 23, the Inspector General Protection Act. On January 5, 2021, H.R. 23 was passed by the House of Representatives by voice vote. H.R. 23 comprises title II of H.R. 2662.

During the 116th Congress, on March 21, 2019, Representatives Ted Lieu (D-CA) and Jody B. Hice (R-GA), Ranking Member of the Subcommittee on Government Operations, introduced H.R. 1847, the Inspector General Protection Act, with substantially the same text as the version in the 117th Congress. On March 26, 2019, H.R. 1847 was ordered to be reported favorably by the Committee by a voice vote. On July 17, 2019, H.R. 1847 was passed by the House of Representatives by a voice vote.

H.R. 2662 Title III—Inspector General Vacancies

During the 117th Congress, on May 4, 2021, Representative Katie Porter (D-CA), along with Representatives Carolyn B. Maloney (D-NY), Chairwoman of the Committee, Gerald E. Connolly (D-VA), Chairman of the Subcommittee on Government Operations, Bennie Thompson (D-MS), Adam Smith (D-WA), Jerrold Nadler (D-NY), Adam Schiff (D-CA), Raúl Grijalva (D-AZ), and Mark Takano (D-CA), introduced H.R. 2994, the Accountability for Acting Officials Act. The bill was referred to the Committee for consideration. Subsection (d) of section 2 of H.R. 2994 comprises title III of H.R. 2662.

During the 116th Congress, the language in title III of H.R. 2662 passed the House on July 21, 2020, as part of H.R. 6395, section

1115, the National Defense Authorization Act for Fiscal Year 2021, but was not included in the National Defense Authorization Act for Fiscal Year 2021 that was signed into law. Prior to passage, this same language was included in H.R. 6689, the Accountability for Acting Officials Act, introduced on May 1, 2020, by Rep. Porter and the same cosponsors as the version of the bill introduced in the 117th Congress.

H.R. 2662 Title IV—Integrity Committee Transparency Act

During the 117th Congress, on April 20, 2021, Representative Gerald E. Connolly (D-VA), Subcommittee on Government Operations Chairman, along with Representatives Jody B. Hice (R-GA), Ranking Member of the Subcommittee, Carolyn B. Maloney (D-NY), Chairwoman of the Committee, Danny K. Davis (D-IL), Katie Porter (D-CA), Jamie Raskin (D-MD), Brenda Lawrence (D-MI), Stephen F. Lynch (D-MA), Ro Khanna (D-CA), John Sarbanes (D-MD), and Eleanor Holmes Norton (D-DC) introduced H.R. 2681, the Integrity Committee Transparency Act. The Committee reported H.R. 2681 favorably by voice vote at the Committee business meeting on May 13, 2021. H.R. 2681 comprises title IV of H.R. 2662.

During the 116th Congress, on September 18, 2019, Representative Gerald E. Connolly (D-VA), Chair of the Subcommittee on Government Operations, along with Representatives Elijah E. Cummings (D-MD), then-Chairman of the Committee, Mark Meadows (R-NC), and Brian Fitzpatrick (R-PA) introduced H.R. 4382, the Integrity Committee Transparency Act of 2019, with similar text to the version in H.R. 2662, as amended. On September 16, 2020, H.R. 4382, as amended, was reported favorably by the Committee by a voice vote.

H.R. 2662 Title V—IG Subpoena Authority Act

During the 117th Congress, on March 19, 2021, Representative Jimmy Gomez (D-CA), along with Representatives Carolyn B. Maloney (D-NY) and Gerald E. Connolly (D-VA), and Delegate Eleanor Holmes Norton (D-DC) introduced H.R. 2089, the IG Subpoena Authority Act, which would provide IGs with the authority to subpoena witness testimony from non-federal employees. H.R. 2089 was referred to the Committee for consideration. H.R. 2089 comprises title V of H.R. 2662.

During the 116th Congress, on February 2, 2018, Representative Steve Russell (R-OK), along with Representative Matt Cartwright (D-PA) introduced H.R. 4917, the IG Subpoena Authority Act. The bill was referred to the Committee for consideration. On June 29, 2018, the Committee ordered H.R. 4917 favorably reported by voice vote, and on September 26, 2018, the House passed the bill by voice vote.

In the 114th Congress, on May 18, 2015, then-Chairman Jason Chaffetz (R-UT) introduced H.R. 2395, the Inspector General Empowerment Act of 2016, with Representative Mark Meadows (R-NC) and Ranking Minority Member Elijah E. Cummings (D-MD). The bill was referred to the Committee for consideration. H.R. 2395 contained a similar provision to future versions of IG testimonial subpoena authority language. On May 19, 2015, the Committee or-

dered H.R. 2395 favorably reported by voice vote and on June 21, 2016, the House passed the bill, as amended, by voice vote.

H.R. 2662 Title VI—Inspector General Access Act

During the 117th Congress, on May 7, 2021, Representative Deborah Ross (D-NC), along with Representatives Jamie Raskin (D-MD), Darrell Issa (R-CA), Carolyn B. Maloney (D-NY), Chairwoman of the Committee, Gerald E. Connolly (D-VA), Chairman of the Subcommittee on Government Operations, Jody B. Hice (R-GA), Ranking Member of the Subcommittee on Government Operations, and Eleanor Holmes Norton (D-DC) introduced H.R. 3064, the Inspector General Access Act, which would provide the DOJ IG with the authority to investigate misconduct by DOJ attorneys. The bill was referred to the Committee for consideration. H.R. 3064 comprises title VI of H.R. 2662, the IG Independence and Empowerment Act.

During the 116th Congress, on January 3, 2019, Representative Cedric Richmond (D-LA), along with Representatives Elijah E. Cummings (D-MD), then-Chairman of the Committee, Jody B. Hice (R-GA), and Stephen F. Lynch (D-MA), introduced H.R. 202, the Inspector General Access Act of 2019, with the same text as H.R. 3064. The bill was referred to the Committee for consideration. A companion bill, S. 685, Inspector General Access Act of 2019, was introduced by Senator Mike Lee (R-UT), along with Senators Chuck Grassley (R-IA), Lisa Murkowski (R-AK), and Marco Rubio (R-FL) on March 6, 2019. H.R. 202 passed the House on January 15, 2019 by voice vote.

During the 115th Congress, on June 29, 2017, Representative Cedric Richmond (D-LA), along with Representatives Jody B. Hice (R-GA), John Conyers, Jr. (D-MI), and Stephen F. Lynch (D-MA), introduced H.R. 3154, the Inspector General Access Act of 2017, with the same text as later versions of the bill. The bill was referred to the Committee for consideration. The Committee considered H.R. 3154 at a business meeting on September 27, 2018, and ordered the bill favorably reported by unanimous consent. A companion bill, S. 3003, the Inspector General Access Act of 2018, was introduced by Senator Mike Lee (R-UT), along with Senators Chuck Grassley (R-IA) and Lisa Murkowski (R-AK) on June 6, 2018. H.R. 3154 passed the House on November 29, 2018 by voice vote.

During the 114th Congress, on May 5, 2015, Representative Cedric Richmond (D-LA), along with Representatives John Conyers, Jr. (D-MI), Jody B. Hice (R-GA), and Ral R. Labrador (R-ID), introduced H.R. 2240, the Inspector General Access Act of 2015, with the same text as later versions of the bill. The bill was referred to the Committee for consideration. A companion bill, S. 618, Inspector General Access Act of 2015, was introduced by Senator Mike Lee (R-UT), along with Senators Chuck Grassley (R-IA), Lisa Murkowski (R-AK), and Jon Tester (D-MT) on March 2, 2015.

H.R. 2662 Title VII—Enhanced Whistleblower Protection Act

During the 117th Congress, On May 19, 2021, Representative Gerald E. Connolly, Chairman of the Subcommittee on Government Operations, introduced H.R. 3338, the Enhanced Whistleblower Engagement Act, with Representatives Carolyn B. Maloney (D-NY),

Chairwoman of the Committee, Stephen F. Lynch (D-MA), Danny K. Davis (D-IL), Jamie Raskin (D-MD), Eleanor Holmes Norton (D-DC), Ro Khanna (D-CA), and Katie Porter (D-CA). The bill was referred to the Committee for consideration. H.R. 3338 comprises title VII of H.R. 2662, the IG Independence and Empowerment Act and section 4 of S. 587, the Securing Inspector General Independence Act of 2021.

COMMITTEE CONSIDERATION

On May 25, 2021, the Committee considered H.R. 2662 at a business meeting. Chairwoman Maloney offered an amendment in the nature of a substitute (ANS).

Representative Andy Biggs (R-AZ) offered an amendment to the ANS that would strike title I, title III, and title V from the bill. The amendment failed by a recorded vote of 15–20.

Representative Fred Keller (R-PA) offered an amendment to the ANS that would strike title I and title II from the bill, and make changes to title V. The amendment failed by a recorded vote of 18–21.

The ANS was adopted by a voice vote, and the Committee ordered the bill reported favorably, as amended, by a recorded vote of 22–18.

ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 2662:

COMMITTEE ON OVERSIGHT AND REFORM
117TH CONGRESS
RATIO 25-20
ROLL CALL

Vote on: Rep. Biggs – Amendment to ANS to H.R. 2662, the IG Independence and Empowerment Act.

Date: 5-25-2021

VOTE #: 1

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MS. MALONEY (NY) (Chairwoman)		X		MR. COMER (KY) (Ranking Member)	X		
MS. NORTON (DC)		X		MR. JORDAN (OH)	X		
MR. LYNCH (MA)		X		MR. GOSAR (AZ)			
MR. COOPER (TN)				MS. FOXX (NC)	X		
MR. CONNOLLY (VA)		X		MR. HICE (GA)	X		
MR. KRISHNAMOORTHY (IL)		X		MR. GROTHMAN (WI)	X		
MR. RASKIN (MD)		X		MR. CLOUD (TX)			
MR. KHANNA (CA)		X		MR. GIBBS (OH)	X		
MR. MFUME (MD)				MR. HIGGINS (LA)			
MS. OCASIO-CORTEZ (NY)		X		MR. NORMAN (SC)	X		
MS. TLAIB (MI)		X		MR. SESSIONS (TX)	X		
MS. PORTER (CA)		X		MR. KELLER (PA)	X		
MS. BUSH (MO)		X		MR. BIGGS (AZ)	X		
MR. DAVIS (IL)				MR. CLYDE (GA)	X		
MS. WASSERMAN SCHULTZ		X		MS. MACE (SC)			
MR. WELCH (VT)		X		MR. FRANKLIN (FL)	X		
MR. JOHNSON (GA)		X		MR. LATURNER (KS)	X		
MR. SARBANES (MD)		X		MR. FALLON (TX)	X		
MS. SPEIER (CA)				MS. HERRELL (NM)	X		
MS. KELLY (IL)		X		MR. DONALDS (FL)			
MS. LAWRENCE (MI)		X					
MR. DESAULNIER (CA)		X					
MR. GOMEZ (CA)		X					
MS. PRESSLEY (MA)							
MR. QUIGLEY (IL)		X					

Roll Call Totals: Ayes: 15 Nays: 20 Present:

Passed: _____ Failed: ___X___

COMMITTEE ON OVERSIGHT AND REFORM
117TH CONGRESS
RATIO 25-20
ROLL CALL

Vote on: Rep. Keller–Amendment to ANS to H.R. 2662, the IG Independence and Empowerment Act.

Date: 5-25-2021

VOTE #: 2

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MS. MALONEY (NY) (Chairwoman)		X		MR. COMER (KY) (Ranking Member)	X		
MS. NORTON (DC)		X		MR. JORDAN (OH)	X		
MR. LYNCH (MA)		X		MR. GOSAR (AZ)			
MR. COOPER (TN)				MS. FOXX (NC)	X		
MR. CONNOLLY (VA)		X		MR. HICE (GA)	X		
MR. KRISHNAMOORTHY (IL)		X		MR. GROTHMAN (WI)	X		
MR. RASKIN (MD)		X		MR. CLOUD (TX)	X		
MR. KHANNA (CA)		X		MR. GIBBS (OH)	X		
MR. MFUME (MD)				MR. HIGGINS (LA)			
MS. OCASIO-CORTEZ (NY)		X		MR. NORMAN (SC)	X		
MS. TLAIB (MI)		X		MR. SESSIONS (TX)	X		
MS. PORTER (CA)		X		MR. KELLER (PA)	X		
MS. BUSH (MO)		X		MR. BIGGS (AZ)	X		
MR. DAVIS (IL)				MR. CLYDE (GA)	X		
MS. WASSERMAN SCHULTZ		X		MS. MACE (SC)	X		
MR. WELCH (VT)		X		MR. FRANKLIN (FL)	X		
MR. JOHNSON (GA)		X		MR. LATURNER (KS)	X		
MR. SARBANES (MD)		X		MR. FALLON (TX)	X		
MS. SPEIER (CA)		X		MS. HERRELL (NM)	X		
MS. KELLY (IL)		X		MR. DONALDS (FL)	X		
MS. LAWRENCE (MI)		X					
MR. DESAULNIER (CA)		X					
MR. GOMEZ (CA)		X					
MS. PRESSLEY (MA)							
MR. QUIGLEY (IL)		X					

Roll Call Totals: Ayes: 18 Nays: 21 Present:

Passed: _____ Failed: _____X_____

COMMITTEE ON OVERSIGHT AND REFORM
117TH CONGRESS
RATIO 25-20
ROLL CALL

Vote on: Final Passage – H.R. 2662, the IG Independence and Empowerment Act as amended.

