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INSPECTOR GENERAL AUTHORITY IMPROVEMENT ACT OF 2010

SEPTEMBER 23, 2010.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TOWNS, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 5815]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 5815) to amend the Inspector General Act of 1978 to provide authority for Inspectors General to subpoena the attendance and testimony of witnesses, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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89–006

The amendments are as follows:

Strike section 5 and insert the following:

SEC. 5. REPORTS AND RESPONSES TO IDENTIFIED PROBLEMS, ABUSES, AND DEFICIENCIES.

(a) ADDITIONAL REQUIREMENTS FOR THE INSPECTOR GENERAL REPORT.—Section 5(b) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (5), (6), and (7), respectively; and

(2) by inserting after paragraph (1) the following new paragraphs:

"(2) a description of any corrective action taken or proposed to be taken with respect to questioned costs, a recommendation that funds be put to better use, or any significant problems, abuses, and deficiencies identified by the Inspector General;

"(3) a description of any potential cost savings generated by any corrective action taken pursuant to subsection (e)(1);

"(4) any certification required under subsection (e)(2);".

(b) CORRECTIVE ACTION.—Section 5 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) CORRECTIVE ACTION BY THE HEAD OF THE ESTABLISHMENT.—

"(1) CORRECTIVE ACTION.—Except as provided in paragraph (2), the head of the establishment shall take corrective action in response to any questioned costs, a recommendation that funds be put to better use, or any significant problems, abuses, or deficiencies identified by the Inspector General of such establishment.

"(2) CERTIFICATION TO CONGRESS.—If the head of the establishment determines that no action is necessary or appropriate with respect to any questioned costs, a recommendation that funds be put to better use, or any significant problems, abuses, or deficiencies identified by the Inspector General of such establishment, such head shall submit a certification to Congress that no such action is necessary or appropriate, with a detailed explanation why no such action is necessary or appropriate.".

Page 5, beginning on line 14, and all that follows through page 6, line 13, by moving the margins of paragraph (2) in the quoted matter 2 ems to the left.

Page 15, line 1, by striking "31 U.S.C. 501 note)" and inserting "5 U.S.C. App. 11 note)".

Page 16, line 13, by inserting "note" after "5 U.S.C. App. 8L".

PURPOSE AND SUMMARY

H.R. 5815, the "Inspector General Authority Improvement Act of 2010," was introduced by Oversight and Government Reform Committee Chairman Edolphus Towns (D–NY) and Ranking Member Darrell Issa (R–CA) on July 22, 2010. The legislation would amend the Inspector General Act of 1978 (5 U.S.C. App.) and make other changes to existing law to strengthen the authority and independence of Inspectors General (IGs).

Specifically, H.R. 5815 amends the Inspector General Act to provide IGs with the ability to compel witness testimony through the use of subpoenas, subject to certain restrictions. H.R. 5815 further amends the Inspector General Act by requiring agencies to take corrective action in response to any concerns identified by an IG audit, inspection or investigation, or report to Congress why such corrective action is not necessary or appropriate. The legislation also exempts IGs from agency and White House notification requirements in the Paperwork Reduction Act and the Privacy Act. These exemptions will promote independence in IG investigations. Finally, H.R. 5815 makes a number of technical and conforming changes to the Inspector General Act to codify several provisions

that were passed by Congress in the Inspector General Reform Act of 2008 (P.L. 110–409).

BACKGROUND AND NEED FOR LEGISLATION

Inspectors General (IGs) conduct independent audits, investigations, and inspections of federal programs. This work promotes cost savings and helps to reduce waste, fraud, and abuse in the federal government. In the last Congress, the Inspector General Reform Act of 2008, a bipartisan Act to strengthen the independence and accountability of IGs, became law. The Committee's review of the implementation of this law has found that certain restrictions and requirements in federal law continue to hamper the ability of IGs to carry out their important oversight mission. H.R. 5815 will further strengthen the authority of IGs so they can better protect the interests of the taxpayers.

CORRECTIVE ACTION RESPONSES BY AGENCY HEADS

In its FY 2008 annual report, the Council of the Inspectors General on Integrity and Efficiency (CIGIE) noted that IGs identified $18.6 billion in potential savings from a range of audits, investigations, and evaluations across the government. H.R. 5815 will help ensure that agencies are held accountable for implementing any needed actions to recover all of these potential savings of tax dollars. H.R. 5815 will require the heads of agencies to take corrective action to address significant deficiencies or problems identified by an IG, or report to Congress why corrective action is not necessary or appropriate.

TESTIMONIAL SUBPOENA AUTHORITY

H.R. 5815 would also amend the Inspector General Act of 1978 by providing IGs with the ability to compel by subpoena the attendance and testimony of non-federal witnesses. Under current law, IGs have the authority to subpoena documents and records of non-federal entities, but cannot compel witness testimony. Extending the IGs subpoena authority to allow for subpoenas of persons in addition to records will enhance the ability of IGs to conduct thorough audits and investigations, particularly in the area of contractor fraud. Congress has already passed legislation to grant this expanded subpoena authority to the Department of Defense IG, and several proposals have been put forth to extend the authority to other IGs or groups of IGs. A uniform and consistent approach is needed to assist the IG community in conducting thorough and timely investigations.

Testimonial subpoena authority would assist IGs by allowing complete and thorough investigations of government contractors. Federal government contracts accounted for approximately $1 trillion in federal spending in the last two fiscal years. IGs have cited numerous instances in which contractors placed unreasonable conditions on IG investigators, limited access to principal witnesses, or simply refused to cooperate. For example, a contractor that had previously been cited for severe design and performance deficiencies in connection with a multi-billion dollar national security acquisition program put up such resistance to IG requests for interviews that the IG ultimately had to conclude its investigation with-

out statements from the contractor. Resistance to legitimate inquiries by an IG impedes the timeliness and completeness of audits, inspections, and investigations, and hampers IGs' ability to fulfill their statutory mission to prevent and detect fraud in government programs. In another instance, an investigation of misuse of classified information by an employee of a contractor could not be pursued because the contractor would not cooperate. In addition, in cases of fraud involving multiple companies, contractors may be unwilling to provide statements without the benefit of a "friendly subpoena" from an IG in order to protect their legal interests while cooperating with a government investigation.

