

ject to paragraph (2)) may submit the complaint or information to Congress by contacting either or both of the intelligence committees directly.

(2) **LIMITATION.**—The employee may contact the intelligence committees directly as described in paragraph (1) only if the employee—

(A) before making such a contact, furnishes to the head of the establishment, through the Inspector General, a statement of the employee's complaint or information and notice of the employee's intent to contact the intelligence committees directly; and

(B) obtains and follows from the head of the establishment, through the Inspector General, direction on how to contact the intelligence committees in accordance with appropriate security practices.

(3) **INTELLIGENCE COMMITTEE RECEIPT OF COMPLAINT OR INFORMATION.**—A member or employee of one of the intelligence committees who receives a complaint or information under paragraph (1) does so in that member or employee's official capacity as a member or employee of that committee.

(f) **NOTIFICATION.**—The Inspector General shall notify an employee who reports a complaint or information under this section of each action taken under this section with respect to the complaint or information. Such notice shall be provided not later than 3 days after any such action is taken.

(g) **NO JUDICIAL REVIEW.**—An action taken by the head of an establishment or an Inspector General under subsections (b) through (f) shall not be subject to judicial review.

(h) **NOTICE OF SUBMISSION AND DATE.**—An individual who has submitted a complaint or information to an Inspector General under this section may notify any member of the Permanent Select Committee on Intelligence of the House of Representatives or the Select Committee on Intelligence of the Senate, or a staff member of either such Committee, of the fact that such individual has made a submission to that particular Inspector General, and of the date on which such submission was made.

(Pub. L. 117-286, §3(b), Dec. 27, 2022, 136 Stat. 4242.)

#### AMENDMENTS NOT SHOWN IN TEXT

*This section was derived from section 8H of the Inspector General Act of 1978, Pub. L. 95-452, which was set out in the former Appendix to this title, and as it existed as of Oct. 19, 2021. Section 8H of Pub. L. 95-452 was amended by Pub. L. 117-103, div. X, title V, §502(b), Mar. 15, 2022, 136 Stat. 985, and by Pub. L. 117-263, div. F, title LXVI, §6609(b), Dec. 23, 2022, 136 Stat. 3560, prior to being repealed and reenacted as this section by Pub. L. 117-286, §§3(b), 7, Dec. 27, 2022, 136 Stat. 4242, 4361. For applicability of those amendments to this section, see section 5(b) of Pub. L. 117-286, set out in a Transitional and Savings Provisions note preceding section 101 of this title.*

*Section 8H of Pub. L. 95-452 was amended by Pub. L. 117-103 as follows:*

*(1) in subsection (h)(1) [restated as subsection (a)(2) of this section], by redesignating subpara-*

*graphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively (and indenting such clauses accordingly);*

*(2) by redesignating subsection (h)(1) and (2) [restated as subsection (a)(2) and (1) of this section, respectively] as subparagraphs (A) and (B), respectively (and indenting such subparagraphs accordingly);*

*(3) in the matter preceding subparagraph (A), as redesignated, by inserting “(1)” before “In this”; and*

*(4) by adding at the end the following new paragraph:*

*“(2) Within the executive branch, an Inspector General to whom any complaint or information is reported under this section shall have sole authority to determine whether the complaint or information is a matter of urgent concern under this section.”*

*Section 8H of Pub. L. 95-452 was amended by Pub. L. 117-263 in subsection (h)(1)(A)(i) by striking “involving” and all that follows through “policy matters.” and inserting “of the Federal Government that is—*

*“(I) a matter of national security; and*

*“(II) not a difference of opinion concerning public policy matters.”*

*Subsection (h)(1)(A)(i) of former section 8H of Pub. L. 95-452 was restated by Pub. L. 117-286 as subsection (a)(2)(A) of this section.*

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
416 .....	5 U.S.C. App. (IGA §8H)	Pub. L. 95-452, §8H, as added Pub. L. 105-272, title VII, §702(b)(1), Oct. 20, 1998, 112 Stat. 2415; amended Pub. L. 107-108, title III, §309(b), Dec. 28, 2001, 115 Stat. 1400; Pub. L. 107-306, title VIII, §825, Nov. 27, 2002, 116 Stat. 2429; Pub. L. 110-417, [div. A], title IX, §931(b)(2), Oct. 14, 2008, 122 Stat. 4575; Pub. L. 111-259, title IV, §431(b), Oct. 7, 2010, 124 Stat. 2731; Pub. L. 113-126, title III, §310, title VI, §603(a), July 7, 2014, 128 Stat. 1398, 1420; Pub. L. 116-92, div. E, title LXVII, §6726(c), Dec. 20, 2019, 133 Stat. 2236.