Date: 5-25-2021

VOTE #: 3

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MS. MALONEY (NY) (Chairwoman)	X			MR. COMER (KY) (Ranking Member)		X	
MS. NORTON (DC)	X			MR. JORDAN (OH)		X	
MR. LYNCH (MA)	X			MR. GOSAR (AZ)			
MR. COOPER (TN)	X			MS. FOXX (NC)		X	
MR. CONNOLLY (VA)	X			MR. HICE (GA)		X	
MR. KRISHNAMOORTHY (IL)	X			MR. GROTHMAN (WI)		X	
MR. RASKIN (MD)	X			MR. CLOUD (TX)		X	
MR. KHANNA (CA)	X			MR. GIBBS (OH)		X	
MR. MFUME (MD)				MR. HIGGINS (LA)			
MS. OCASIO-CORTEZ (NY)	X			MR. NORMAN (SC)		X	
MS. TLAIB (MI)	X			MR. SESSIONS (TX)		X	
MS. PORTER (CA)	X			MR. KELLER (PA)		X	
MS. BUSH (MO)	X			MR. BIGGS (AZ)		X	
MR. DAVIS (IL)				MR. CLYDE (GA)		X	
MS. WASSERMAN SCHULTZ	X			MS. MACE (SC)		X	
MR. WELCH (VT)	X			MR. FRANKLIN (FL)		X	
MR. JOHNSON (GA)	X			MR. LATURNER (KS)		X	
MR. SARBANES (MD)	X			MR. FALLON (TX)		X	
MS. SPEIER (CA)	X			MS. HERRELL (NM)		X	
MS. KELLY (IL)	X			MR. DONALDS (FL)		X	
MS. LAWRENCE (MI)	X						
MR. DESAULNIER (CA)	X						
MR. GOMEZ (CA)	X						
MS. PRESSLEY (MA)							
MR. QUIGLEY (IL)	X						

Roll Call Totals: Ayes: 22 Nays: 18 Present:

Passed: X Failed:

EXPLANATION OF AMENDMENTS

During Committee consideration of the bill, Representative Carolyn B. Maloney (D-NY), Chairwoman of the Committee, offered an amendment in the nature of a substitute that modified the bill to make technical changes to multiple titles of the bill, including title V and title X, as well as changes to title IV to conform to language in a separate bill the Committee reported favorably on May 13, 2021, H.R. 2681, the Integrity Committee Transparency Act, introduced by Representative Gerald E. Connolly (D-VA). The Committee adopted the Maloney amendment by a voice vote.

Representative Andy Biggs (R-AZ) offered an amendment that would have stricken title I, the for-cause removal protections for IGs, title III, requirements for who can serve as an acting IG in the event of a vacancy, and title V, testimonial subpoena authority for IGs. The amendment was not adopted.

Representative Fred Keller (R-PA) offered an amendment that would have stricken title I, the for-cause removal protections for IGs, and title III, requirements for who can serve as an acting IG in the event of a vacancy. The amendment would also have modified title V, testimonial subpoena authority for IGs, to forbid subpoenas of former federal employees who were not employed with the federal government on the date of enactment of the Act, and to require an IG to pay for the legal representation of any witness whose testimony the IG is seeking to compel under subpoena. The amendment was not adopted.

LIST OF RELATED COMMITTEE HEARINGS

In accordance with section 103(i) of H. Res. 6, the Committee held hearings to consider the proposals set forth in the IG Independence and Empowerment Act, on April 20, 2021, before the Subcommittee on Government Operations as part of a hearing to consider legislative proposals related to IGs, and on May 3, 2021, before the full Committee, as part of a hearing to consider various government accountability and transparency legislative proposals.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee finds that greater independence, authority, and transparency of inspectors general is necessary to effectively and efficiently uncover waste, fraud, and abuse and investigate allegations of misconduct in the federal government, such that the Committee recommends the adoption of this bill (H.R. 2662) to ensure that IGs can continue serving a critical oversight function within the federal government and report findings to Congress and the American people.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal or objective of this bill is to amend the Inspector General Act of 1978 to require that an Inspector General is removed only for cause, ex-

pand authorities and transparency requirements relating to federal inspectors general, and for other purposes.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill amends the Inspector General Act of 1978 to require that an Inspector General is removed only for cause, expand authorities and transparency requirements relating to federal inspectors general, and for other purposes. As such, this bill does not relate to terms and conditions of employment or access to public services or accommodations.

DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 3(c)(5) of rule XIII, no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

This bill does not direct the completion of any specific rule makings within the meaning of section 551 of title 5, United States Code.

FEDERAL ADVISORY COMMITTEE ACT STATEMENT

The legislation does not establish or authorize the establishment of an advisory committee within the definition of section 5(b) of the appendix to title 5, United States Code.

UNFUNDED MANDATES REFORM ACT STATEMENT

Pursuant to section 423 of the Congressional Budget Act of 1974, the Committee has included a letter received from the Congressional Budget Office below.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the House of Representatives.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(2)(B) of rule XIII of the Rules of the House of Representatives, the Committee includes below a cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the Congressional Budget Act of 1974 is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 16, 2021.

Hon. CAROLYN B. MALONEY,
*Chairwoman, Committee on Oversight and Reform,
House of Representatives, Washington, DC.*

DEAR MADAM CHAIRWOMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2662, the IG Independence and Empowerment Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 2662, IG Independence and Empowerment Act			
As ordered reported by the House Committee on Oversight and Reform on May 25, 2021			
By Fiscal Year, Millions of Dollars	2021	2021-2026	2021-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	52	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 2662 would amend the Inspector General Act of 1978 and would require the President and inspectors general (IGs) to report to the Congress on certain activities. The bill also would require that the Integrity Committee of the Council of Inspectors General on Integrity and Efficiency (CIGIE) have one member who is a former IG, would direct the council to establish minimum training standards and best practices for IGs, and would authorize the appropriation of whatever amounts are necessary for the council.

In 2020, IGs working in more than 70 federal agencies spent \$3.1 billion to detect and deter fraud, waste, and abuse and produced more than 3,000 audit, investigation, and evaluation reports.

Under current law, each federal agency with an IG provides funds annually to operate CIGIE; those funds total about \$10 million a year. H.R. 2662 would authorize appropriations for the

CIGIE. Based on information from selected IGs and the CIGIE regarding their current operations and the new reporting and staffing requirements, and accounting for anticipated inflation, CBO estimates that implementing this provision would cost \$52 million over the 2022–2026 period, assuming appropriation of the necessary amounts.

CBO assumes the bill will be enacted near the end of fiscal year 2021. The costs of the legislation, detailed in Table 1, fall within budget function 800 (general government).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 2662

	By fiscal year, millions of dollars—						2021–2026
	2021	2022	2023	2024	2025	2026	
Estimated Authorization	0	10	10	11	11	11	53
Estimated Outlays	0	9	10	11	11	11	52

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

INSPECTOR GENERAL ACT OF 1978

* * * * *

APPOINTMENT AND REMOVAL OF OFFICERS

SEC. 3. (a) There shall be at the head of each Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Each Inspector General shall report to and be under the general supervision of the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not report to, or be subject to supervision by, any other officer of such establishment. Neither the head of the establishment nor the officer next in rank below such head 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.

(b) **[An Inspector General]**

(1) *An Inspector General* may be removed from office by the President *in accordance with paragraph (2)*. If an Inspector General is removed from office, *is placed on paid or unpaid non-duty status*, or is transferred to another position or location within an establishment, the President shall communicate

in writing the reasons for any such removal, *change in status*, or transfer to both Houses of Congress, not later than 30 days before the removal, *change in status*, or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.

(2) *The President may remove an Inspector General only for any of the following grounds (and the documentation of any such ground shall be included in the communication required pursuant to paragraph (1)):*

- (A) *Documented permanent incapacity.*
- (B) *Documented neglect of duty.*
- (C) *Documented malfeasance.*
- (D) *Documented conviction of a felony or conduct involving moral turpitude.*
- (E) *Documented knowing violation of a law or regulation.*
- (F) *Documented gross mismanagement.*
- (G) *Documented gross waste of funds.*
- (H) *Documented abuse of authority.*
- (I) *Documented inefficiency.*

(c) For the purposes of section 7324 of title 5, United States Code, no Inspector General shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

(d)(1) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(A) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the establishment;

(B) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations; and

(C) designate a Whistleblower Protection Coordinator who shall—

(i) educate agency employees, *including employees of that Office of Inspector General*—

(I) about prohibitions against retaliation for protected disclosures; and

(II) who have made or are contemplating making a protected disclosure about the rights and remedies against retaliation for protected disclosures, including—

(aa) the means by which employees may seek review of any allegation of reprisal, including the roles of the Office of the Inspector General, the Office of Special Counsel, the Merit Systems Protection Board, and any other relevant entities; and

(bb) general information about the timeliness of such cases, the availability of any alternative dispute mechanisms, and avenues for potential relief.

(ii) assist the Inspector General in promoting the timely and appropriate handling and consideration of protected disclosures and allegations of reprisal, to the extent practicable, by the Inspector General; and

(iii) assist the Inspector General in facilitating communication and coordination with the Special Counsel, the Council of the Inspectors General on Integrity and Efficiency (*including the Integrity Committee of that Council*), the establishment, Congress, and any other relevant entity regarding the timely and appropriate handling and consideration of protected disclosures, allegations of reprisal, and general matters regarding the implementation and administration of whistleblower protection laws, rules, and regulations.

(2) The Whistleblower Protection Coordinator shall not act as a legal representative, agent, or advocate of the employee or former employee.

(3) The Whistleblower Protection Coordinator shall have direct access to the Inspector General as needed to accomplish the requirements of this subsection.

(4) For the purposes of this section, the requirement of the designation of a Whistleblower Protection Ombudsman under paragraph (1)(C) shall not apply to—

(A) any agency that is an element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))); or

(B) as determined by the President, any executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counter intelligence activities.

(e) The annual rate of basic pay for an Inspector General (as defined under section 12(3)) shall be the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, plus 3 percent.

(f) An Inspector General (as defined under section 8G(a)(6) or 12(3)) may not receive any cash award or cash bonus, including any cash award under chapter 45 of title 5, United States Code.

(g) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service, obtain legal advice from a counsel either reporting directly to the Inspector General or another Inspector General.

(h) Not later than 15 days after an Inspector General is removed, placed on paid or unpaid non-duty status, or transferred to another position or location within an establishment, the acting Inspector General shall submit to the Committee on Oversight and Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, a list of all audits and investigations being conducted, supervised, coordinated by the Office at the time the Inspector General was removed, placed on paid or unpaid non-duty status, or transferred.