IGs have cited numerous instances of non-cooperation by former federal employees, in cases ranging from political misconduct by high-ranking government officials to IG investigations of sensitive national security programs to the theft of government property. Investigations have been closed because IGs were unable to receive information from former employees, including former senior government officials, who may have witnessed or participated in the alleged misconduct.

Testimonial subpoena authority would also allow IGs to present investigative information to the Department of Justice (DOJ) in a more comprehensive and timely manner, aiding DOJ's criminal and civil prosecutive decisions. In cases involving abuses by contractors and former employees, even with semi-admissions or incriminating information caught on tape, the inability to compel follow-up interviews has resulted in an incomplete record and subsequent decisions by DOJ not to prosecute. Testimonial subpoena authority will help ensure that criminal or civil wrongdoing is not overlooked because of stonewalling by former federal employees, grantees, or contractors.

INDEPENDENCE IN USE OF INVESTIGATIVE TOOLS

H.R. 5815 will further enhance the effectiveness and independence of IGs by exempting IGs from certain requirements of the Paperwork Reduction Act (PRA) and the Computer Matching and Privacy Protection Act of 1988 (Computer Matching Act). The PRA requires the Chief Information Officer of an agency and the OMB Office of Information and Regulatory Affairs (OIRA) to approve any request for collection of information from 10 or more "non-federal entities or persons," including a request made by an IG. This preapproval process impedes the independence of IGs in pursuing investigations. GAO is already exempt from this PRA requirement. Similarly, the Computer Matching Act requires a review and approval process by an agency and OMB before computer matching can be performed by an IG to identify improper or fraudulent federal assistance payments. The timely use of computer matching to identify persons who improperly received federal assistance improves program efficiency, enables the government to focus its resources on eligible applicants, and can help prevent improper payments from occurring in the first instance. The requirement for approval from an agency in order to pursue an investigation through computer matching impedes IG independence.

Collectively, the reforms in H.R. 5815 will enhance IGs' ability to gather information in connection with their audit, evaluation,

and investigation functions, so the IG community is better-equipped to carry out its work on behalf of U.S. taxpayers.

LEGISLATIVE HISTORY

H.R. 5815, was introduced by Oversight and Government Reform Committee Chairman Edolphus Towns (D–NY) and Ranking Member Darrell Issa (R–CA) on July 22, 2010. The Oversight and Government Reform Committee held a business meeting to consider the bill on July 28, 2010. The Committee ordered the bill, as amended, to be reported favorably on a voice vote.

SECTION-BY-SECTION

Sec. 1. Short title

The short title of the bill is the Inspector General Authority Improvement Act of 2010.

Sec. 2. Subpoena authority for Inspectors General to require testimony of certain persons

Section 2 of H.R. 5815 would amend the Inspector General Act of 1978 by providing those IGs covered by the Act with the authority to require by subpoena the attendance and testimony of witnesses. The authority is limited to persons other than current federal employees (who may be compelled to testify under agency rules and procedures), and to circumstances in which issuing a subpoena is necessary in the performance of the functions assigned to IGs under the IG Act.

An IG is required to provide reasonable notice to the individual whose testimony is sought. The notice must provide both the name of the individual and the place where the testimony will be taken.

A subpoena issued by an IG may be enforced in the United States District Court in the district in which the individual resides or is employed. Alternatively, a proceeding to enforce a subpoena may be brought in the U.S. District Court for the District of Columbia if the individual resides within 25 miles of the District of Columbia and if the complaint seeking enforcement alleges that a significant portion of the matters that are the subject of the IG investigation occurred in the District of Columbia. In both instances, the Attorney General is required to represent the IG in the enforcement proceeding. IGs' use of testimonial subpoena authority is limited by a procedure that requires the IG to notify the Attorney General if the IG has reasonable grounds to believe that the subpoena being issued is in connection with a matter involving a violation of federal criminal law or the False Claims Act (5 U.S.C. § 3729). A subpoena may not be issued unless such a notification is made at least 15 days before the subpoena is to be issued.

After a notification, the IG may not issue the subpoena if the Attorney General informs the IG, within 14 days, that the Attorney General objects to the issuance of the subpoena. The Attorney General is required to cite the grounds for the objection, which include a determination that the subpoena is likely to endanger national security, is likely to interfere with any Federal or State criminal investigation or prosecution, or is likely to interfere with any pending False Claims Act investigation or any other civil litigation to which the United States is or is likely to be a party. If the IG does

not agree with the objection, the Attorney General must provide an explanation to the IG within 30 days after the initial IG notification.

Sec. 3. Investigations, audits, inspections, evaluations, and reviews conducted by inspectors general

Section 3 of H.R. 5815 amends section 3518(c) of title 44 of the United States Code by exempting IGs from the statutory provisions of title 44 that are commonly referred to as the "Paperwork Reduction Act" (44 U.S.C. § 3501 *et seq.*). The exemption applies to any investigation, audit, inspection, evaluation, or other review conducted by any federal office of Inspector General, including any IG covered or defined under the Inspector General Act, any Special Inspector General established by statute, the Council of Inspectors General on Integrity and Efficiency, and the Recovery Accountability and Transparency Board.

Sec. 4. Enhanced Inspectors General authority for computer matching

Section 4 of H.R. 5815 amends the Inspector General Act of 1978 to allow IGs to use a computer matching program to compare any federal records with other federal or non-federal records while conducting an audit, inspection, or investigation authorized under the IG Act. The Computer Matching and Privacy Protection Act of 1988 (P.L. 100–503) (CMPPA) revised the Privacy Act (5 U.S.C. § 552a) by adding procedural requirements that agencies must follow when matching electronic databases. Currently, Offices of Inspectors General are dependent on the cooperation of their agency in meeting these CMPPA requirements. This impedes the independence of IGs in conducting investigations. The amendments to the IG Act in Section 4 would exempt IGs from certain provisions of the CMPPA to allow for greater autonomy in pursuing computer matching as an investigative or auditing tool.

