

Calendar No. 409

115TH CONGRESS }
2d Session }

SENATE

{ REPORT
115-245 }

INSPECTOR GENERAL RECOMMENDATION
TRANSPARENCY ACT OF 2018

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2178

TO REQUIRE THE COUNCIL OF INSPECTORS GENERAL ON
INTEGRITY AND EFFICIENCY TO MAKE OPEN RECOMMENDATIONS
OF INSPECTORS GENERAL PUBLICLY AVAILABLE, AND FOR OTHER
PURPOSES



MAY 10, 2018.—Ordered to be printed

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Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 2178]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2178) to require the Council of Inspectors General on Integrity and Efficiency to make open recommendations of Inspectors General publicly available, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 2178, the Inspector General Recommendation Transparency Act of 2018, is to provide transparency to Congress and to the public on recommendations made by agency inspectors general (IGs) that have yet to be addressed by the agency.

II. BACKGROUND AND THE NEED FOR LEGISLATION

The Inspector General Act of 1978 (IG Act) established agency offices of inspectors general to be “independent and objective” entities to promote accountability and transparency and provide oversight of Federal agencies’ operations.¹ The IG Act authorized IGs to recommend policies to “promote economy, efficiency, and effectiveness” and “to prevent and detect fraud and abuse in . . . [agencies’] programs and operations.”² The Inspector General Reform Act of 2008 created the Council of the Inspectors General on Integrity and Efficiency (CIGIE) to provide guidance to the IG community and to support more effective oversight of Federal agencies.³

Each agency IG is required by law to publicly issue semiannual reports, summarizing the audit and investigative activities conducted during the preceding six-month period.⁴ These summaries must include descriptions of abuses and deficiencies found in agency programs and operations, and related recommendations made by the IG to the agency to correct these issues.⁵ The semiannual reports must also include each IG recommendation described in previous semiannual reports for which the agency has not completed the corrective action, known as an open recommendation.⁶ An open recommendation is considered unresolved until the agency and IG agree on the steps necessary to address the issue, and the agency completes the corrective actions, with sufficient supporting evidence provided to the IG.⁷

In 2016, the majority staff for the Committee, with the majority staff for the Senate Committee on the Judiciary, issued an oversight report highlighting agencies’ inaction on open IG recommendations.⁸ The Committee found 15,222 open and unimplemented recommendations across the Federal Government.⁹ Those open recommendations represent over \$87 billion in potential cost savings to taxpayers.¹⁰ For example, the Department of Housing and Urban Development IG reported over 2,000 recommendations that the agency had not addressed, some of which were first recommended over 16 years ago.¹¹ The Department of Defense IG reported that the agency could save \$33 billion if it implemented all of its open IG recommendations.¹² As of April, 2018, 23 Federal agencies have over 4,600 recommendations that have been open and unimplemented for at least one year, resulting in possible savings of over \$39 billion.¹³ These open recommendations represent thousands of opportunities for Federal agencies to im-

¹ Inspector General Act of 1978, Pub. L. No. 95–452, 92 Stat. 1101 (as amended by Pub. L. No. 114–317 (Dec. 16, 2016)). See also 5 U.S.C. App., § 2.

² *Id.*

³ 5 U.S.C. App. § 11(a) (Pub. L. No. 110–409).

⁴ 5 U.S.C. App. § 5(a) (Pub. L. No. 95–452).

⁵ *Id.* at § 5(d).

⁶ *Id.*

⁷ *Recommendation FAQs*, Office of Inspector General, U.S. Dep’t of Transp., <https://www.oig.dot.gov/recommendation-faqs>.

⁸ *S. Comm. on Homeland Sec. & Governmental Affairs and S. Comm. on the Judiciary, Empowering Inspectors General: Supporting the IG Community Could Save Billions For American Taxpayers, 114th Cong., available at* [https://www.hsgac.senate.gov/imo/media/doc/IG%20Open%20Recs%20Staff%20Report_FINAL%20\(2\).pdf](https://www.hsgac.senate.gov/imo/media/doc/IG%20Open%20Recs%20Staff%20Report_FINAL%20(2).pdf).

⁹ *Id.* at 2.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ S. Comm. on Homeland Sec. & Governmental Affairs staff product compiled from publically available Inspector General Semiannual Reports of 23 Federal agencies.

prove their operations in order to efficiently utilize taxpayer dollars for the public interest.