* * * * *

REPORTS

SEC. 5. (a) Each Inspector General shall, not later than April 30 and October 31 of each year, prepare semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of such establishment disclosed by such activities during the reporting period;

(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

(3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

(5) a summary of each report made to the head of the establishment under section 6(c)(2) during the reporting period;

(6) a listing, subdivided according to subject matter, of each audit report, inspection reports, and evaluation reports issued by the Office during the reporting period and for each report, where applicable, the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs) and the dollar value of recommendations that funds be put to better use;

(7) a summary of each particularly significant report;

(8) statistical tables showing the total number of audit reports, inspection reports, and evaluation reports and the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs), for reports—

(A) for which no management decision had been made by the commencement of the reporting period;

(B) which were issued during the reporting period;

(C) for which a management decision was made during the reporting period, including—

(i) the dollar value of disallowed costs; and

(ii) the dollar value of costs not disallowed; and

(D) for which no management decision has been made by the end of the reporting period;

(9) statistical tables showing the total number of audit reports, inspection reports, and evaluation reports and the dollar value of recommendations that funds be put to better use by management, for reports—

(A) for which no management decision had been made by the commencement of the reporting period;

(B) which were issued during the reporting period;

(C) for which a management decision was made during the reporting period, including—

(i) the dollar value of recommendations that were agreed to by management; and

(ii) the dollar value of recommendations that were not agreed to by management; and

(D) for which no management decision has been made by the end of the reporting period;

(10) a summary of each audit report, inspection reports, and evaluation reports issued before the commencement of the reporting period—

- (A) for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report;
- (B) for which no establishment comment was returned within 60 days of providing the report to the establishment; and
- (C) for which there are any outstanding unimplemented recommendations, including the aggregate potential cost savings of those recommendations.
- (11) a description and explanation of the reasons for any significant revised management decision made during the reporting period;
- (12) information concerning any significant management decision with which the Inspector General is in disagreement;
- (13) the information described under section 804(b) of the Federal Financial Management Improvement Act of 1996;
- (14)(A) an appendix containing the results of any peer review conducted by another Office of Inspector General during the reporting period; or
- (B) if no peer review was conducted within that reporting period, a statement identifying the date of the last peer review conducted by another Office of Inspector General;
- (15) a list of any outstanding recommendations from any peer review conducted by another Office of Inspector General that have not been fully implemented, including a statement describing the status of the implementation and why implementation is not complete;
- (16) a list of any peer reviews conducted by the Inspector General of another Office of the Inspector General during the reporting period, including a list of any outstanding recommendations made from any previous peer review (including any peer review conducted before the reporting period) that remain outstanding or have not been fully implemented;
- (17) statistical tables showing—
 - (A) the total number of investigative reports issued during the reporting period;
 - (B) the total number of persons referred to the Department of Justice for criminal prosecution during the reporting period;
 - (C) the total number of persons referred to State and local prosecuting authorities for criminal prosecution during the reporting period; and
 - (D) the total number of indictments and criminal informations during the reporting period that resulted from any prior referral to prosecuting authorities;
- (18) a description of the metrics used for developing the data for the statistical tables under paragraph (17);
- (19) a report on each investigation conducted by the Office involving a senior Government employee where allegations of misconduct were substantiated, including the name of the senior government official (as defined by the department or agen-

cy) if already made public by the Office, and a detailed description of—

- (A) the facts and circumstances of the investigation; and
- (B) the status and disposition of the matter, including—
 - (i) if the matter was referred to the Department of Justice, the date of the referral; and
 - (ii) if the Department of Justice declined the referral, the date of the declination;

(20)(A) a detailed description of any instance of whistleblower retaliation, including information about the official found to have engaged in retaliation; and

(B) what, if any, consequences the establishment actually imposed to hold the official described in subparagraph (A) accountable;

(21) a detailed description of any attempt by the establishment to interfere with the independence of the Office, including—

(A) with budget constraints designed to limit the capabilities of the Office; and

(B) incidents where the establishment has resisted or objected to oversight activities of the Office or restricted or significantly delayed access to information, including the justification of the establishment for such action[]; and[];

(22) detailed descriptions of the particular circumstances of each—

(A) inspection, evaluation, and audit conducted by the Office that is closed and was not disclosed to the public; and

(B) investigation conducted by the Office involving a senior Government employee that is closed and was not disclosed to the public[]; and

(23) *a description of the use of subpoenas for the attendance and testimony of witnesses authorized under section 6A.*

(b) Semiannual reports of each Inspector General shall be furnished to the head of the establishment involved not later than April 30 and October 31 of each year and shall be transmitted by such head to the appropriate committees or subcommittees of the Congress within thirty days after receipt of the report, together with a report by the head of the establishment containing—

(1) any comments such head determines appropriate;

(2) statistical tables showing the total number of audit reports, inspection reports, and evaluation reports and the dollar value of disallowed costs, for reports—

(A) for which final action had not been taken by the commencement of the reporting period;

(B) on which management decisions were made during the reporting period;

(C) for which final action was taken during the reporting period, including—

(i) the dollar value of disallowed costs that were recovered by management through collection, offset, property in lieu of cash, or otherwise; and

(ii) the dollar value of disallowed costs that were written off by management; and

- (D) for which no final action has been taken by the end of the reporting period;
- (3) statistical tables showing the total number of audit reports, inspection reports, and evaluation reports and the dollar value of recommendations that funds be put to better use by management agreed to in a management decision, for reports—
 - (A) for which final action had not been taken by the commencement of the reporting period;
 - (B) on which management decisions were made during the reporting period;
 - (C) for which final action was taken during the reporting period, including—
 - (i) the dollar value of recommendations that were actually completed; and
 - (ii) the dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed; and
 - (D) for which no final action has been taken by the end of the reporting period;
- (4) whether the establishment entered into a settlement agreement with the official described in subsection (a)(20)(A), which shall be reported regardless of any confidentiality agreement relating to the settlement agreement; and
- (5) a statement with respect to audit reports on which management decisions have been made but final action has not been taken, other than audit reports on which a management decision was made within the preceding year, containing—
 - (A) a list of such audit reports and the date each such report was issued;
 - (B) the dollar value of disallowed costs for each report;
 - (C) the dollar value of recommendations that funds be put to better use agreed to by management for each report; and
 - (D) an explanation of the reasons final action has not been taken with respect to each such audit report, except that such statement may exclude such audit reports that are under formal administrative or judicial appeal or upon which management of an establishment has agreed to pursue a legislative solution, but shall identify the number of reports in each category so excluded.
- (c) Within sixty days of the transmission of the semiannual reports of each Inspector General to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost. Within 60 days after the transmission of the semiannual reports of each establishment head to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.
- (d) Each Inspector General shall report immediately to the head of the establishment involved whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of such establishment. The head of the establishment shall transmit any such report to the appropriate committees or subcommittees of Congress within seven calendar days, together with

a report by the head of the establishment containing any comments such head deems appropriate.

(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) Except to the extent and in the manner provided under section 6103(f) of the Internal Revenue Code of 1986, 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.

(4) Subject to any other provision of law that would otherwise prohibit disclosure of such information, the information described in paragraph (1) may be provided to any Member of Congress upon request.

(5) An Office may not provide to Congress or the public any information that reveals the personally identifiable information of a whistleblower under this section unless the Office first obtains the consent of the whistleblower.

(f) As used in this section—

(1) the term “questioned cost” means a cost that is questioned by the Office because of—

(A) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

(B) a finding that, at the time of the audit, such cost is not supported by adequate documentation; or

(C) a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable;

(2) the term “unsupported cost” means a cost that is questioned by the Office because the Office found that, at the time of the audit, such cost is not supported by adequate documentation;

(3) the term “disallowed cost” means a questioned cost that management, in a management decision, has sustained or agreed should not be charged to the Government;

(4) the term “recommendation that funds be put to better use” means a recommendation by the Office that funds could be used more efficiently if management of an establishment took actions to implement and complete the recommendation, including—

(A) reductions in outlays;

(B) deobligation of funds from programs or operations;

(C) withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds;

- (D) costs not incurred by implementing recommended improvements related to the operations of the establishment, a contractor or grantee;
- (E) avoidance of unnecessary expenditures noted in preaward reviews of contract or grant agreements; or
- (F) any other savings which are specifically identified;
- (5) the term “management decision” means the evaluation by the management of an establishment of the findings and recommendations included in an audit report and the issuance of a final decision by management concerning its response to such findings and recommendations, including actions concluded to be necessary;
- (6) the term “final action” means—
 - (A) the completion of all actions that the management of an establishment has concluded, in its management decision, are necessary with respect to the findings and recommendations included in an audit report; and
 - (B) in the event that the management of an establishment concludes no action is necessary, final action occurs when a management decision has been made; and
- (7) the term “senior Government employee” means—
 - (A) an officer or employee in the executive branch (including a special Government employee as defined in section 202 of title 18, United States Code) who occupies a position classified at or above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; and
 - (B) any commissioned officer in the Armed Forces in pay grades O-6 and above.

AUTHORITY; ADMINISTRATION PROVISIONS

SEC. 6. (a) In addition to the authority otherwise provided by this Act, each Inspector General, in carrying out the provisions of this Act, is authorized—

- (1)(A) to have timely access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials available to the applicable establishment which relate to the programs and operations with respect to which that Inspector General has responsibilities under this Act;
- (B) to have access under subparagraph (A) notwithstanding any other provision of law, except pursuant to any provision of law enacted by Congress that expressly—
 - (i) refers to the Inspector General; and
 - (ii) limits the right of access of the Inspector General;
 and
- (C) except as provided in subsection (i), with regard to Federal grand jury materials protected from disclosure pursuant to rule 6(e) of the Federal Rules of Criminal Procedure, to have timely access to such information if the Attorney General grants the request in accordance with subsection (h);
- (2) to make such investigations and reports relating to the administration of the programs and operations of the applica-

ble establishment as are, in the judgment of the Inspector General, necessary or desirable;

(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(4) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data in any medium (including electronically stored information), as well as any tangible thing and documentary evidence necessary in the performance of the functions assigned by this Act, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided*, That procedures other than subpoenas shall be used by the Inspector General to obtain documents and information from Federal agencies;

(5) to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this Act, which oath, affirmation, or affidavit when administered or taken by or before an employee of an Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;

(6) to have direct and prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

(7) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(8) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code; and

(9) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act.

(b) Nothing in this section shall be construed as authorizing an Inspector General to publicly disclose information otherwise prohibited from disclosure by law.

(c)(1) Upon request of an Inspector General for information or assistance under subsection (a)(3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a)(1) or (a)(3) is, in the judgment of an Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

(3) *If the information or assistance that is the subject of a report under paragraph (2) is not provided to the Inspector General by the date that is 30 days after the report is made, the Inspector General shall submit a notice that the information or assistance requested is being unreasonably refused or not provided by the head of the establishment involved or the head of the Federal agency involved, as applicable, to—*

(A) the Committee in the House of Representatives and the Committee in the Senate that has jurisdiction over the establishment involved or the Federal agency involved, as applicable;

(B) the Committee on Oversight and Reform of the House of Representatives; and

(C) the Committee on Homeland Security and Governmental Affairs of the Senate.

(d) Each head of an establishment shall provide the Office within such establishment with appropriate and adequate office space at central and field office locations of such establishment, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(e)(1)(A) For purposes of applying the provisions of law identified in subparagraph (B)—

(i) each Office of Inspector General shall be considered to be a separate agency; and

(ii) the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office, have the functions, powers, and duties of an agency head or appointing authority under such provisions.

(B) This paragraph applies with respect to the following provisions of title 5, United States Code:

(i) Subchapter II of chapter 35.

(ii) Sections 8335(b), 8336, 8344, 8414, 8468, and 8425(b).

(iii) All provisions relating to the Senior Executive Service (as determined by the Office of Personnel Management), subject to paragraph (2).

(2) For purposes of applying section 4507(b) of title 5, United States Code, paragraph (1)(A)(ii) shall be applied by substituting “the Council of the Inspectors General on Integrity and Efficiency (established by section 11 of the Inspector General Act) shall” for “the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office,”.

(f)(1) In addition to the authority otherwise provided by this Act, each Inspector General, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

(C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

(5)(A) Powers authorized for an Office of Inspector General under paragraph (1) may be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

(B) Powers authorized to be exercised by any individual under paragraph (1) may be rescinded or suspended with respect to that individual upon a determination by the Attorney General that such individual has not complied with guidelines promulgated by the Attorney General under paragraph (4).

(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.

(9) In this subsection, the term “Inspector General” means an Inspector General appointed under section 3 or an Inspector General appointed under section 8G.

(g)(1) For each fiscal year, an Inspector General shall transmit a budget estimate and request to the head of the establishment or designated Federal entity to which the Inspector General reports. The budget request shall specify the aggregate amount of funds requested for such fiscal year for the operations of that Inspector General and shall specify the amount requested for all training needs, including a certification from the Inspector General that the amount requested satisfies all training requirements for the Inspector General’s office for that fiscal year[, and any resources necessary to support the Council of the Inspectors General on Integrity and Efficiency. Resources necessary to support the Council of the Inspectors General on Integrity and Efficiency shall be specifically identified and justified in the budget request].