Sec. 5. Reports and responses to identified problems, abuses, and deficiencies

Section 5 of H.R. 5815 amends the Inspector General Act of 1978 by requiring agency heads to take corrective action in response to any questioned costs, recommendations that funds be put to better use, or any significant problems, abuses, or deficiencies identified by an IG. If the head of any agency determines that corrective action is unnecessary, the agency head must submit a certification to Congress that no such action is necessary or appropriate, and provide a detailed explanation for such a determination.

In addition to requiring that corrective action be taken in response to IG recommendations, section 5 of H.R. 5815 also strengthens the reporting requirements in the Inspector General Act of 1978. The enhanced reporting requirements will require the heads of agencies to provide a description of any corrective action taken or proposed to be taken to address areas of concern identified by an Inspector General. The enhanced reporting requirements will also require agency heads to provide a description of any potential cost savings generated by corrective actions taken in response to IG recommendations. Finally, the reporting requirements will require agency heads to report on any decision not to implement a rec-

ommendation concerning potential cost savings or other areas of concern identified by an IG.

Sec. 6. Codification of certain provisions of the Inspector General Reform Act of 2008 and other technical amendments.

Section 6 of H.R. 5815 makes a number of technical and conforming changes to the Inspector General Act of 1978. These changes codify several provisions from the Inspector General Reform Act of 2008 (P.L. 110–409), including those concerning level of pay for IGs at Designated Federal Entities (DFE) and the process for making allegations of wrongdoing against the Special Counsel of the Office of Special Counsel. In addition, section 6 makes other technical corrections to ensure that all IGs are authorized to fund and participate in CIGIE activities. Section 6 makes an additional technical correction to ensure that all DFE IGs are required to protect the confidentiality and identity of individuals who contact the IG through the IG's web site "hotline." A technical change is made to the IG Act to provide a more accurate and complete description of the type of reports IGs are required to post on their web sites, including audit, inspection, and evaluation reports, but not criminal investigations. The changes repeal a duplicative provision in appropriations law that conflicts with the IG web site requirements in the IG Act. Finally, the changes correct some typographical errors and incorrect references in the Inspector General Reform Act.

EXPLANATION OF AMENDMENTS

Rep. Cuellar offered an amendment, which was considered and adopted by the Committee by a voice vote. The amendment strengthens and clarifies the corrective action and reporting requirements in section 5 of H.R. 5815. Specifically, the amendment added a requirement that agency heads provide an estimate of any cost savings generated on account of corrective actions taken in response to IG cost savings or other recommendations. In addition, the amendment requires agency heads to provide a detailed explanation for any determination that no corrective action is needed or appropriate in response to an IG recommendation and makes other technical changes to section 5 of H.R. 5815.

COMMITTEE CONSIDERATION

On Wednesday, July 28, 2010, the Committee met in open session and favorably ordered H.R. 5815, as amended, to be reported to the House by a voice vote.

ROLLCALL VOTES

No rollcall votes were taken during the Committee's consideration of H.R. 5815.

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 terms and conditions of employment or access to public

services and accommodations. The bill does not relate to employment or access to public services and accommodations.

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's oversight findings and recommendations are reflected in the descriptive portions of this report, including the need enhanced authorities so IGs are better-equipped to conduct audits, inspections, investigations, and evaluations.

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 goals and objectives are reflected in the descriptive portions of this report, including strengthening the Inspector General community by providing new authorities and holding government agencies accountable for implementing cost savings and other recommendations identified by IGs.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 5815. Article I, Section 8, Clause 18 of the Constitution of the United States grants the Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement on whether the provisions of the report include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 5815 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 5815. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its

report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 5815 from the Director of the Congressional Budget Office:

SEPTEMBER 10, 2010.

Hon. EDOLPHUS TOWNS,
Chairman, Committee on Oversight and Government Reform, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5815, the Inspector General Authority Improvement Act of 2010.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 5815—Inspector General Authority Improvement Act of 2010

H.R. 5815 would amend the Inspector General Act of 1978 to expand the subpoena authority of inspectors general at some agencies, require additional reports, and codify, clarify, and make technical changes to various authorities of inspectors general.

Based on information from several agencies, CBO estimates that any additional administrative costs or savings from implementing H.R. 5815 would not be significant over the 2011–2015 period. The legislation would affect direct spending by agencies not funded through annual appropriations, such as the Tennessee Valley Authority, the Federal Deposit Insurance Corporation, and the National Credit Union Administration; therefore, pay-as-you-go procedures apply. However, CBO estimates that any net increase in spending by those agencies also would not be significant. Enacting H.R. 5815 would not affect revenues.

H.R. 5815 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by Theresa Gullo, Deputy Assistant Director for 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 omit-

ted is enclosed in black brackets, new matter is printed in italic, 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 [subpena] *subpoena* during the course of any audit or investigation.

* * * * * * *

SEC. 5. (a) * * *

(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) * * *

(2) a description of any corrective action taken or proposed to be taken with respect to questioned costs, a recommendation that funds be put to better use, or any significant problems, abuses, and deficiencies identified by the Inspector General;

(3) a description of any potential cost savings generated by any corrective action taken pursuant to subsection (e)(1);

(4) any certification required under subsection (e)(2);

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

(A) * * *

* * * * * * *

[(3)] *(6)* 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) * * *

* * * * * * *

[(4)] *(7)* 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) * * *

* * * * * * *

(e) CORRECTIVE ACTION BY THE HEAD OF THE ESTABLISHMENT.—

(1) CORRECTIVE ACTION.—Except as provided in paragraph (2), the head of the establishment shall take corrective action in response to any questioned costs, a recommendation that funds be put to better use, or any significant problems, abuses, or deficiencies identified by the Inspector General of such establishment.