#### § 417. Special provisions concerning the Department of Homeland Security

(a) **IN GENERAL.**—

(1) **AUTHORITY OF SECRETARY OF HOMELAND SECURITY OVER CERTAIN AUDITS AND INVESTIGATIONS.**—Notwithstanding the 2d sentence and last sentence of section 403(a) of this title, the Inspector General of the Department of Homeland Security shall be under the authority, direction, and control of the Secretary of Homeland Security with respect to audits or investigations, or the issuance of subpoenas, that require access to sensitive information concerning—

(A) intelligence, counterintelligence, or counterterrorism matters;

(B) ongoing criminal investigations or proceedings;

(C) undercover operations;

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

(E) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to the protection of any person or property authorized protection by section 3056 of title 18, section 3056A of title 18, or any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

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

(2) **AUTHORITY OF SECRETARY OF HOMELAND SECURITY TO PROHIBIT CARRYING OUT OR COMPLETING AUDITS OR INVESTIGATIONS.**—With respect to the information described in paragraph (1), the Secretary of Homeland Security may prohibit the Inspector General of the Department of Homeland Security 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 Secretary determines that such prohibition is necessary to prevent the disclosure of any information described in paragraph (1), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

(3) **NOTIFICATION OF EXERCISE OF POWER.**—If the Secretary of Homeland Security exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General of the Department of Homeland Security in writing within 7 days, stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit to the President of the Senate, the Speaker of the House of Representatives, and appropriate committees and subcommittees of Congress the following—

(A) a copy of such notice; and

(B) a written response to such notice that includes a statement regarding whether the Inspector General agrees or disagrees with such exercise, and the reasons for any disagreement.

(b) **NOT A LIMITATION ON CONGRESSIONAL ACCESS TO INFORMATION.**—The exercise of authority by the Secretary described in subsection (a)(2) should not be construed as limiting the right of Congress or any committee of Congress to access any information it seeks.

(c) **AUTHORITY OF INSPECTOR GENERAL TO INITIATE, CONDUCT, AND SUPERVISE AUDITS AND INVESTIGATIONS.**—Subject to the conditions established in subsections (a) and (b), in carrying out the duties and responsibilities specified in this chapter, the Inspector General of the Department of Homeland Security may initiate, conduct, and supervise such audits and investigations in the Department of Homeland Security as the Inspector General considers appropriate.

(d) **REPORTS.**—Any report required to be transmitted by the Secretary of Homeland Security to the appropriate committees or subcommittees of Congress under section 405(e) of this title shall be transmitted, within the 7-day period specified in section 405(e) of this title, to the

President of the Senate, the Speaker of the House of Representatives, and appropriate committees and subcommittees of Congress.

(e) **OVERSIGHT RESPONSIBILITY.**—Notwithstanding any other provision of law, in carrying out the duties and responsibilities specified in this chapter, the Inspector General of the Department of Homeland Security shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the United States Customs Service, the Office of Inspections of the United States Secret Service, the Bureau of Border Security, and the Bureau of Citizenship and Immigration Services. The head of each such office or bureau shall promptly report to the Inspector General the significant activities being carried out by such office or bureau.

(f) **DESIGNATED SENIOR OFFICIAL.**—

(1) **IN GENERAL.**—The Inspector General of the Department of Homeland Security shall designate a senior official within the Office of Inspector General, who shall be a career member of the civil service at the equivalent to the GS-15 level or a career member of the Senior Executive Service, to perform the functions described in paragraph (2).

(2) **FUNCTIONS.**—The senior official designated under paragraph (1) shall—

(A) coordinate the activities of the Office of Inspector General with respect to investigations of abuses of civil rights or civil liberties;

(B) receive and review complaints and information from any source alleging abuses of civil rights and civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

(C) initiate investigations of alleged abuses of civil rights or civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

(D) ensure that personnel within the Office of Inspector General receive sufficient training to conduct effective civil rights and civil liberties investigations;

(E) consult with the Officer for Civil Rights and Civil Liberties regarding—

(i) alleged abuses of civil rights or civil liberties; and

(ii) any policy recommendations regarding civil rights and civil liberties that may be founded upon an investigation by the Office of Inspector General;

(F) provide the Officer for Civil Rights and Civil Liberties with information regarding the outcome of investigations of alleged abuses of civil rights and civil liberties;

(G) refer civil rights and civil liberties matters that the Inspector General decides not to investigate to the Officer for Civil Rights and Civil Liberties;

(H) ensure that the Office of the Inspector General publicizes and provides convenient public access to information regarding—

(i) the procedure to file complaints or comments concerning civil rights and civil liberties matters; and

(ii) the status of corrective actions taken by the Department in response to

Office of the Inspector General reports; and

(I) inform the Officer for Civil Rights and Civil Liberties of any weaknesses, problems, and deficiencies within the Department relating to civil rights or civil liberties.

(Pub. L. 117-286, §3(b), Dec. 27, 2022, 136 Stat. 4244.)