(2) In transmitting a proposed budget to the President for approval, the head of each establishment or designated Federal entity shall include—

(A) an aggregate request for the Inspector General;

(B) amounts for Inspector General training; *and*

[(C) amounts for support of the Council of the Inspectors General on Integrity and Efficiency; and]

[(D)] (C) any comments of the affected Inspector General with respect to the proposal.

(3) The President shall include in each budget of the United States Government submitted to Congress—

(A) a separate statement of the budget estimate prepared in accordance with paragraph (1);

(B) the amount requested by the President for each Inspector General;

(C) the amount requested by the President for training of Inspectors General;

(D) the amount requested by the President for support for the Council of the Inspectors General on Integrity and Efficiency; and

(E) any comments of the affected Inspector General with respect to the proposal if the Inspector General concludes that the budget submitted by the President would substantially inhibit the Inspector General from performing the duties of the office.

(h)(1) If the Inspector General of an establishment submits a request to the head of the establishment for Federal grand jury materials pursuant to subsection (a)(1), the head of the establishment shall immediately notify the Attorney General of such request.

(2) Not later than 15 days after the date on which a request is submitted to the Attorney General under paragraph (1), the Attorney General shall determine whether to grant or deny the request for Federal grand jury materials and shall immediately notify the head of the establishment of such determination. The Attorney General shall grant the request unless the Attorney General determines that granting access to the Federal grand jury materials would be likely to—

(A) interfere with an ongoing criminal investigation or prosecution;

(B) interfere with an undercover operation;

(C) result in disclosure of the identity of a confidential source, including a protected witness;

(D) pose a serious threat to national security; or

(E) result in significant impairment of the trade or economic interests of the United States.

(3)(A) The head of the establishment shall inform the Inspector General of the establishment of the determination made by the Attorney General with respect to the request for Federal grand jury materials.

(B) The Inspector General of the establishment described under subparagraph (A) may submit comments on the determination submitted pursuant to such subparagraph to the committees listed under paragraph (4) that the Inspector General considers appropriate.

(4) Not later than 30 days after notifying the head of an establishment of a denial pursuant to paragraph (2), the Attorney General shall submit a statement that the request for Federal grand jury materials by the Inspector General was denied and the reason for the denial to each of the following:

(A) The Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate.

(B) The Committee on Oversight and Government Reform, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence of the House of Representatives.

(C) Other appropriate committees and subcommittees of Congress.

(i) Subsections (a)(1)(C) and (h) shall not apply to requests from the Inspector General of the Department of Justice.

(j)(1) In this subsection, the terms “agency”, “matching program”, “record”, and “system of records” have the meanings given those terms in section 552a(a) of title 5, United States Code.

(2) For purposes of section 552a of title 5, United States Code, or any other provision of law, a computerized comparison of two or more automated Federal systems of records, or a computerized comparison of a Federal system of records with other records or non-Federal records, performed by an Inspector General or by an agency in coordination with an Inspector General in conducting an audit, investigation, inspection, evaluation, or other review authorized under this Act shall not be considered a matching program.

(3) Nothing in this subsection shall be construed to impede the exercise by an Inspector General of any matching program authority established under any other provision of law.

(k) Subchapter I of chapter 35 of title 44, United States Code, shall not apply to the collection of information during the conduct of an audit, investigation, inspection, evaluation, or other review conducted by the Council of the Inspectors General on Integrity and Efficiency or any Office of Inspector General, including any Office of Special Inspector General.

SEC. 6A. ADDITIONAL AUTHORITY.

(a) *TESTIMONIAL SUBPOENA AUTHORITY.*—In addition to the authority otherwise provided by this Act and in accordance with the requirements of this section, each Inspector General, in carrying out the provisions of this Act (or in the case of an Inspector General or Special Inspector General not established under this Act, the provisions of the authorizing statute), is authorized to require by subpoena the attendance and testimony of witnesses as necessary in the performance of the functions assigned to the Inspector General by this Act (or in the case of an Inspector General or Special Inspector General not established under this Act, the functions assigned by the authorizing statute), which in the case of contumacy or refusal to obey, such subpoena shall be enforceable by order of any appropriate United States district court. An Inspector General may not require by subpoena the attendance and testimony of any Federal employee or employee of a designated Federal entity, but may use other authorized procedures.

(b) *LIMITATION OF DELEGATION.*—The authority to issue a subpoena under subsection (a) may only be delegated to an official performing the functions and duties of the Inspector General when an Inspector General position is vacant or when the Inspector General is unable to perform the functions and duties of the Office.

(c) *PANEL REVIEW BEFORE ISSUANCE.*—

(1) *APPROVAL REQUIRED.*—

(A) *REQUEST FOR APPROVAL BY SUBPOENA PANEL.*—Before the issuance of a subpoena described in subsection (a), an Inspector General shall submit a request for approval to issue a subpoena to a panel (in this section, referred to as the “Subpoena Panel”), which shall be comprised of three Inspectors General of the Council of the Inspectors General on Integrity and Efficiency, who shall be designated by the Inspector General serving as Chairperson of the Council.

(B) *PROTECTION FROM DISCLOSURE.*—The information contained in the request submitted by an Inspector General under subparagraph (A) and the identification of a witness shall be protected from disclosure to the extent permitted by law. Any request for disclosure of such information shall be submitted to the Inspector General requesting the subpoena.

(2) *TIME TO RESPOND.*—

(A) *IN GENERAL.*—Except as provided in subparagraph (B), the Subpoena Panel shall approve or deny a request for approval to issue a subpoena not later than 10 calendar days after the submission of such request.

(B) *ADDITIONAL INFORMATION FOR PANEL.*—If the Subpoena Panel determines that additional information is necessary to approve or deny a request submitted by an Inspector General under paragraph (1)(A), the Subpoena Panel shall request such information from the Inspector General and shall approve or deny the request submitted by the Inspector General under paragraph (1)(A) not later than 20 calendar days after the submission of the request under such paragraph.

(3) *DENIAL BY PANEL.*—If a majority of the Subpoena Panel denies the approval of a subpoena, that subpoena may not be issued.

(d) *NOTICE TO ATTORNEY GENERAL.*—

(1) *IN GENERAL.*—If the Subpoena Panel approves a subpoena under subsection (c), the Inspector General shall notify the Attorney General that the Inspector General intends to issue the subpoena.

(2) *DENIAL FOR INTERFERENCE WITH AN ONGOING INVESTIGATION.*—Not later than 10 calendar days after the date on which the Attorney General is notified pursuant to paragraph (1), the Attorney General may object to the issuance of the subpoena because the subpoena will interfere with an ongoing investigation and the subpoena may not be issued.

(3) *ISSUANCE OF SUBPOENA APPROVED.*—If the Attorney General declines to object or fails to object to the issuance of the subpoena during the 10-day period described in paragraph (2), the Inspector General may issue the subpoena.

(e) *GUIDELINES.*—The Chairperson of the Council of the Inspectors General on Integrity and Efficiency, in consultation with the Attorney General, shall prescribe guidelines to carry out this section.

(f) *INSPECTOR GENERAL DEFINED.*—For purposes of this section, the term “Inspector General” includes each Inspector General established under this Act and each Inspector General or Special Inspector General not established under this Act.

(g) *APPLICABILITY.*—The provisions of this section shall not affect the exercise of authority by an Inspector General of testimonial subpoena authority established under another provision of law.

* * * * *

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF JUSTICE

SEC. 8E. (a)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Attorney General with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

(A) ongoing civil or criminal investigations or proceedings;

(B) undercover operations;

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

(D) intelligence or counterintelligence matters; or

(E) other matters the disclosure of which would constitute a serious threat to national security.

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

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

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

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

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

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

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

[(5)] (4) shall forward the results of any investigation conducted under **[paragraph (4)]** *paragraph (3)*, along with any appropriate recommendation for disciplinary action, to the Attorney General.

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

Committees on the Judiciary and Government Operations of the House of Representatives.

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

* * * * *

REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES

SEC. 8G. (a) Notwithstanding section 12 of this Act, as used in this section—

(1) the term “Federal entity” means any Government corporation (within the meaning of section 103(1) of title 5, United States Code), any Government controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the Executive branch of the Government, or any independent regulatory agency, but does not include—

(A) an establishment (as defined under section 12(2) of this Act) or part of an establishment;

(B) a designated Federal entity (as defined under paragraph (2) of this subsection) or part of a designated Federal entity;

(C) the Executive Office of the President;

(D) the Central Intelligence Agency;

(E) the General Accounting Office; or

(F) any entity in the judicial or legislative branches of the Government, including the Administrative Office of the United States Courts and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol;

(2) the term “designated Federal entity” means Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection, the Board for International Broadcasting, the Committee for Purchase From People Who Are Blind or Severely Disabled, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Defense Intelligence Agency, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Election Assistance Commission, the Federal Housing Finance Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Geospatial-Intelligence Agency, the National Labor Relations Board, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission,

the Smithsonian Institution, the United States International Development Finance Corporation, the United States International Trade Commission, the Postal Regulatory Commission, and the United States Postal Service;

(3) the term “head of the Federal entity” means any person or persons designated by statute as the head of a Federal entity, and if no such designation exists, the chief policymaking officer or board of a Federal entity as identified in the list published pursuant to subsection (h)(1) of this section;

(4) the term “head of the designated Federal entity” means the board or commission of the designated Federal entity, or in the event the designated Federal entity does not have a board or commission, any person or persons designated by statute as the head of a designated Federal entity and if no such designation exists, the chief policymaking officer or board of a designated Federal entity as identified in the list published pursuant to subsection (h)(1) of this section, except that—

(A) with respect to the National Science Foundation, such term means the National Science Board;

(B) with respect to the United States Postal Service, such term means the Governors (within the meaning of section 102(3) of title 39, United States Code);

(C) with respect to the Federal Labor Relations Authority, such term means the members of the Authority (described under section 7104 of title 5, United States Code);

(D) with respect to the Committee for Purchase From People Who Are Blind or Severely Disabled, such term means the Chairman of the Committee for Purchase From People Who Are Blind or Severely Disabled;

(E) with respect to the National Archives and Records Administration, such term means the Archivist of the United States;

(F) with respect to the National Credit Union Administration, such term means the National Credit Union Administration Board (described under section 102 of the Federal Credit Union Act (12 U.S.C. 1752a);

(G) with respect to the National Endowment of the Arts, such term means the National Council on the Arts;

(H) with respect to the National Endowment for the Humanities, such term means the National Council on the Humanities;

(I) with respect to the Peace Corps, such term means the Director of the Peace Corps; and

(J) with respect to the United States International Development Finance Corporation, such term means the Board of Directors of the United States International Development Finance Corporation;

(5) the term “Office of Inspector General” means an Office of Inspector General of a designated Federal entity; and

(6) the term “Inspector General” means an Inspector General of a designated Federal entity.

(b) No later than 180 days after the date of the enactment of this section, there shall be established and maintained in each designated Federal entity an Office of Inspector General. The head of the designated Federal entity shall transfer to such office the of-

fices, units, or other components, and the functions, powers, or duties thereof, that such head determines are properly related to the functions of the Office of Inspector General and would, if so transferred, further the purposes of this section. There shall not be transferred to such office any program operating responsibilities.

(c) Except as provided under subsection (f) of this section, the Inspector General shall be appointed by the head of the designated Federal entity in accordance with the applicable laws and regulations governing appointments within the designated Federal entity. Each Inspector General shall be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. For purposes of implementing this section, the Chairman of the Board of Governors of the Federal Reserve System shall appoint the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection. The Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection shall have all of the authorities and responsibilities provided by this Act with respect to the Bureau of Consumer Financial Protection, as if the Bureau were part of the Board of Governors of the Federal Reserve System.

(d)(1) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity, but shall not report to, or be subject to supervision by, any other officer or employee of such designated Federal entity. Except as provided in paragraph (2), the head of the designated Federal entity shall not 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.

(2)(A) The Secretary of Defense, in consultation with the Director of National Intelligence, may prohibit the inspector general of an element of the intelligence community specified in subparagraph (D) from initiating, carrying out, or completing any audit or investigation, or from accessing information available to an element of the intelligence community specified in subparagraph (D), or from accessing information available to an element of the intelligence community specified in subparagraph (D), if the Secretary determines that the prohibition is necessary to protect vital national security interests of the United States.

(B) If the Secretary exercises the authority under subparagraph (A), the Secretary shall submit to the committees of Congress specified in subparagraph (E) an appropriately classified statement of the reasons for the exercise of such authority not later than 7 days after the exercise of such authority.