(2) CERTIFICATION TO CONGRESS.—If the head of the establishment determines that no action is necessary or appropriate with respect to any questioned costs, a recommendation that funds be put to better use, or any significant problems, abuses, or deficiencies identified by the Inspector General of such establishment, such head shall submit a certification to Congress that no such action is necessary or appropriate, with a detailed explanation why no such action is necessary or appropriate.

[(e)**]** *(f)*(1) * * *

* * * * * * *

[(f)**]** *(g)* As used in this section—

(1) * * *

* * * * * * *

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) * * *

* * * * * * *

(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)**]** *information), as well as any tangible thing* and documentary evidence necessary in the performance of the functions assigned by this Act, which **[**subpena**]** *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 **[**subpenas**]** *subpoenas* shall be used by the Inspector General to obtain documents and information from Federal agencies;

* * * * * * *

(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[.]*;*

(10) to require by subpoena the attendance and testimony of witnesses necessary in the performance of the functions assigned to the Inspector General by this Act, except as provided for and subject to the provisions in subsection (g); and

(11) notwithstanding subsections (o), (p), (q), (r), and (u) of section 552a of title 5, United States Code, to compare, through a matching program (as defined in such section), any Federal records with other Federal or non-Federal records while conducting an audit, inspection, or investigation authorized under this Act to identify weaknesses that make a program vulnerable to fraud, waste, or abuse and to detect improper payments and fraud.

* * * * * * *

(g)(1) An Inspector General shall use procedures other than subpoenas to obtain attendance and testimony from Federal employees.

(2)(A) A subpoena issued under subsection (a)(10) shall provide reasonable notice to the individual whose testimony is sought and shall state the name of the individual and the place of taking the testimony.

(B) Except as provided in subparagraph (C), a subpoena issued under subsection (a)(10), in the case of contumacy or refusal to obey, shall be enforceable in the United States District Court in the district where the individual whose testimony is sought by subpoena resides or in the district of the individual's place of employment.

(C) A proceeding to enforce a subpoena may be brought in the United States District Court for the District of Columbia if the individual whose testimony is sought by the subpoena resides within 25 miles of the District of Columbia and if the complaint seeking enforcement alleges that a significant portion of the matters that are expected to be the subject of the investigation, audit, inspection, evaluation, or review occurred in the District of Columbia.

(D) The Attorney General shall represent an Office of Inspector General in the enforcement of a subpoena under this subsection.

(3)(A) An Inspector General may not issue a subpoena under subsection (a)(10) if the subpoena is being issued in connection with a matter in which the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law or section 3729 of title 31, United States Code, unless the Inspector General notifies the Attorney General of the intention of the Inspector General to issue the subpoena, including the name of the individual whose testimony is sought and the nature of the testimony sought, at least 15 days before issuing the subpoena.

(B) The Inspector General may not issue the subpoena if the Attorney General informs the Inspector General, within 14 days after receipt of the notification under subparagraph (A), that the Attorney General objects to the issuance of the subpoena on one or more of the grounds listed in clauses (i) through (iii) of subparagraph (C).

(C) If the Attorney General objects to the issuance of the subpoena as described in subparagraph (B) and the Inspector General does not agree with the objection of the Attorney General, the Attorney General shall, within 30 days after receipt of the notification under subparagraph (A), submit an explanation to the Inspector General that the taking of the testimony—

(i) is likely to endanger the national security of the United States;

(ii) is likely to interfere with any Federal or State criminal investigation or prosecution; or

(iii) is likely to interfere with any pending investigation under section 3729 of title 31, United States Code, or any civil litigation to which the United States is or is likely to be a party.

* * * * * * *

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF THE TREASURY

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

(A) * * *

* * * * * * *

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

* * * * * * *

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 ⟦subpenas⟧ *subpoenas*, which require access to sensitive information concerning—

(A) * * *

* * * * * * *

(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, or from issuing any ⟦subpena⟧ *subpoena*, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such ⟦subpena⟧ *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.

* * * * * * *

REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES

SEC. 8G. (a) * * *

* * * * * * *

(d) 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. 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 [subpena] *subpoena* during the course of any audit or investigation.

* * * * * * *

(g)(1) * * *

* * * * * * *

(3) Notwithstanding the last sentence of subsection (d) of this section, the provisions of subsection (a) of section [8C] *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 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.

* * * * * * *

(i) INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Inspector General of each designated Federal entity shall, for pay and all other purposes, be classified at a grade, level, or rank designation, as the case may be, at or above those of a majority of the senior level executives of that designated Federal entity (such as a General Counsel, Chief Information Officer, Chief Financial Officer, Chief Human Capital Officer, or Chief Acquisition Officer). The pay of an Inspector General of a designated Federal entity shall be not less than the average total compensation (including bonuses) of the senior level executives of that designated Federal entity calculated on an annual basis.

(2) LIMITATION ON ADJUSTMENT.—

(A) IN GENERAL.—In the case of an Inspector General of a designated Federal entity whose pay is adjusted under paragraph (1), the total increase in pay in any fiscal year resulting from that adjustment may not exceed 25 percent of the average total compensation (including bonuses) of the Inspector General of that entity for the preceding 3 fiscal years.

(B) SUNSET OF LIMITATION.—The limitation under subparagraph (A) shall not apply to any adjustment made in fiscal year 2013 or each fiscal year thereafter.

* * * * * * *

SEC. 8L. INFORMATION ON WEBSITES OF OFFICES OF INSPECTORS GENERAL.

(a) DIRECT LINKS TO INSPECTORS GENERAL OFFICES.—

(1) IN GENERAL.—Each [agency] *Federal agency, establishment, or designated Federal entity* shall establish and maintain on the homepage of the website of that [agency] *Federal agency, establishment, or designated Federal entity*, a direct link to the website of the Office of the Inspector General of that [agency] *Federal agency, establishment, or designated Federal entity*.