To make IG reports more accessible to the public, CIGIE launched Oversight.gov on October 2, 2017.¹⁴ Oversight.gov is a public website that posts reports and data submitted by agency IGs in one place.¹⁵ However, users currently must access each individual IG report from Oversight.gov to identify open recommendations and there is not a simple way for Congress or the public to monitor the status of open recommendations.

S. 2178 would require agency IGs to include more detailed information about open recommendations in their semiannual reports. This information includes the total number of open recommendations, a short description of each open recommendation, the date each recommendation was first submitted to the agency, and any cost savings that could be realized if corrective action was completed by the agency. These semiannual reports, along with all publicly-released IG reports, must be submitted by the IG to CIGIE within 30 days of issuance. CIGIE would then be required to include the information on IG open recommendations in a standardized, searchable format on its website. By increasing transparency, Congress and the public will be better equipped to hold agencies accountable and encourage them to implement recommendations, which could help the Federal Government save billions in taxpayer dollars.

CIGIE Chair and Department of Justice Inspector General Michael Horowitz agreed with the aim of this legislation:

we agree that greater transparency regarding the thousands of open IG recommendations is important because implementing these recommendations could potentially save the federal government billions of dollars. Moreover, we have found that transparency has a positive impact on encouraging agencies to address long-standing unimplemented recommendations, which benefits taxpayers.¹⁶

III. LEGISLATIVE HISTORY

S. 2178 was introduced on November 30, 2017, by Senators Heidi Heitkamp (D–ND) and Joni Ernst (R–IA). The bill was referred to the Committee on Homeland Security and Governmental Affairs. The Committee considered S. 2178 at a business meeting on February 14, 2018.

During the business meeting, Senator Heitkamp offered a substitute amendment requiring IGs to report information regarding open recommendations in semiannual reports, to modify the definition of “open recommendation,” and to require the CIGIE database to be publicly available and in a standardized, searchable format. Senator Heitkamp also offered a technical amendment to correct

¹⁴ Press Release, The Council of the Inspectors General on Integrity and Efficiency, *CIGIE Launches Oversight.gov: IGs Found More Than \$25 Billion in Potential Cost Savings in FY 2017, New Website Shows* (Oct. 2, 2017), available at https://www.ignet.gov/sites/default/files/files/CIGIE%20Announces%20Official%20Launch%20of%20Oversight_gov_10_02_17_Final.pdf.

¹⁵ The Council of the Inspectors General on Integrity and Efficiency, *About Oversight.gov*, Oversight.gov (2017), <https://www.oversight.gov/about>.

¹⁶ *Recommendations and Reforms from the Inspectors General: Hearing Before the H. Comm. on Oversight & Gov't Reform*, 115th Cong. 5 (2017) (statement of Michael E. Horowitz, CIGIE Chair).

the name of CIGIE in the title of the bill. Senator Lankford offered an amendment to require the inclusion of information regarding any potential cost savings associated with open recommendations and to require IGs to submit public reports to CIGIE within 30 days after issuance.

Both the amendments and the legislation as modified by the amendments were passed by voice vote *en bloc* with Senators Johnson, Portman, Paul, Lankford, Enzi, Hoeven, Daines, McCaskill, Heitkamp, Peters, Hassan, Harris, and Jones present.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “Inspector General Recommendation Transparency Act of 2018.”

Section 2. Inspector General open recommendations

This section requires agency IGs to publicly report on open recommendations and for CIGIE to publish this information on a public database.

Subsection (a) requires agency IGs to include in their semiannual reports mandated under section 5 of the Inspector General Act of 1978 information about the total number of corrective actions recommended by the IG but not completed by the agency. This information includes the IG report in which the open recommendation was issued, a short description of the open recommendation, the date on which the recommendation was submitted to the agency, and any potential cost savings from completing corrective action on the open recommendation. This subsection includes the definition of an open recommendation.

This subsection also requires CIGIE to maintain a publicly available database on which information about open recommendations can be accessed in a standardized, searchable format.

Agency IGs are required to submit to CIGIE all reports that it makes public within 30 days of issuance.

Subsection (b) requires agency IGs to include information on open recommendations required in subsection (a) by the first semiannual report prepared one year after the date this bill is enacted.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATES

MARCH 28, 2018.