(C) At the same time the Secretary submits under subparagraph (B) a statement on the exercise of the authority in subparagraph (A) to the committees of Congress specified in subparagraph (E), the Secretary shall notify the inspector general of such element of the submittal of such statement and, to the extent consistent with the protection of intelligence sources and methods, provide such inspector general with a copy of such statement. Such inspector general may submit to such committees of Congress any comments on

a notice or statement received by the inspector general under this subparagraph that the inspector general considers appropriate.

(D) The elements of the intelligence community specified in this subparagraph are as follows:

- (i) The Defense Intelligence Agency.
- (ii) The National Geospatial-Intelligence Agency.
- (iii) The National Reconnaissance Office.
- (iv) The National Security Agency.

(E) The committees of Congress specified in this subparagraph are—

- (i) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and
- (ii) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(e)(1) In the case of a designated Federal entity for which a board, chairman of a committee, or commission is the head of the designated Federal entity, a removal under this subsection may only be made upon the written concurrence of a $\frac{2}{3}$ majority of the board, committee, or commission.

(2) If an Inspector General is removed from office, *is placed on paid or unpaid non-duty status*, or is transferred to another position or location within a designated Federal entity, the head of the designated Federal entity shall communicate in writing the reasons for any such removal, *change in status*, or transfer to both Houses of Congress, not later than 30 days before the removal, *change in status*, or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal. *An Inspector General may be removed only for any of the following grounds (and the documentation of any such ground shall be included in the communication required pursuant to this paragraph):*

- (A) *Documented permanent incapacity.*
- (B) *Documented neglect of duty.*
- (C) *Documented malfeasance.*
- (D) *Documented conviction of a felony or conduct involving moral turpitude.*
- (E) *Documented knowing violation of a law or regulation.*
- (F) *Documented gross mismanagement.*
- (G) *Documented gross waste of funds.*
- (H) *Documented abuse of authority.*
- (I) *Documented inefficiency.*

(3) *Not later than 15 days after an Inspector General is removed, placed on paid or unpaid non-duty status, or transferred to another position or location within an designated Federal entity, the acting Inspector General shall submit to the Committee on Oversight and Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, a list of all audits and investigations being conducted, supervised, coordinated by the Office at the time the Inspector General was removed, placed on paid or unpaid non-duty status, or transferred.*

(f)(1) For purposes of carrying out subsection (c) with respect to the United States Postal Service, the appointment provisions of section 202(e) of title 39, United States Code, shall be applied.

(2) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service

(hereinafter in this subsection referred to as the “Inspector General”) shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report the significant activities being carried out by the Postal Inspection Service to such Inspector General.

(3)(A)(i) Notwithstanding subsection (d), the Inspector General shall be under the authority, direction, and control of the Governors with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

- (I) ongoing civil or criminal investigations or proceedings;
- (II) undercover operations;
- (III) the identity of confidential sources, including protected witnesses;
- (IV) intelligence or counterintelligence matters; or
- (V) other matters the disclosure of which would constitute a serious threat to national security.

(ii) With respect to the information described under clause (i), the Governors may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Governors determine that such prohibition is necessary to prevent the disclosure of any information described under clause (i) or to prevent the significant impairment to the national interests of the United States.

(iii) If the Governors exercise any power under clause (i) or (ii), the Governors shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

(B) In carrying out the duties and responsibilities specified in this Act, the Inspector General—

- (i) may initiate, conduct and supervise such audits and investigations in the United States Postal Service as the Inspector General considers appropriate; and
- (ii) shall give particular regard to the activities of the Postal Inspection Service with a view toward avoiding duplication and insuring effective coordination and cooperation.

(C) Any report required to be transmitted by the Governors to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

(4) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of either employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor rela-

tions with the United States Postal Service, or any collective bargaining agreement.

(5) As used in this subsection, the term "Governors" has the meaning given such term by section 102(3) of title 39, United States Code.

(6) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.

(g)(1) Sections 4, 5, 6 (other than subsections (a)(7) and (a)(8) thereof), 6A, and 7 of this Act shall apply to each Inspector General and Office of Inspector General of a designated Federal entity and such sections shall be applied to each designated Federal entity and head of the designated Federal entity (as defined under subsection (a)) by substituting—

(A) "designated Federal entity" for "establishment"; and

(B) "head of the designated Federal entity" for "head of the establishment".

(2) In addition to the other authorities specified in this Act, an Inspector General is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the designated Federal entity.

(3) Notwithstanding the last sentence of subsection (d) of this section, the provisions of subsection (a) of section 8D (other than the provisions of subparagraphs (A), (B), (C), and (E) of subsection (a)(1)) shall apply to the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection and the Chairman of the Board of Governors of the Federal Reserve System in the same manner as such provisions apply to the Inspector General of the Department of the Treasury and the Secretary of the Treasury, respectively.

(4) Each Inspector General shall—

(A) in accordance with applicable laws and regulations governing appointments within the designated Federal entity, appoint a Counsel to the Inspector General who shall report to the Inspector General;

(B) obtain the services of a counsel appointed by and directly reporting to another Inspector General on a reimbursable basis; or

(C) obtain the services of appropriate staff of the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.

(h)(1) No later than April 30, 1989, and annually thereafter, the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, shall publish in the Federal Register a list of the Federal entities and designated Federal entities and if the designated Federal entity is not a board or commission, include the head of each such entity (as defined under subsection (a) of this section).

(2) Beginning on October 31, 1989, and on October 31 of each succeeding calendar year, the head of each Federal entity (as defined under subsection (a) of this section) shall prepare and trans-

mit to the Director of the Office of Management and Budget and to each House of the Congress a report which—

(A) states whether there has been established in the Federal entity an office that meets the requirements of this section;

(B) specifies the actions taken by the Federal entity otherwise to ensure that audits are conducted of its programs and operations in accordance with the standards for audit of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States, and includes a list of each audit report completed by a Federal or non-Federal auditor during the reporting period and a summary of any particularly significant findings; and

(C) summarizes any matters relating to the personnel, programs, and operations of the Federal entity referred to prosecutive authorities, including a summary description of any preliminary investigation conducted by or at the request of the Federal entity concerning these matters, and the prosecutions and convictions which have resulted.

* * * * *

SEC. 11. ESTABLISHMENT OF THE COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.

(a) ESTABLISHMENT AND MISSION.—

(1) **ESTABLISHMENT.**—There is established as an independent entity within the executive branch the Council of the Inspectors General on Integrity and Efficiency (in this section referred to as the “Council”).

(2) **MISSION.**—The mission of the Council shall be to—

(A) address integrity, economy, and effectiveness issues that transcend individual Government agencies; and

(B) increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General.

(b) MEMBERSHIP.—

(1) **IN GENERAL.**—The Council shall consist of the following members:

(A) All Inspectors General whose offices are established under—

(i) section 2; or

(ii) section 8G.

(B) The Inspectors General of the Intelligence Community and the Central Intelligence Agency.

(C) The Controller of the Office of Federal Financial Management.

(D) A senior level official of the Federal Bureau of Investigation designated by the Director of the Federal Bureau of Investigation.

(E) The Director of the Office of Government Ethics.

(F) The Special Counsel of the Office of Special Counsel.

(G) The Deputy Director of the Office of Personnel Management.

(H) The Deputy Director for Management of the Office of Management and Budget.

- (I) The Inspectors General of the Library of Congress, Capitol Police, Government Printing Office, Government Accountability Office, and the Architect of the Capitol.
- (2) CHAIRPERSON AND EXECUTIVE CHAIRPERSON.—
- (A) EXECUTIVE CHAIRPERSON.—The Deputy Director for Management of the Office of Management and Budget shall be the Executive Chairperson of the Council.
- (B) CHAIRPERSON.—The Council shall elect 1 of the Inspectors General referred to in paragraph (1)(A) or (B) to act as Chairperson of the Council. The term of office of the Chairperson shall be 2 years.
- (3) FUNCTIONS OF CHAIRPERSON AND EXECUTIVE CHAIRPERSON.—
- (A) EXECUTIVE CHAIRPERSON.—The Executive Chairperson shall—
- (i) preside over meetings of the Council;
 - (ii) provide to the heads of agencies and entities represented on the Council summary reports of the activities of the Council; and
 - (iii) provide to the Council such information relating to the agencies and entities represented on the Council as assists the Council in performing its functions.
- (B) CHAIRPERSON.—The Chairperson shall—
- (i) convene meetings of the Council—
 - (I) at least 6 times each year;
 - (II) monthly to the extent possible; and
 - (III) more frequently at the discretion of the Chairperson;
 - (ii) carry out the functions and duties of the Council under subsection (c);
 - (iii) appoint a Vice Chairperson to assist in carrying out the functions of the Council and act in the absence of the Chairperson, from a category of Inspectors General described in subparagraph (A)(i), (A)(ii), or (B) of paragraph (1), other than the category from which the Chairperson was elected;
 - (iv) make such payments from funds otherwise available to the Council as may be necessary to carry out the functions of the Council;
 - (v) select, appoint, and employ personnel as needed to carry out the functions of the Council subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates;
 - (vi) to the extent and in such amounts as may be provided in advance by appropriations Acts, made available from the revolving fund established under subsection (c)(3)(B), or as otherwise provided by law, enter into contracts and other arrangements with public agencies and private persons to carry out the functions and duties of the Council;
 - (vii) establish, in consultation with the members of the Council, such committees as determined by the

Chairperson to be necessary and appropriate for the efficient conduct of Council functions; and

(viii) prepare and transmit an annual report on behalf of the Council on the activities of the Council to—

(I) the President;

(II) the appropriate committees of jurisdiction of the Senate and the House of Representatives;

(III) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(IV) the Committee on Oversight and Government Reform of the House of Representatives.

(c) FUNCTIONS AND DUTIES OF COUNCIL.—

(1) IN GENERAL.—The Council shall—

(A) continually identify, review, and discuss areas of weakness and vulnerability in Federal programs and operations with respect to fraud, waste, and abuse;

(B) develop plans for coordinated, Governmentwide activities that address these problems and promote economy and efficiency in Federal programs and operations, including interagency and interentity audit, investigation, inspection, and evaluation programs and projects to deal efficiently and effectively with those problems concerning fraud and waste that exceed the capability or jurisdiction of an individual agency or entity;

(C) develop policies that will aid in the maintenance of a corps of well-trained and highly skilled Office of Inspector General personnel;

(D) maintain an Internet website and other electronic systems for the benefit of all Inspectors General, as the Council determines are necessary or desirable;

(E) maintain 1 or more academies as the Council considers desirable for the professional training of auditors, investigators, inspectors, evaluators, and other personnel of the various offices of Inspector General *and establish minimum standards and best practices for training to ensure all Inspectors General receive training to carry out the duties, responsibilities, and authorities under this Act and on emerging areas of the law of relevance to Inspectors General and the work of their offices as identified by the Council*;

(F) submit recommendations of individuals to the appropriate appointing authority for any appointment to an office of Inspector General described under subsection (b)(1)(A) or (B);

(G) make such reports to Congress as the Chairperson determines are necessary or appropriate;

(H) except for matters coordinated among Inspectors General under section 3033 of title 50, United States Code, receive, review, and mediate any disputes submitted in writing to the Council by an Office of Inspector General regarding an audit, investigation, inspection, evaluation, or project that involves the jurisdiction of more than one Office of Inspector General; and

(I) perform other duties within the authority and jurisdiction of the Council, as appropriate.

(2) ADHERENCE AND PARTICIPATION BY MEMBERS.—To the extent permitted under law, and to the extent not inconsistent with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions, each member of the Council, as appropriate, shall—

(A) adhere to professional standards developed by the Council; and

(B) participate in the plans, programs, and projects of the Council, except that in the case of a member described under subsection (b)(1)(I), the member shall participate only to the extent requested by the member and approved by the Executive Chairperson and Chairperson.

(3) ADDITIONAL ADMINISTRATIVE AUTHORITIES.—

(A) INTERAGENCY FUNDING.—Notwithstanding section 1532 of title 31, United States Code, or any other provision of law prohibiting the interagency funding of activities described under subclause (I), (II), or (III) of clause (i), in the performance of the responsibilities, authorities, and duties of the Council—

(i) the Executive Chairperson may authorize the use of interagency funding for—

(I) Governmentwide training of employees of the Offices of the Inspectors General;

(II) the functions of the Integrity Committee of the Council; and

(III) any other authorized purpose determined by the Council; and

(ii) upon the authorization of the Executive Chairperson, any Federal agency or designated Federal entity (as defined in section 8G(a)) which has a member on the Council shall fund or participate in the funding of such activities.