* * * * * * *

(b) REQUIREMENTS FOR INSPECTORS GENERAL WEBSITES.—

(1) POSTING OF REPORTS AND AUDITS.—The Inspector General of each [agency] *Federal agency, establishment, or designated Federal entity* shall—

(A) not later than 3 days after any [report or audit (or portion of any report or audit)] *audit report, inspection report, or evaluation report (or portion of any such report)* is made publicly available, post that [report or audit (or portion of that report or audit)] *report (or portion of that report)* on the website of the Office of Inspector General; and

(B) ensure that any posted [report or audit (or portion of that report or audit)] *report (or portion of that report)* described under subparagraph (A)—

(i) * * *

* * * * * * *

(2) REPORTING OF FRAUD, WASTE, AND ABUSE.—

(A) IN GENERAL.—The Inspector General of each [agency] *Federal agency, establishment, or designated Federal entity* shall establish and maintain a direct link on the homepage of the website of the Office of the Inspector General for individuals to report fraud, waste, and abuse. Individuals reporting fraud, waste, or abuse using the direct link established under this paragraph shall not be required to provide personally identifying information relating to that individual.

(B) ANONYMITY.—The Inspector General of each [agency] *Federal agency, establishment, or designated Federal entity* shall not disclose the identity of any individual making a report under this paragraph without the consent of the individual unless the Inspector General determines that such a disclosure is unavoidable during the course of the investigation.

SEC. 8M. PAY RETENTION.

(a) IN GENERAL.—The provisions of section 3392(c) of title 5, United States Code, other than the terms "performance awards" and "awarding of ranks" in paragraph (1) of such section, shall apply to career appointees of the Senior Executive Service who are appointed to the position of Inspector General on or after October 14, 2008.

(b) NONREDUCTION IN PAY.—Notwithstanding any other provision of law, career Federal employees serving on an appointment made pursuant to statutory authority found other than in section 3392 of title 5, United States Code, shall not suffer a reduction in pay, not

including any bonus or performance award, as a result of being appointed to the position of Inspector General.

* * * * * * *

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

(a) * * *

* * * * * * *

(c) FUNCTIONS AND DUTIES OF COUNCIL.—

(1) * * *

* * * * * * *

(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) * * *

(ii) upon the authorization of the Executive Chairperson, any [department, agency, or entity of the executive branch] *Federal agency, establishment, or designated Federal entity* which has a member on the Council shall fund or participate in the funding of such activities.

* * * * * * *

(d) INTEGRITY COMMITTEE.—

(1) * * *

* * * * * * *

(12) ALLEGATIONS OF WRONGDOING AGAINST SPECIAL COUNSEL OR DEPUTY SPECIAL COUNSEL.—

(A) DEFINITION.—In this paragraph, the term "Special Counsel" refers to 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 by the Integrity Committee to the same extent and in the same manner as in the case of an allegation against an Inspector General (or a member of the staff of an Office of Inspector General), subject to the requirement that the Special Counsel recuse himself or herself from the consideration of any allegation brought under this subparagraph.

(ii) COORDINATION WITH EXISTING PROVISIONS OF LAW.—This paragraph does 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 that title, a failure to obtain corrective action within 120 days after the date on which that allegation is received by the Integrity Com-

mittee shall, for purposes of section 1221 of such title, be considered to satisfy section 1214(a)(3)(B) of that 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 might otherwise apply.

* * * * * * *

TITLE 44, UNITED STATES CODE

* * * * * * *

CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

* * * * * * *

SUBCHAPTER I—FEDERAL INFORMATION POLICY

* * * * * * *

§ 3518. Effect on existing laws and regulations

(a) * * *

* * * * * * *

(c)(1) Except as provided in ⌊paragraph (2)⌋ *paragraph (3)*, this subchapter shall not apply to the collection of information—

(A) * * *

* * * * * * *

(2) Notwithstanding paragraph (3), this subchapter shall not apply to the collection of information during the conduct of any investigation, audit, inspection, evaluation, or other review conducted by—

(A) any Federal office of Inspector General, including—

(i) any office of Inspector General of any establishment, Federal entity, or designated Federal entity as those terms are defined under sections 12(2), 8G(a)(1), and 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.), respectively; or

(ii) any office of Special Inspector General established by statute;

(B) the Council of the Inspectors General on Integrity and Efficiency established under section 11 of the Inspector General Act of 1978 (5 U.S.C. App.); or

(C) the Recovery Accountability and Transparency Board established under section 1521 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 289).

⌊(2)⌋ *(3)* This subchapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to

a category of individuals or entities such as a class of licensees or an entire industry.

* * * * * * *

INSPECTOR GENERAL REFORM ACT OF 2008

* * * * * * *

SEC. 4. PAY OF INSPECTORS GENERAL.

(a) * * *

[(b) INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.—

[(1) IN GENERAL.— Notwithstanding any other provision of law, the Inspector General of each designated Federal entity (as those terms are defined under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)) shall, for pay and all other purposes, be classified at a grade, level, or rank designation, as the case may be, at or above those of a majority of the senior level executives of that designated Federal entity (such as a General Counsel, Chief Information Officer, Chief Financial Officer, Chief Human Capital Officer, or Chief Acquisition Officer). The pay of an Inspector General of a designated Federal entity (as those terms are defined under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)) shall be not less than the average total compensation (including bonuses) of the senior level executives of that designated Federal entity calculated on an annual basis.

[(2) LIMITATION ON ADJUSTMENT.—

[(A) IN GENERAL.— In the case of an Inspector General of a designated Federal entity whose pay is adjusted under paragraph (1), the total increase in pay in any fiscal year resulting from that adjustment may not exceed 25 percent of the average total compensation (including bonuses) of the Inspector General of that entity for the preceding 3 fiscal years.

[(B) SUNSET OF LIMITATION.— The limitation under subparagraph (A) shall not apply to any adjustment made in fiscal year 2013 or each fiscal year thereafter.

[(c) SAVINGS PROVISION FOR NEWLY APPOINTED INSPECTORS GENERAL.—

[(1) IN GENERAL.— The provisions of section of title 5, United States Code, other than the terms "performance awards" and "awarding of ranks" in subsection (c)(1) of such section, shall apply to career appointees of the Senior Executive Service who are appointed to the position of Inspector General.