Hon. RON JOHNSON, *Chairman,*
Committee on Homeland Security and Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2178, the Inspector General Recommendation Transparency Act of 2018.

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

Sincerely,

KEITH HALL.

Enclosure.

S. 2178—Inspector General Recommendation Transparency Act of 2018

S. 2178 would amend federal law to require all federal inspectors general (IGs) to report on open recommendations (those that they have made that have not been implemented). After conducting audits, investigations, and inspections, IGs typically report their recommendations to their agencies. A recommendation is considered open if the IG determines that the agency has not implemented it. The bill also would require the Council of the Inspectors General on Integrity and Efficiency (CIGIE) to keep a database of open recommendations and make it available through a public website.

The more than 70 federal IGs spend a total of about \$2.5 billion a year to detect and deter fraud, waste, and abuse. In fiscal year 2016, IGs produced over 5,000 audit, investigation, and evaluation reports. CBO is not aware of any comprehensive information on open federal recommendations. Information from CIGIE and some IGs indicates that some agencies track open recommendations, but CBO expects that some additional administrative work would be necessary to report on all open recommendations.

Based on the type and scope of the necessary work, CBO estimates that that implementing the bill would require 15 percent of the time of one employee and cost around \$20,000 per agency each year. That spending would be subject to the availability of appropriated funds and would amount to \$5 million over the 2018–2022 period.

Enacting S. 2178 could affect direct spending by agencies that are not funded through annual appropriations; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net increase in spending by those agencies would be negligible. Enacting the bill would not affect revenues.

CBO estimates that enacting S. 2178 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 2178 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

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

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * *

**TITLE 5—GOVERNMENT ORGANIZATION AND
EMPLOYEES**

* * * * *

APPENDIX

* * * * *

INSPECTOR GENERAL ACT OF 1978

* * * * *

SEC. 5. SEMIANNUAL REPORTS; TRANSMITTAL TO CONGRESS; AVAILABILITY TO PUBLIC; IMMEDIATE REPORT ON SERIOUS OR FLAGRANT PROBLEMS; DISCLOSURE OF INFORMATION; DEFINITIONS.

(a) * * *

(1) * * *

(2) *the total number and 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;]

(3) *the total number of open recommendations described in previous semiannual reports on which corrective action has not been completed, and an identification of each open recommendation, which shall include—*

(A) *the title of each report in which an open recommendation was issued;*

(B) *the assigned number of each open recommendation, as designated within a report described in subparagraph (A);*

(C) *a short description of each open recommendation;*

(D) *the date on which each open recommendation was submitted in final form to the head of the establishment;*

(E) *if available, any cost savings if the corrective action with respect to the open recommendation were completed; and*

(F) *any other information as determined appropriate by the Inspector General that clarifies the progress of imple-*

menting the open recommendation or the expected time-frame for implementation;

- * * *
- (f) * * *
- (1) * * *
- * * *
- (6) * * *
- (A) * * *
- (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) * * *
- (A) * * *
- (B) any commissioned officer in the Armed Forces in pay grades 0–6 and above [.]]; and
- (8) the term “open recommendation” means a recommendation—
 - (A) issued by an Inspector General of an establishment and made publicly available;
 - (B) on which corrective action has not been completed by the establishment during the 1-year period following the date on which the recommendation was issued; and
 - (C) that has not been otherwise closed by the Office.
- * * *

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

- (a) * * *
- (b) * * *
- (c) * * *
- (1) * * *
- * * *
- (5) *ESTABLISHMENT OF DATABASE.*—*Not later than 18 months after the date on which the first semiannual report is required to be prepared under section 5(a) after the date of enactment of this paragraph, the Council shall establish and operate a publicly available database that—*
 - (A) is accessible via the website of the Council in a standardized, searchable format; and
 - (B) includes—
 - (i) the information on open recommendations that is required to be included in each semiannual report under section 5(a)(3); and
 - (ii) any other information as determined necessary by the Council.
- (6) *SUBMISSION OF REPORTS.*—*Beginning not later than 60 days after the date of enactment of this paragraph, each Inspector General of an establishment or a designated Federal entity (as defined in section 8G(a)) shall, not later than 30 days after the date on which the Inspector General issues a public report,*

submit to the Council the report for publication on a centralized website.

* * * * *