(B) REVOLVING FUND.—

(i) IN GENERAL.—The Council may—

(I) establish in the Treasury of the United States a revolving fund to be called the Inspectors General Council Fund; or

(II) enter into an arrangement with a department or agency to use an existing revolving fund.

(ii) AMOUNTS IN REVOLVING FUND.—

(I) IN GENERAL.—Amounts transferred to the Council under this subsection shall be deposited in the revolving fund described under clause (i)(I) or (II).

(II) TRAINING.—Any remaining unexpended balances appropriated for or otherwise available to the Inspectors General Criminal Investigator Academy and the Inspectors General Auditor Training Institute shall be transferred to the revolving fund described under clause (i)(I) or (II).

(iii) USE OF REVOLVING FUND.—

(I) IN GENERAL.—Except as provided under subclause (II), amounts in the revolving fund described under clause (i)(I) or (II) may be used to

carry out the functions and duties of the Council under this subsection.

(II) TRAINING.—Amounts transferred into the revolving fund described under clause (i)(I) or (II) may be used for the purpose of maintaining any training academy as determined by the Council.

(iv) AVAILABILITY OF FUNDS.—Amounts in the revolving fund described under clause (i)(I) or (II) shall remain available to the Council without fiscal year limitation.

(C) SUPERSEDING PROVISIONS.—No provision of law enacted after the date of enactment of this subsection shall be construed to limit or supersede any authority under subparagraph (A) or (B), unless such provision makes specific reference to the authority in that paragraph.

(D) AUTHORIZATION OF APPROPRIATIONS.—*In addition to any funds available in the Inspectors General Council Fund established under subparagraph (B), there are authorized to be appropriated such sums as may be necessary, to remain available until expended, to carry out the functions and duties of the Council under this subsection.*

(4) EXISTING AUTHORITIES AND RESPONSIBILITIES.—The establishment and operation of the Council shall not affect—

(A) the role of the Department of Justice in law enforcement and litigation;

(B) the authority or responsibilities of any Government agency or entity; and

(C) the authority or responsibilities of individual members of the Council.

(5) ADDITIONAL RESPONSIBILITIES RELATING TO WHISTLEBLOWER PROTECTION.—The Council shall—

(A) facilitate the work of the Whistleblower Protection Coordinators designated under section 3(d)(C); and

(B) in consultation with the Office of Special Counsel and Whistleblower Protection Coordinators from the member offices of the Inspector General, develop best practices for coordination and communication in promoting the timely and appropriate handling and consideration of protected disclosures[, allegations of reprisal,] *and allegations of reprisal (including the timely and appropriate handling and consideration of protected disclosures and allegations of reprisal that are internal to an Office of Inspector General)* and general matters regarding the implementation and administration of whistleblower protection laws, in accordance with Federal law.

(d) INTEGRITY COMMITTEE.—

(1) ESTABLISHMENT.—The Council shall have an Integrity Committee, which shall receive, review, and refer for investigation allegations of wrongdoing that are made against Inspectors General and staff members of the various Offices of Inspector General described under paragraph [(4)(C)] (4)(D).

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Integrity Committee shall consist of the following members:

(i) The official of the Federal Bureau of Investigation serving on the Council.

(ii) Four Inspectors General described in subparagraph (A) or (B) of subsection (b)(1) appointed by the Chairperson of the Council, representing both establishments and designated Federal entities (as that term is defined in section 8G(a)).

(iii) The Director of the Office of Government Ethics or the designee of the Director.

(iv) *The individual appointed under subparagraph (C).*

(B) CHAIRPERSON.—

(i) IN GENERAL.—The Integrity Committee shall elect one of the Inspectors General referred to in subparagraph (A)(ii) to act as Chairperson of the Integrity Committee.

(ii) TERM.—The term of office of the Chairperson of the Integrity Committee shall be 2 years.

(C) APPOINTMENT OF FORMER INSPECTOR GENERAL TO COMMITTEE.—

(i) APPOINTMENT.—*The Chairperson of the Council shall appoint an individual who prior to the date of such appointment served as an Inspector General (as that position is described in section 3(a) and section 8G(a)(6)), and who has upheld the highest standards of integrity and professionalism while serving and since leaving service as an Inspector General, as determined by the Chairperson, to serve as a member of the Committee unless no such individual is available or willing to serve as a member of the Committee at the time of the appointment.*

(ii) INITIAL TERM.—*The individual appointed under clause (i) shall serve at the pleasure of the Chairperson of the Council for a 2-year term.*

(iii) ADDITIONAL TERM.—*The Chairperson of the Council may reappoint the individual appointed under clause (i) to serve at the pleasure of the Chairperson of the Council for an additional term not to exceed 2 years.*

(iv) COMPENSATION.—

(I) SPECIAL GOVERNMENT EMPLOYEE DESIGNATION.—*The individual appointed under clause (i) shall be considered a special government employee pursuant to section 202(a) of title 18, United States Code.*

(II) COMPENSATION AND TRAVEL EXPENSES.—*An individual appointed under clause (i) may not receive compensation at a rate in excess of the rate of basic pay for level IV of the executive schedule under section 5315 of title 5, United States Code, and any such individual, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title for per-*

sons employed intermittently in the Government service.

(III) *ACCEPTANCE OF VOLUNTEER SERVICES.—The Chairperson of the Council may accept volunteer services from the individual appointed under this subparagraph without regard to section 1342 of title 31, United States Code.*

(IV) *PROVISIONS RELATING TO REEMPLOYMENT.—*

(aa) The Chairperson of the Council may re-employ annuitants.

(bb) The employment of annuitants under this paragraph shall be subject to the provisions of section 9902(g) of title 5, United States Code, as if the Council was the Department of Defense.

(3) **LEGAL ADVISOR.**—The Chief of the Public Integrity Section of the Criminal Division of the Department of Justice, or his designee, shall serve as a legal advisor to the Integrity Committee.

(4) **REFERRAL OF ALLEGATIONS.**—

(A) **[REQUIREMENT] ALLEGATIONS AGAINST STAFF MEMBERS.**—An Inspector General shall refer to the Integrity Committee any allegation of wrongdoing against a staff member of the office of that Inspector General, if—

(i) review of the substance of the allegation cannot be assigned to an agency of the executive branch with appropriate jurisdiction over the matter; and

(ii) the Inspector General determines that—

(I) an objective internal investigation of the allegation is not feasible; or

(II) an internal investigation of the allegation may appear not to be objective.

(B) **ALLEGATIONS AGAINST INSPECTORS GENERAL.**—An Inspector General shall refer to the Integrity Committee any allegation of wrongdoing against that Inspector General.

[(B)] (C) DEFINITION.—In this paragraph the term “staff member” means any employee of an Office of Inspector General who—

(i) reports directly to an Inspector General; or

(ii) is designated by an Inspector General under subparagraph (C).

[(C)] (D) DESIGNATION OF STAFF MEMBERS.—Each Inspector General shall annually submit to the Chairperson of the Integrity Committee a designation of positions whose holders are staff members for purposes of subparagraph (B).

(5) **REVIEW OF ALLEGATIONS.**—

(A) **IN GENERAL.**—Not later than 7 days after the date on which the Integrity Committee receives an allegation of wrongdoing against an Inspector General or against a staff member of an Office of Inspector General described under paragraph (4)(C), the allegation of wrongdoing shall be reviewed and referred to the Department of Justice or the Office of Special Counsel for investigation, or to the Integrity Committee for review, as appropriate, by—

- (i) a representative of the Department of Justice, as designated by the Attorney General;
- (ii) a representative of the Office of Special Counsel, as designated by the Special Counsel; and
- (iii) a representative of the Integrity Committee, as designated by the Chairperson of the Integrity Committee.

(B) REFERRAL TO THE CHAIRPERSON.—

(i) IN GENERAL.—Except as provided in clause (ii), not later than 30 days after the date on which an allegation of wrongdoing is referred to the Integrity Committee under subparagraph (A), the Integrity Committee shall determine whether to refer the allegation of wrongdoing to the Chairperson of the Integrity Committee to initiate an investigation.

(ii) EXTENSION.—The 30-day period described in clause (i) may be extended for an additional period of 30 days if the Integrity Committee provides written notice to the congressional committees described in paragraph (8)(A)(iii) that includes a detailed, case-specific description of why the additional time is needed to evaluate the allegation of wrongdoing^[1], the length of time the Integrity Committee has been evaluating the allegation of wrongdoing, and a description of any previous written notice provided under this clause with respect to the allegation of wrongdoing, including the description provided for why additional time was needed.

(iii) AVAILABILITY OF INFORMATION TO MEMBERS OF CONGRESS.—

(I) IN GENERAL.—With respect to an allegation of wrongdoing made by a member of Congress that is closed by the Integrity Committee without referral to the Chairperson of the Integrity Committee to initiate an investigation, the Chairperson of the Integrity Committee shall, not later than 60 days after closing such allegation, provide a written description of the nature of the allegation of wrongdoing and how the Integrity Committee evaluated the allegation of wrongdoing to—

(aa) the Chair and Ranking Member of the Committee on Oversight and Reform of the House of Representatives;

(bb) the Chair and Ranking Member of the Committee on Homeland Security and Governmental Affairs of the Senate;

(cc) a member of the House of Representatives who has the support of any seven members of the Committee on Oversight and Reform of the House of Representatives; or

(dd) a member of the Senate who has the support of any five members of the Committee on Homeland Security and Governmental Affairs of the Senate.

(II) REQUIREMENT TO FORWARD.—The Chairperson of the Integrity Committee shall forward

any written description or update provided under this clause to the members of the Integrity Committee and to the Chairperson of the Council.

(6) AUTHORITY TO INVESTIGATE ALLEGATIONS.—

(A) REQUIREMENT.—The Chairperson of the Integrity Committee shall cause a thorough and timely investigation of each allegation referred under paragraph (5)(B) to be conducted in accordance with this paragraph.

(B) RESOURCES.—At the request of the Chairperson of the Integrity Committee, the head of each agency or entity represented on the Council—

(i) shall provide assistance necessary to the Integrity Committee; and

(ii) may detail employees from that agency or entity to the Integrity Committee, subject to the control and direction of the Chairperson, to conduct an investigation under this subsection.

(7) PROCEDURES FOR INVESTIGATIONS.—

(A) STANDARDS APPLICABLE.—Investigations initiated under this subsection shall be conducted in accordance with the most current Quality Standards for Investigations issued by the Council or by its predecessors (the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency).

(B) ADDITIONAL POLICIES AND PROCEDURES.—

(i) ESTABLISHMENT.—The Integrity Committee, in conjunction with the Chairperson of the Council, shall establish additional policies and procedures necessary to ensure fairness and consistency in—

(I) determining whether to initiate an investigation;

(II) conducting investigations;

(III) reporting the results of an investigation;

(IV) providing the person who is the subject of an investigation with an opportunity to respond to any Integrity Committee report;

(V) except as provided in clause (ii), ensuring, to the extent possible, that investigations are conducted by Offices of Inspector General of similar size;

(VI) creating a process for rotation of Inspectors General assigned to investigate allegations through the Integrity Committee; and

(VII) creating procedures to avoid conflicts of interest for Integrity Committee investigations.

(ii) EXCEPTION.—The requirement under clause (i)(V) shall not apply to any Office of Inspector General with less than 50 employees who are authorized to conduct audits or investigations.

(iii) SUBMISSION TO CONGRESS.—The Council shall submit a copy of the policies and procedures established under clause (i) to the congressional committees of jurisdiction.

(C) COMPLETION OF INVESTIGATION.—If an allegation of wrongdoing is referred to the Chairperson of the Integrity

Committee under paragraph (5)(B), the Chairperson of the Integrity Committee—

(i) shall complete the investigation not later than 150 days after the date on which the Integrity Committee made the referral; and

(ii) if the investigation cannot be completed within the 150-day period described in clause (i), shall—

(I) promptly notify the congressional committees described in paragraph (8)(A)(iii); and

(II) brief the congressional committees described in paragraph (8)(A)(iii) every 30 days regarding the status of the investigation and the general reasons for delay until the investigation is complete.

(D) CONCURRENT INVESTIGATION.—If an allegation of wrongdoing against an Inspector General or a staff member of an Office of Inspector General described under paragraph (4)(C) is referred to the Department of Justice or the Office of Special Counsel under paragraph (5)(A), the Chairperson of the Integrity Committee may conduct any related investigation referred to the Chairperson under paragraph (5)(B) concurrently with the Department of Justice or the Office of Special Counsel, as applicable.