[(2) NONREDUCTION IN PAY.— Notwithstanding any other provision of law, career Federal employees serving on an appointment made pursuant to statutory authority found other than in section of title 5, United States Code, shall not suffer a reduction in pay, not including any bonus or performance award, as a result of being appointed to the position of Inspector General.]

* * * * * * *

SEC. 7. ESTABLISHMENT OF COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.

(a) * * *

[(b) ALLEGATIONS OF WRONGDOING AGAINST SPECIAL COUNSEL OR DEPUTY SPECIAL COUNSEL.—

[(1) DEFINITIONS.— In this section—

[(A) the term "Integrity Committee" means the Integrity Committee established under section 11(d) of the Inspector General Act of 1978 (5 U.S.C. App), as amended by this Act; and

[(B) the term "Special Counsel" refers to the Special Counsel appointed under section of title 5, United States Code.

[(2) AUTHORITY OF INTEGRITY COMMITTEE.—

[(A) IN GENERAL.— An allegation of wrongdoing against the Special Counsel or the Deputy Special Counsel may be received, reviewed, and referred for investigation by the Integrity Committee to the same extent and in the same manner as in the case of an allegation against an Inspector General (or a member of the staff of an Office of Inspector General), subject to the requirement that the Special Counsel recuse himself or herself from the consideration of any allegation brought under this paragraph.

[(B) COORDINATION WITH EXISTING PROVISIONS OF LAW.— This subsection does not eliminate access to the Merit Systems Protection Board for review under section of title 5, United States Code. To the extent that an allegation brought under this subsection involves section 2302(b)(8) of that title, a failure to obtain corrective action within 120 days after the date on which that 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 that title.

[(3) REGULATIONS.— The Integrity Committee may prescribe any rules or regulations necessary to carry out this subsection, subject to such consultation or other requirements as might otherwise apply.]

(c) EFFECTIVE DATE AND EXISTING EXECUTIVE ORDERS.—

(1) * * *

(2) EXECUTIVE ORDERS.—Executive Order No. 12805, dated May 11, 1992, and Executive Order No. [12933] *12993*, dated March 21, 1996 (as in effect before the date of the enactment of this Act) shall have no force or effect on and after the earlier of—

(A) * * *

* * * * * * *

FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2009

(Division D of Public Law 111–8)

DIVISION D—FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2009

* * * * * * *

TITLE VII

GENERAL PROVISIONS—GOVERNMENT-WIDE

* * * * * * *

[SEC. 744. (a) Each executive department and agency shall establish and maintain on the homepage of its website, an obvious, direct link to the website of its respective Inspector General.

[(b) Each Office of Inspector General shall: (1) post on its website any public report or audit or portion of any report or audit issued within one day of its release; (2) provide a service on its website to allow an individual to request automatic receipt of information relating to any public report or audit or portion of that report or audit and which permits electronic transmittal of the information, or notice of the availability of the information without further request; and (3) establish and maintain a direct link on its website for individuals to anonymously report waste, fraud and abuse.]

* * * * * * *

ADDITIONAL VIEWS

H.R. 5815, the "Inspector General Authority Improvement Act of 2010," was introduced by Chairman Edolphus Towns and Ranking Member Darrell Issa on July 22, 2010. The legislation amends the Inspector General Act of 1978 (5 U.S.C. App.) to enhance the authority of Inspectors General (IGs) to conduct meaningful audits, inspections and investigations by allowing them to subpoena witnesses to interviews, and by providing them with additional tools to conduct their duties. The legislation also allows an exemption from two federal laws—the Paperwork Reduction Act and the Computer Matching Act. These laws, according to the Council of the Inspectors General on Integrity and Efficiency (CIGIE), slow down investigations, and other critical functions.

IMPETUS FOR THE LEGISLATION

In March of this year, Ranking Member Issa wrote to seventy-four IGs requesting legislative suggestions to improve the Inspector General Act (a copy of Mr. Issa's letter and the recipient list of IGs is attached). The CIGIE Legislative Committee replied to Rep. Issa on April 2, 2010 and recommended several changes to the IG Act.

TESTIMONIAL SUBPOENA AUTHORITY

Presently, under the IG Act, IGs have the authority to subpoena documents and other tangible evidence but cannot compel witnesses to appear for interviews or depositions. This legislative enhancement will allow IGs to interview witnesses who are unwilling to cooperate voluntarily.

In response to a letter from Ranking Member Issa, the Legislative Committee of CIGIE suggested expanded subpoena authority. In their letter, CIGIE stated "This proposed expansion of authority would enhance the IG's ability to conduct thorough audits and investigations, particularly in procurement fraud matters dealing with Government contractors or grantees." [1] The Department of Defense IG already has subpoena authority, and extending this tool to the entire IG community will allow a uniform and consistent approach for all IGs.[2]

In 2009, CIGIE surveyed 69 inspectors general to better understand how testimonial subpoena authority would improve their ability to perform their duties. Ninety-four percent of respondents agreed that procurement fraud investigations are currently ham-

[1] Letter from J. Anthony Ogden, Chair CIGIE Legislative Committee, to Rep. Darrell Issa, Ranking Member, Comm. on Oversight and Gov't Reform, April 2, 2010, at 2.
[2] *Id.*

pered by an inability to compel testimony of non-federal witnesses.[3] The Department of Justice National Procurement Fraud Task Force also has recommended providing IGs with subpoena authority. In a 2008 report, the Task Force observed, "Many fraud matters are brought against companies, and being able to compel interviews from employees or customers during investigations would be invaluable in investigating and prosecuting a case."[4]

The Committee has found during the course of its investigations into matters concerning government contracts—particularly those relating to the rebuilding of Iraq and Afghanistan—that investigations often cannot be sufficiently concluded because of the inability to interview key fact witnesses. Non-federal witnesses such as employees of government contractors and subcontractors are acutely aware of the limits inspectors general have. Consequently, witnesses refuse to talk to IGs. Likewise, the Committee is aware of numerous instances of procurement fraud uncovered by an inspector general and referred to the Department of Justice, only to languish for want of a complete factual record. The Justice Department does not have the desire, the time or the resources to reinvestigate all matters referred to it by our inspectors general. Currently, without transcripts of witness depositions or interviews, the Justice Department must rely on notes prepared by IG investigators.