#### AMENDMENTS NOT SHOWN IN TEXT

*This section was derived from section 8I of the Inspector General Act of 1978, Pub. L. 95-452, which was set out in the former Appendix to this title, and as it existed as of Oct. 19, 2021. Section 8I of Pub. L. 95-452 was amended by Pub. L. 117-263, div. E, title LII, §5272(7), Dec. 23, 2022, 136 Stat. 3241, prior to being repealed and reenacted as this section by Pub. L. 117-286, §3(b), 7, Dec. 27, 2022, 136 Stat. 4244, 4361. For applicability of those amendments to this section, see section 5(b) of Pub. L. 117-286, set out in a Transitional and Savings Provisions note preceding section 101 of this title. Section 8I of Pub. L. 95-452 was amended as follows:*

*(1) in subsection (a)(3), in the matter preceding subparagraph (A), by striking “committees and subcommittees of Congress” and inserting “congressional committees”; and*

*(2) in subsection (d), by striking “committees and subcommittees of Congress” each place it appears and inserting “congressional committees”.*

*For definition of “appropriate congressional committees”, which would result from application of the above amendments by Pub. L. 117-263, see Amendments Not Shown in Text note set out under section 401 of this title.*

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
417 .....	5 U.S.C. App. (IGA §8I)	Pub. L. 95-452, §8I, as added Pub. L. 108-7, div. L, §104(b)(3), Feb. 20, 2003, 117 Stat. 529; amended Pub. L. 108-458, title VIII, §8304, Dec. 17, 2004, 118 Stat. 3868; Pub. L. 109-177, title VI, §605(e)(4), Mar. 9, 2006, 120 Stat. 255; Pub. L. 114-317, §6(5), Dec. 16, 2016, 130 Stat. 1604.

In subsection (b), the reference to “subsection (a)(2)” is substituted for “paragraph (2)” for clarity and to correct an error in the law.

#### Editorial Notes

##### REFERENCES IN TEXT

The Presidential Protection Assistance Act of 1976, referred to in subsec. (a)(1)(E), is Pub. L. 94-524, Oct. 17, 1976, 90 Stat. 2475, which enacted and amended provisions set out as notes under section 3056 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Tables.

GS-15, referred to in subsec. (f)(1), is contained in the General Schedule, which is set out under section 5332 of this title.

#### Statutory Notes and Related Subsidiaries

##### REVIEW OF DEPARTMENTAL CONTRACTS AWARDED THROUGH MEANS OTHER THAN FULL AND OPEN COMPETITION

Pub. L. 113-6, div. D, title V, §520(d), Mar. 26, 2013, 127 Stat. 370, provided that: “In addition to the require-

ments established by subsections (a), (b), and (c) of this section [127 Stat. 369, 370], the Inspector General of the Department of Homeland Security shall review departmental contracts awarded through means other than a full and open competition to assess departmental compliance with applicable laws and regulations: *Provided*, That the Inspector General shall review selected contracts awarded in the previous 3 fiscal years through means other than a full and open competition: *Provided further*, That in selecting which contracts to review, the Inspector General shall consider the cost and complexity of the goods and services to be provided under the contract, the criticality of the contract to fulfilling Department missions, past performance problems on similar contracts or by the selected vendor, complaints received about the award process or contractor performance, and such other factors as the Inspector General deems relevant: *Provided further*, That the Inspector General shall report the results of the reviews to the Committees on Appropriations of the Senate and the House of Representatives no later than February 4, 2015, and every 3 years thereafter.”

#### REPORT ON DATA COLLECTION

Pub. L. 110-329, div. D, title V, §518(b), Sept. 30, 2008, 122 Stat. 3684, provided that: “The Inspector General shall provide to the Committees on Appropriations of the Senate and the House of Representatives, starting six months after the date of enactment of this Act [Sept. 30, 2008], and quarterly thereafter, a classified report containing a review of the data collected by the National Applications Office, including a description of the collection purposes and the legal authority under which the collection activities were authorized: *Provided*, That the report shall also include a listing of all data collection activities carried out on behalf of the National Applications Office by any component of the National Guard.”

#### § 418. Rule of construction of special provisions

The special provisions under section 408, 409, 410, 411, 412, 413, 414, 416, or 421 of this title relate only to the establishment named in such section and no inference shall be drawn from the presence or absence of a provision in any such section with respect to an establishment not named in such section or with respect to a designated Federal entity as defined under section 415(a) of this title.

(Pub. L. 117-286, §3(b), Dec. 27, 2022, 136 Stat. 4247.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
418 .....	5 U.S.C. App. (IGA §8J)	Pub. L. 95-452, §8J, formerly §8F, as added Pub. L. 100-504, title I, §105, Oct. 18, 1988, 102 Stat. 2525; renumbered §8G and amended Pub. L. 103-82, title II, §202(g)(1), (5)(B), Sept. 21, 1993, 107 Stat. 889, 890; renumbered §8H, Pub. L. 104-208, div. A, title I, §101(f), [title VI, §662(b)(3)], Sept. 30, 1996, 110 Stat. 3009-314, 3009-380; Pub. L. 105-206, title I, §1103(e)(3), July 22, 1998, 112 Stat. 709; renumbered §8I and amended Pub. L. 105-272, title VII, §702(b), Oct. 20, 1998, 112 Stat. 2415; renumbered §8J, Pub. L. 108-7, div. L, §104(b)(2), Feb. 20, 2003, 117 Stat. 529; Pub. L. 114-317, §6(6), Dec. 16, 2016, 130 Stat. 1604.