(E) REPORTS.—

(i) INTEGRITY COMMITTEE INVESTIGATIONS.—For each investigation of an allegation of wrongdoing referred to the Chairperson of the Integrity Committee under paragraph (5)(B), the Chairperson of the Integrity Committee shall submit to members of the Integrity Committee and to the Chairperson of the Council a report containing the results of the investigation.

(ii) OTHER INVESTIGATIONS.—For each allegation of wrongdoing referred to the Department of Justice or the Office of Special Counsel under paragraph (5)(A), the Attorney General or the Special Counsel, as applicable, shall submit to the Integrity Committee a report containing the results of the investigation.

(iii) AVAILABILITY TO CONGRESS.—

(I) IN GENERAL.—The congressional committees described in paragraph (8)(A)(iii) shall have access to any report authored by the Integrity Committee.

(II) MEMBERS OF CONGRESS.—Subject to any other provision of law that would otherwise prohibit disclosure of such information, the Integrity Committee may provide any report authored by the Integrity Committee to any Member of Congress.

(8) ASSESSMENT AND FINAL DISPOSITION.—

(A) IN GENERAL.—With respect to any report received under paragraph (7)(E), the Integrity Committee shall—

(i) assess the report;

(ii) forward the report, with the recommendations of the Integrity Committee, including those on disciplinary action or corrective action, within 30 days (to the

maximum extent practicable) after the completion of the investigation, to the Executive Chairperson of the Council and to the President (in the case of a report relating to an Inspector General of an establishment or any employee of that Inspector General) or the head of a designated Federal entity (in the case of a report relating to an Inspector General of such an entity or any employee of that Inspector General) for resolution; and

(iii) *contemporaneously with the submission of the report under clause (ii)*, submit the report, with the recommendations of the Integrity Committee, to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and other congressional committees of jurisdiction; and

(iv) following the submission of the report under clause (iii) and upon request by any Member of Congress, submit the report, with the recommendations of the Integrity Committee, to that Member.

(B) DISPOSITION.—The Executive Chairperson of the Council shall report to the Integrity Committee, *the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Reform of the House of Representatives, and other congressional committees of jurisdiction*, the final disposition of the matter, including what action was taken by the President or agency head.

[(9) ANNUAL REPORT.—The Council shall submit to Congress and the President by December 31 of each year a report on the activities of the Integrity Committee during the preceding fiscal year, which shall include the following:

[(A) The number of allegations received.

[(B) The number of allegations referred to the Department of Justice or the Office of Special Counsel, including the number of allegations referred for criminal investigation.

[(C) The number of allegations referred to the Chairperson of the Integrity Committee for investigation.

[(D) The number of allegations closed without referral.

[(E) The date each allegation was received and the date each allegation was finally disposed of.

[(F) In the case of allegations referred to the Chairperson of the Integrity Committee, a summary of the status of the investigation of the allegations and, in the case of investigations completed during the preceding fiscal year, a summary of the findings of the investigations.

[(G) Other matters that the Council considers appropriate.]

(9) SEMIANNUAL REPORT.—*On or before May 31, 2022, and every six months thereafter, the Council shall submit to Congress and the President a report on the activities of the Integrity Committee during the immediately preceding six-month periods ending March 31 and September 30, which shall include the*

following with respect to allegations of wrongdoing that are made against Inspectors General and staff members of the various Offices of Inspector General described under paragraph (4)(C):

(A) An overview and analysis of the allegations of wrongdoing disposed of by the Integrity Committee, including—

(i) analysis of the positions held by individuals against whom allegations were made, including the duties affiliated with such positions;

(ii) analysis of the categories or types of the allegations of wrongdoing; and

(iii) a summary of disposition of all the allegations.

(B) The number of allegations referred to the Department of Justice or the Office of Special Counsel, including the number of allegations referred for criminal investigation.

(C) The number of allegations referred to the Chairperson of the Integrity Committee for investigation, a general description of the status of such investigations, and a summary of the findings of investigations completed.

(D) An overview and analysis of allegations of wrongdoing received by the Integrity Committee during any previous reporting period, but remained pending during some part of the six months covered by the report, including—

(i) analysis of the positions held by individuals against whom allegations were made, including the duties affiliated with such positions;

(ii) analysis of the categories or types of the allegations of wrongdoing; and

(iii) a summary of disposition of all the allegations.

(E) The number and category or type of pending investigations.

(F) For each allegation received—

(i) the date on which the investigation was opened;

(ii) the date on which the allegation was disposed of, as applicable;

(iii) the case number associated with the allegation.

(G) The nature and number of allegations to the Integrity Committee closed without referral, including the justification for why each allegation was closed without referral.

(H) A brief description of any difficulty encountered by the Integrity Committee when receiving, evaluating, investigating, or referring for investigation an allegation received by the Integrity Committee, including a brief description of—

(i) any attempt to prevent or hinder an investigation;

or

(ii) concerns about the integrity or operations at an Office of Inspector General.

(10) REQUESTS FOR MORE INFORMATION.—With respect to paragraphs (8) and (9), the Council shall provide more detailed information about specific allegations upon request from any Member of Congress.

(11) NO RIGHT OR BENEFIT.—This subsection is not intended to create any right or benefit, substantive or procedural, en-

forceable at law by a person against the United States, its agencies, its officers, or any person.

(12) ALLEGATIONS OF WRONGDOING AGAINST SPECIAL COUNSEL OR DEPUTY SPECIAL COUNSEL.—

(A) SPECIAL COUNSEL DEFINED.—In this paragraph, the term “Special Counsel” means the Special Counsel appointed under section 1211(b) of title 5, United States Code.

(B) AUTHORITY OF INTEGRITY COMMITTEE.—

(i) IN GENERAL.—An allegation of wrongdoing against the Special Counsel or the Deputy Special Counsel may be received, reviewed, and referred for investigation to the same extent and in the same manner as in the case of an allegation against an Inspector General or against a staff member of an Office of Inspector General described under paragraph (4)(C), subject to the requirement that the representative designated by the Special Counsel under paragraph (5)(A)(ii) shall recuse himself or herself from the consideration of any allegation brought under this paragraph.

(ii) COORDINATION WITH EXISTING PROVISIONS OF LAW.—This paragraph shall not eliminate access to the Merit Systems Protection Board for review under section 7701 of title 5, United States Code. To the extent that an allegation brought under this paragraph involves section 2302(b)(8) of such title, a failure to obtain corrective action within 120 days after the date on which the allegation is received by the Integrity Committee shall, for purposes of section 1221 of such title, be considered to satisfy section 1214(a)(3)(B) of such title.

(C) REGULATIONS.—The Integrity Committee may prescribe any rules or regulations necessary to carry out this paragraph, subject to such consultation or other requirements as may otherwise apply.

(13) COMMITTEE RECORDS.—The Chairperson of the Council shall maintain the records of the Integrity Committee.

(14) ADDITIONAL REPORTS.—

(A) REPORT TO INSPECTOR GENERAL.—*The Chairperson of the Integrity Committee shall submit a report immediately whenever the Chairperson of the Integrity Committee becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of an Office of Inspector General. The report shall be sent to the Inspector General who leads the Office of Inspector General at which the serious or flagrant problems, abuses, or deficiencies were alleged.*

(B) REPORT TO CONGRESS.—*The Inspector General of the Office identified by the Integrity Committee shall submit any such report to the House Committee on Oversight and Reform and the Senate Committee on Homeland Security and Governmental Affairs within seven calendar days from the time the Inspector General receives the report together with a report by the Inspector General at the Office identi-*

fied by the Integrity Committee containing any comments such Inspector General deems appropriate.

(15) RULE OF CONSTRUCTION.—

(A) PUBLIC DISCLOSURE OF INFORMATION.—*Except as provided in subparagraph (B), nothing in this subsection shall be construed to authorize the public disclosure of information which is—*

(i) prohibited from disclosure by any other provision of law;

(ii) 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

(iii) a part of an ongoing criminal investigation.

(B) PROVISION OF REPORT TO REQUESTING MEMBERS OF CONGRESS.—*Subject to any other provision of law that would otherwise prohibit disclosure of such information, the information described in subparagraph (A) may be provided to any Member of Congress upon request of the Member.*

(16) PROHIBITED DISCLOSURES.—*The Integrity Committee may not provide or otherwise disclose to Congress or the public any information that reveals the personally identifiable information of an individual who alleges wrongdoing to the Integrity Committee under this subsection unless the Integrity Committee first obtains the consent of the individual.*

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TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

* * * * *

SUBPART B—EMPLOYMENT AND RETENTION

* * * * *

CHAPTER 33—EXAMINATION, SELECTION, AND PLACEMENT

SUBCHAPTER I—EXAMINATION, CERTIFICATION, AND APPOINTMENT

Sec.

3301. Civil service; generally.

* * * * *

SUBCHAPTER III—DETAILS, VACANCIES, AND APPOINTMENTS

* * * * *

3349e. *Presidential explanation of failure to nominate an Inspector General.*

* * * * *

SUBCHAPTER III—DETAILS, VACANCIES, AND
APPOINTMENTS

* * * * *

§ 3345. Acting officer

(a) If an officer of an Executive agency (including the Executive Office of the President, and other than the Government Accountability Office) whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate, dies, resigns, or is otherwise unable to perform the functions and duties of the office—

(1) the first assistant to the office of such officer shall perform the functions and duties of the office temporarily in an acting capacity subject to the time limitations of section 3346;

(2) notwithstanding paragraph (1), the President (and only the President) may direct a person who serves in an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate, to perform the functions and duties of the vacant office temporarily in an acting capacity subject to the time limitations of section 3346; or

(3) notwithstanding paragraph (1), the President (and only the President) may direct an officer or employee of such Executive agency to perform the functions and duties of the vacant office temporarily in an acting capacity, subject to the time limitations of section 3346, if—

(A) during the 365-day period preceding the date of death, resignation, or beginning of inability to serve of the applicable officer, the officer or employee served in a position in such agency for not less than 90 days; and

(B) the rate of pay for the position described under subparagraph (A) is equal to or greater than the minimum rate of pay payable for a position at GS-15 of the General Schedule.

(b)(1) Notwithstanding subsection (a)(1), a person may not serve as an acting officer for an office under this section, if—

(A) during the 365-day period preceding the date of the death, resignation, or beginning of inability to serve, such person—

(i) did not serve in the position of first assistant to the office of such officer; or

(ii) served in the position of first assistant to the office of such officer for less than 90 days; and

(B) the President submits a nomination of such person to the Senate for appointment to such office.

(2) Paragraph (1) shall not apply to any person if—

(A) such person is serving as the first assistant to the office of an officer described under subsection (a);

(B) the office of such first assistant is an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate; and

(C) the Senate has approved the appointment of such person to such office.

(c)(1) Notwithstanding subsection (a)(1), the President (and only the President) may direct an officer who is nominated by the President for reappointment for an additional term to the same office in

an Executive department without a break in service, to continue to serve in that office subject to the time limitations in section 3346, until such time as the Senate has acted to confirm or reject the nomination, notwithstanding adjournment sine die.

(2) For purposes of this section and sections 3346, 3347, 3348, 3349, 3349a, and 3349d, the expiration of a term of office is an inability to perform the functions and duties of such office.

(d)(1) *Notwithstanding subsection (a), if an Inspector General position that requires appointment by the President by and with the advice and consent of the Senate to be filled is vacant, the first assistant of such position shall perform the functions and duties of the Inspector General temporarily in an acting capacity subject to the time limitations of section 3346.*

(2) *Notwithstanding subsection (a), if for purposes of carrying out paragraph (1) of this subsection, by reason of absence, disability, or vacancy, the first assistant to the position of Inspector General is not available to perform the functions and duties of the Inspector General, an acting Inspector General shall be appointed by the President from among individuals serving in an office of any Inspector General, provided that—*

(A) during the 365-day period preceding the date of death, resignation, or beginning of inability to serve of the applicable Inspector General, the individual served in a position in an office of any Inspector General for not less than 90 days; and

(B) the rate of pay for the position of such individual is equal to or greater than the minimum rate of pay payable for a position at GS-15 of the General Schedule.

* * * * *

§3349e. Presidential explanation of failure to nominate an Inspector General

If the President fails to make a formal nomination for a vacant Inspector General position that requires a formal nomination by the President to be filled within the period beginning on the date on which the vacancy occurred and ending on the day that is 210 days after that date, the President shall communicate, within 30 days after the end of such period, to Congress in writing—

(1) the reasons why the President has not yet made a formal nomination; and

(2) a target date for making a formal nomination.