Extending the testimonial subpoena authority to inspectors general will allow them to conduct more rigorous investigations, develop a deeper factual record, and better perform their duties.

OTHER ENHANCEMENTS

The legislation also exempts IGs from the burdensome requirements of the Paperwork Reduction Act and the Computer Matching Act. According to CIGIE, these acts require IG offices to undertake lengthy and burdensome information collection processes, making it more difficult for them to execute their audit, evaluation, inspection and investigation duties.

DARRELL ISSA.

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[3] Letter from J. Anthony Ogden, Chair CIGIE Legislative Committee, to Sen. Joseph Lieberman, Chairman, Senate Committee on Homeland Security and Governmental Affairs, Sept. 18, 2009, at 2.

[4] *Id.*

EDOLPHUS TOWNS, NEW YORK
CHAIRMAN

DARRELL E. ISSA, CALIFORNIA
RANKING MINORITY MEMBER

ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143

Majority (202) 225-5051
Minority (202) 225-5074

March 24, 2010

Mr. Richard L. Skinner
Inspector General
Office of the Inspector General
U.S. Department of Homeland Security
245 Murray Dr.
Building 410
Washington, D.C. 20528

Dear Mr. Skinner:

As the Ranking Member for the House Committee with primary jurisdiction over federal inspectors general, I have a responsibility to oversee and support the important work of your office. Approximately one year ago, I wrote to your office requesting information related to open and unimplemented recommendations. My request of a year ago came shortly after a report issued by this Committee identified opportunities for saving the taxpayers $26 billion by implementing thousands of open IG recommendations.[1]

One of the top priorities for the Committee on Oversight and Government Reform is to eliminate waste, fraud and abuse in the operations of the federal government. Each year your office identifies potential reforms that, if implemented, would allow your agency to run more effectively. Our Committee is obligated to ensure your office has sufficient resources to fulfill that mandate.

I request you provide the Committee with updated information about your office's open and unimplemented recommendations. Last year's Committee report, "Inspectors General: Implementing Thousands of Open Recommendations Could Save Taxpayers Almost $26 Billion," describes taxpayer savings that are significant and immediately accessible. I am interested in evaluating how responsive your agency has been to these dramatic opportunities to realize savings for the taxpayers.

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[1] H. Comm. On Oversight and Gov't Reform, 110th Cong., "Inspectors General: Implementing Thousands of Open Recommendations Could Save Taxpayers Almost $26 Billion" (Jan. 5, 2009).

Please provide the following information regarding your office's open and unimplemented recommendations:

1. Identify the current number of open and unimplemented IG recommendations.

2. For those recommendations that have an estimated cost savings associated with them, identify the recommendation, the date first recommended, and the total estimated cost savings your office believes is obtainable if the recommendation is implemented by agency management.

3. Identify what your office considers to be the three most important open and unimplemented recommendations. For each identify:

    a. The status of the recommendation, including whether agency management has agreed or disagreed with the recommendation;

    b. The cost savings associated with the recommendation (if applicable); and

    c. Whether there are plans to implement the recommendation in the near future.

4. Identify the number of recommendations your office deems accepted and implemented by the agency during the time period January 5, 2009 – the date of the Committee's last report – and the present.

I am also interested in soliciting your opinion about improving the Inspector General Act of 1978 ("IG Act").[1] During the last Congress, this Committee strengthened the Act in a number of ways. The Inspector General Reform Act of 2008 ("Reform Act") created additional protections and authorities for IGs with regard to removal or transfer of an IG, budgets, law enforcement authority, pay, and subpoena power.[2] In your response, or under separate cover, identify any legislative suggestions you have to further improve the IG Act or the Reform Act.

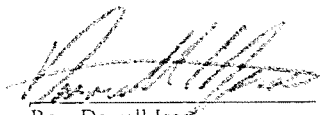
The Committee on Oversight and Government Reform is the principal oversight Committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X.

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[1] The Inspector General Act of 1978, as amended, 5 USC App. 3, § 5(d).
[2] The Inspector General Reform Act of 2008, Pub. L. No. 110-409, H.R. 928 (Oct. 14, 2008).

Please reply by April 16, 2010. If you have any questions about this request, you may contact Jonathan Skladany or Steve Castor of the Committee staff at 202-225-5074. Thank you for your attention to this matter.

Sincerely,



Rep. Darrell Issa
Ranking Member

cc: The Honorable Edolphus Towns, Chairman

IG offices consulted by Ranking Member Issa in March 24, 2010 letter:

Agency for International Development
Amtrak
Appalachian Regional Commission
Architect of the Capitol
Central Intelligence Agency
Commodity Futures Trading Commission
Consumer Product Safety Commission
Corporation for National and Community Service
Corporation for Public Broadcasting
Defense Intelligence Agency
Department of Veterans Affairs
Election Assistance Commission
Equal Employment Opportunity Commission
Export-Import Bank of the United States
Farm Credit Administration
Federal Bureau of Investigation
Federal Communications Commission
Federal Deposit Insurance Corporation
Federal Election Commission
Federal Housing Finance Agency
Federal Labor Relations Authority
Federal Maritime Commission
Federal Reserve Board
Federal Trade Commission
General Services Administration
Government Accountability Office
Government of the District of Columbia
Government Printing Office
Legal Services Corporation
Library of Congress
National Aeronautics and Space Administration
National Archives and Records Administration
National Credit Union Administration
National Endowment for the Arts
National Endowment for the Humanities
National Geospatial-Intelligence Agency
National Labor Relations Board
National Reconnaissance Office
National Science Foundation
National Security Agency
Nuclear Regulatory Commission
Office of Personnel Management
Office of the Director of National Intelligence
Peace Corps
Pension Benefit Guaranty Corporation
Postal Regulatory Commission
Railroad Retirement Board
Securities and Exchange Commission
Small Business Administration
Smithsonian Institution
Social Security Administration
Special Inspector General for Afghanistan Reconstruction
Special Inspector General for Iraq Reconstruction
Special Inspector General for the Troubled Asset Relief Program
Tennessee Valley Authority
The Denali Commission

Treasury Inspector General for Tax Administration
U.S. Capitol Police
U.S. Department of Agriculture
U.S. Department of Commerce
U.S. Department of Defense
U.S. Department of Education
U.S. Department of Energy
U.S. Department of Health and Human Services
U.S. Department of Homeland Security
U.S. Department of Housing and Urban Development
U.S. Department of Interior
U.S. Department of Justice
U.S. Department of Labor
U.S. Department of State
U.S. Department of the Treasury
U.S. Department of Transportation
U.S. Environmental Protection Agency
U.S. International Trade Commission
U.S. Postal Service

Council of the
INSPECTORS GENERAL
on INTEGRITY *and* EFFICIENCY

April 2, 2010

The Honorable Darrell Issa
Ranking Member
House Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515-6143

Re: CIGIE Legislation Committee
FY 2010 – Legislative Initiatives to Improve the work of Inspectors General

Dear Representative Issa:

This is in response to your letter of March 24, 2010, requesting any legislative suggestions to further improve the Inspector General Act of 1978, as amended. As Chair of the Legislation Committee of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), I am providing you this summary of our current legislative initiatives to improve the work of Inspectors General (IG).

The CIGIE Legislation Committee (Committee) is dedicated to providing helpful and timely information about Congressional initiatives to the IG community; soliciting the views and concerns of the community in response to Congressional initiatives and requests; and presenting views and recommendations to Congressional entities and the Office of Management and Budget (OMB) on issues and initiatives of interest.

The Committee has been actively advancing several pro-active initiatives, among them:

- Paperwork Reduction Act
- Computer Matching Act
- Testimonial Subpoena Authority
- Technical Amendments to the Inspector General Reform Act of 2009

Brief summaries of these initiatives are provided below.

1. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) requires a lengthy and burdensome approval process for the collection of information by a Federal agency.[1] The CIGIE has recommended that the PRA be amended to exempt the Federal IG offices from its requirements. It should be noted that the Government Accountability Office, which performs audits and investigations for Congress, is exempted from PRA requirements.

[1] 44 U.S.C. § 3501 *et seq.*

Senator Grassley introduced S. 976 which would exempt from the PRA information collected by a Federal IG during the conduct of any investigation, audit, inspection, evaluation, or other review. S. 976 fully addresses the concerns of the IG community and the Committee has expressed its support thereof. S. 976 awaits action by the Senate Committee on Homeland Security and Governmental Affairs.

2. Computer Matching and Privacy Protection Act

The Computer Matching and Privacy Protection Act requires a protracted review and approval process before computer matching can be performed between agencies that house data to identify improper or fraudulent disaster or other assistance payments to individuals.[2] The timely use of computer matching to identify those who improperly received Federal assistance, and subsequently removing them from the program after verification, improves program efficiency and enables the government to focus resources on eligible applicants. Moreover, under optimum conditions, timely computer matching can prevent improper payments from occurring in the first instance and, even following payments, usually leads to enhanced recovery of improper payments. The Committee has recommended that the IG community be exempt from the provisions of the Computer Matching and Privacy Protection Act to facilitate review and identification of fraud.

3. Testimonial Subpoena Authority

The IG community supports expanding the IG subpoena authority to include compelling the attendance and testimony of non-Federal agency witnesses. This proposed expansion of authority would enhance the IGs' ability to conduct thorough audits and investigations, particularly in procurement fraud matters dealing with Government contractors or grantees. IGs have cited examples of problems obtaining cooperation from private contractors, former employees, and other parties in their audits or investigations. This lack of cooperation either led to incomplete audits or closed investigation cases.

Congress has begun to address the issue and has passed legislation to grant the expanded authority to the Department of Defense IG. Several bills now pending before Congress offer a variety of solutions to the issue; however, they do not offer a uniform, consistent approach for all IGs. The Committee is working with OMB and the Department of Justice to develop an appropriate legislative proposal to grant this authority to all IGs.

4. Technical Amendments to the Inspector General Reform Act of 2009

The Committee has proposed certain amendments to the Inspector General Reform Act of 2008 (Reform Act) and has referred a final draft of the recommendations to staff of the Senate Homeland Security and Governmental Affairs and House Oversight and Government Reform Committees. The recommendations include those proposals that are technical in

[2] 5 U.S.C. § 552a(o) *et seq.*

nature and that affect multiple CIGIE members. The proposed amendments seek to accomplish the following:

- Codify the following provisions from the Reform Act in the Inspector General Act of 1978: (a) the designated Federal entity IG pay provisions set forth in section 4(b) of the Reform Act; (b) pay provisions for career Senior Executive Service personnel that become inspectors general set forth in section 4(c) of the Reform Act, and (c) the authority of the Integrity Committee to investigate allegations of wrongdoing against the Special Counsel or Deputy Special Counsel provided in section 7(b) of the Reform Act;

- Authorize all executive OIGs to fund or participate in CIGIE activities (the current language "department, agency, or entity of the executive branch" does not include certain designated Federal entities);

- Replace "agency" with "Federal agency, establishment or designated Federal entity" so that non-agency OIGs may promise to keep anonymous the identity of parties filing complaints;

- Clarify that reports that OIGs must post on their web-sites include audit reports, inspection reports and evaluation reports, consistent with semi-annual reporting requirements; and

- Correct various typographical errors.

Thank you for the opportunity to present this summary of important issues for the IG community. We would appreciate the opportunity to meet with you or your staff to discuss these initiatives in further detail and look forward to working with you to advance these legislative initiatives.

Should you have any questions or need more information, please do not hesitate to contact me directly at 202-512-2288.

Sincerely,

J. Anthony Ogden
Inspector General
United States Government Printing Office

c: The Honorable Edolphus Towns

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