* * * * *

GAROLYN B. MALONEY, NEW YORK
CHAIRWOMAN

CORRESPONDENCE
ONE HUNDRED SEVENTEENTH CONGRESS

JAMES COMER, KENTUCKY
RANKING MINORITY MEMBER

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

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MINORITY (202) 225-6074
<https://oversight.house.gov>

June 1, 2021

The Honorable John Yarmuth
Chairman
Committee on the Budget
U.S. House of Representatives
Washington, D.C. 20515

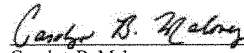
Dear Chairman Yarmuth:

Thank you for your letter regarding H.R. 2662, the IG Independence and Empowerment Act. As you know, the bill was referred primarily to the Committee on Oversight and Reform, with an additional referral to the Committee on the Budget.

I thank you for allowing the Committee on the Budget to be discharged from further consideration of the bill to expedite floor consideration. This discharge in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on the Budget represented on the conference committee.

I would be pleased to include this letter and your correspondence in the *Congressional Record* during floor consideration to memorialize our understanding.

Sincerely,



Carolyn B. Maloney
Chairwoman

cc: The Honorable Nancy Pelosi, Speaker
U.S. House of Representatives

The Honorable James Comer, Ranking Member
Committee on Oversight and Reform

The Honorable Jason Smith, Ranking Member
Committee on the Budget

JOHN A. YARMUTH, KENTUCKY
CHAIR

DIANA MEREDITH, STAFF DIRECTOR
(202) 226-2790



JASON SMITH, MISSOURI
RANKING MEMBER

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(202) 226-7270

U.S. House of Representatives

COMMITTEE ON THE BUDGET
204-E CANNON HOUSE OFFICE BUILDING
Washington, DC 20515

May 28, 2021

The Honorable Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairwoman Maloney:

I write to confirm our mutual understanding regarding H.R. 2662, the *IG Independence and Empowerment Act*. H.R. 2662 contains provisions that fall within the rule X jurisdiction of the Committee on the Budget. However, the committee agrees to waive formal consideration of the bill.

The Committee on the Budget takes this action with the mutual understanding that we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and the committee will be appropriately consulted and involved as the bill or similar legislation moves forward so that we may address any remaining issues within our jurisdiction. The committee also reserves the right to seek appointment to any House-Senate conference convened on this legislation or similar legislation and requests your support if such a request is made.

Finally, I would appreciate your response to this letter confirming this understanding, and I ask that a copy of our exchange of letters on this matter be included in the *Congressional Record* during floor consideration of the bill. I look forward to continuing to work with you as this measure moves through the legislative process.

Sincerely,

John Yarmuth
Chairman

cc: The Honorable Jason Smith, Ranking Member, Committee on the Budget
The Honorable James Comer, Ranking Member, Committee on Oversight and Reform
Jason Smith, Parliamentarian

MINORITY VIEWS

Committee Republicans oppose certain titles and support or are neutral on the other titles of H.R. 2662, the Inspector General Independence and Empowerment Act.

I. THE INSPECTOR GENERAL INDEPENDENCE AND EMPOWERMENT ACT RESTRICTS THE PRESIDENT'S ABILITY TO TERMINATE IGS BY IMPOSING SUBSTANTIAL LIMITS UPON THE EXERCISE OF THAT POWER.

Title I alters the current system by which the President may terminate IGs with minimal notice to Congress.¹ Under the proposed legislation, the President may only terminate or reassign an IG for one of nine documented reasons explicitly defined in the provision and to also provide documentation to Congress.² While the President should not be able to remove an IG without a valid reason, so dramatically limiting the authority of a President to remove an IG will result in a President being unable to remove an IG acting with partisan intent to undermine the administration of a duly elected President.

Title III would put further restrictions on the President's ability to fill an Inspector General vacancy, by requiring the replacement be either the "first assistant" to the prior IG unless that individual is absent or disabled or there is no "first assistant."³ Limiting who may become an acting IG to only the "first assistant" fails to take into account that the "first assistant" could be implicated in the same poor conduct as the IG which was removed and/or be under investigation for other wrongdoing themselves.

In short, Titles I and III of the IG Independence and Empowerment Act would impose substantial limits on the President's authority under the Inspector General Act of 1978 to freely terminate IGs. A duly elected President should have a wide prerogative to remove or relocate ineffective Inspectors General. The proper balance of oversight of Executive Branch agencies while maintaining the President's role as the head of the Executive Branch is to keep the current system that preserves the President's freedom to terminate IGs while expanding and strengthening the Congressional notice requirement.

The bill sponsor and other House Democrats have previously attempted to include these titles in either standalone legislation⁴ or within the Fiscal Year 2021 National Defense Authorization Act. We opposed both previous attempts, a stance which has not changed.

¹ Inspector General Act of 1978, Pub. L. No. 95-452 § 1, 92 Stat. 1101 (1978).

² H.R. 2662, Sec. 102(2)(c)(2).

³ H.R. 2662, Sec. 301(a).

⁴ H.R. 6984.

II. THE INSPECTOR GENERAL INDEPENDENCE AND EMPOWERMENT ACT
SEEKS TO PROVIDE CLARITY WITH RESPECT TO IG STATUS, APPRO-
PRIATION, DOJ INVESTIGATIVE INDEPENDENCE, AND VARIOUS MIS-
CELLANEOUS PROCEDURES.

Title II requires the President to notify Congress each time the President places an Inspector General on nonduty status.⁵ If the President fails, within 210 days, to make a formal nomination for a vacant IG position that requires a formal nomination by the President to be filled, the President shall communicate to Congress within 30 days with the reasons why, and a target date for a nomination.⁶ This bill ensures the President keep Congress informed of changes to an IG's status or, in the event of a vacancy, an impetus to fill the job. These are not prohibitive restrictions on the Executive Branch, and they align with the very purpose of an Inspector General to ensure robust oversight. Title II is identical to the H.R. 23, the Inspector General Protection Act, which has bipartisan support in the Committee and passed the House under suspension of the rules by voice vote on January 5th, 2021.

Title IV expands the membership of the Council of the Inspectors General on Integrity and Efficiency's (CIGIE) Integrity Committee (IC) to include a former inspector general.⁷ This legislation will provide some necessary sunshine into the process by enabling members of Congress, when supported by their peers on the House and Senate Committees of jurisdiction, to receive information when their allegation of wrongdoing against an Inspector General is not referred by the Integrity Committee for further investigation. This provision mirrors the bipartisan H.R. 2681, the Integrity Committee Transparency Act, which passed the House Committee on Oversight and Reform by voice vote on May 13th, 2021.⁸

Title VI harmonizes the Department of Justice Office of Inspector General's (DOJ IG) authority to investigate all allegations of misconduct at the Department of Justice.⁹ The bill repeals a provision requiring the IG to refer certain allegations of misconduct involving DOJ attorneys to the Office of Professional Responsibility (OPR).¹⁰ To ensure independence, transparency, and accountability within the Department of Justice, all allegations of misconduct should be consolidated under the OIG for investigation. This provision is identical to H.R. 3064, the Inspector General Access Act, which has bipartisan support in the Committee.

Title VII expands whistleblower training to require staff in an IGs office to undergo whistleblower training.¹¹ Additionally, this would expand CIGIE's duty to provide best practices for the confidential handling of allegations of reprisal against an IG or member of the IGs staff.¹² This does not adequately address many of the larger issues surrounding whistleblower protection, including the significant delays caused by IGs who fail to quickly investigate

⁵ H.R. 2662, Sec. 203(a).

⁶ *Id.*

⁷ H.R. 2662, Sec. 406(a).

⁸ Business Meeting on H.R. 2681, H. Comm. on Oversight and Reform, 117th Cong. (May 13, 2021).

⁹ H.R. 2662, Sec. 602.

¹⁰ *Id.*

¹¹ H.R. 2662, Sec. 702.

¹² *Id.*

many whistleblower complaints. Nonetheless, it would clarify the procedures for confidentially review allegations of reprisal within Inspectors General offices.

Title VIII requires Congressional notification within 15 days of an IG being removed, placed on leave, or some other non-duty status.¹³ The notice would require a list of all audits and investigations being conducted by the IG at the time of his or her removal.¹⁴ It is vital that Congress know all on-going IG investigations at the time of removal to ensure that any IG's removal is not made with the intent to stop an ongoing investigation.

Title IX simplifies CIGIE appropriations by consolidating funds that are appropriated to individual IG offices and thereafter sent to CIGIE for its use, into one appropriation.¹⁵ The piecemeal approach to CIGIE appropriations has made conducting oversight of CIGIE more difficult because it is unclear exactly how much money CIGIE receives and how those funds are being used. Furthermore, consolidating appropriations will enable future cooperation within the IG community to utilize data to investigate waste, fraud, abuse, and misconduct.

Title X requires any IG to notify the House Oversight and Reform Committee, Senate Committee on Homeland Security and Government Affairs, and the IGs committee of jurisdiction, when an agency refuses to provide information or assistance requested to conduct an investigation.¹⁶ This provision would not prevent the agency from protecting its own equities but instead enable Congress to review the allegations being investigated and determine if it should exert political pressure on the agency to provide the necessary information or assistance. Additionally, this may result in Congress opening an investigation of its own to get the information if it feels that is the appropriate action.

In short, most of the titles of H.R. 2662 would warrant support from Committee Republicans as standalone bills or combined into other legislative packages.

III. THE INSPECTOR GENERAL INDEPENDENCE AND EMPOWERMENT ACT FAILS TO INCLUDE ROBUST PROTECTIONS AGAINST IG ABUSES.

Title V authorizes Inspectors General to issue testimonial subpoenas for contractors, grant recipients, and former federal employees, as necessary to investigate waste, fraud, and abuse.¹⁷ While, Republicans have supported testimonial subpoena authority for IGs going back to 2010, recent IG abuses and overtly partisan investigations have underscored the need to include robust protections in any testimonial subpoena authority legislation. Recent examples include:

- a. The Intelligence Community IG Michael Atkinson circumvented the Director of National Intelligence to provide the Ukraine Whistleblower complaint directly to the House Permanent Select Committee on Intelligence Democrats.

¹³ H.R. 2662, Sec. 801.

¹⁴ *Id.*

¹⁵ H.R. 2662, Sec. 901.

¹⁶ H.R. 2662, Sec. 1001.

¹⁷ H.R. 2662, Sec. 502.

b. The Acting IG for the Department of Health and Human Services Christi Grimm released an outdated, misleading, and likely politically motivated report on shortages of medical supplies at hospitals.

c. The Department of Justice IG Michael Horowitz has stated on that he would use testimonial subpoena authority to subpoena former Attorney General Jeff Sessions regarding policy decisions related to child separation.

Due to these abuses, Rep. Fred Keller (R-PA) offered an amendment at the Committee's markup of H.R. 2662 to, in part, prevent the use of testimonial subpoenas on any federal employee not employed at the time of enactment of this bill and to require the IG office to cover the legal fees for any subpoenaed individuals.¹⁸ This amendment would have ensured that all former employees have access to legal counsel and that no former political appointees who did not know that they may be subject to a subpoena are at risk.¹⁹ Committee Democrats refused to consider protections to guard against IGs misusing this authority and unanimously opposed the amendment which failed 21 to 18 in a recorded vote.²⁰

IV. CONCLUSION

Certain aspects of Chairwoman Maloney's proposed legislation would resolve ambiguities regarding IGs. However, Titles I and III appear to be politically motivated overreactions to the Trump administration and Title V presents dangers for future political abuse of former federal officials. During the Committee's Markup, Republican members offered two amendments to strip out these three problematic Titles in order to be able to support the bill in Committee. Rep. Andy Biggs (R-AZ) offered an amendment that simply struck Titles I, III, and V, but Committee Democrats unanimously rejected the amendment which failed 20 to 15 in a recorded vote.²¹ And as mentioned previously, Rep. Fred Keller offered a similar amendment which both removed Titles I and III while amending Title V in manner described earlier that would garner Committee Republican support. This second good-faith amendment attempt also failed. As demonstrated by the myriad of bipartisan provisions contained within the H.R. 2662 legislative package, Committee Republicans have worked with House Democrats to advance necessary reforms to the IG community.

JAMES COMER,
Ranking Member.



¹⁸ Business Meeting on H.R. 2662, H. Comm. on Oversight and Reform, 117th Cong. (May 25, 2021).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*