

111TH CONGRESS
1ST SESSION

S. 385

To reaffirm and clarify the authority of the Comptroller General to audit and evaluate the programs, activities, and financial transactions of the intelligence community, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 2009

Mr. AKAKA (for himself, Mr. LAUTENBERG, Mrs. McCASKILL, Mr. SANDERS, Mr. WYDEN, Mr. CARPER, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

A BILL

To reaffirm and clarify the authority of the Comptroller General to audit and evaluate the programs, activities, and financial transactions of the intelligence community, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Intelligence Commu-
5 nity Audit Act of 2009”.

1 **SEC. 2. COMPTROLLER GENERAL AUDITS AND EVALUA-**
2 **TIONS OF ACTIVITIES OF ELEMENTS OF THE**
3 **INTELLIGENCE COMMUNITY.**

4 (a) REAFFIRMATION AND CLARIFICATION OF AU-
5 THORITY; AUDITS OF INTELLIGENCE COMMUNITY ACTIVI-
6 TIES.—Chapter 35 of title 31, United States Code, is
7 amended by inserting after section 3523 the following:

8 **“§ 3523a. Audits of intelligence community; audits**
9 **and requesters**

10 “(a) In this section, the term ‘element of the intel-
11 ligence community’ means an element of the intelligence
12 community specified in or designated under section 3(4)
13 of the National Security Act of 1947 (50 U.S.C. 401a(4)).

14 “(b) Congress finds that—

15 “(1) the authority of the Comptroller General
16 to perform audits and evaluations of financial trans-
17 actions, programs, and activities of elements of the
18 intelligence community under sections 712, 717,
19 3523, and 3524, and to obtain access to records for
20 purposes of such audits and evaluations under sec-
21 tion 716, is reaffirmed for matters referred to in
22 paragraph (2); and

23 “(2) such audits and evaluations may be re-
24 quested by any committee of jurisdiction (including
25 the Committee on Homeland Security and the Com-
26 mittee on the Judiciary of the House of Representa-

1 tives and the Committee on Homeland Security and
2 Governmental Affairs and the Committee on the Ju-
3 diciary of the Senate), and may include matters re-
4 lating to the management and administration of ele-
5 ments of the intelligence community in areas such as
6 strategic planning, financial management, informa-
7 tion technology, human capital, knowledge manage-
8 ment, and information sharing (including informa-
9 tion sharing by and with the Department of Home-
10 land Security and the Department of Justice).

11 “(c)(1) The Comptroller General may conduct an
12 audit or evaluation of intelligence sources and methods or
13 covert actions only upon request of the Select Committee
14 on Intelligence of the Senate or the Permanent Select
15 Committee on Intelligence of the House of Representa-
16 tives, or the majority or the minority leader of the Senate
17 or the House of Representatives.

18 “(2)(A) Whenever the Comptroller General conducts
19 an audit or evaluation under paragraph (1), the Comp-
20 troller General shall provide the results of such audit or
21 evaluation only to the original requestor, the Director of
22 National Intelligence, and the head of the relevant element
23 of the intelligence community.

24 “(B) The Comptroller General may only provide in-
25 formation obtained in the course of an audit or evaluation

1 under paragraph (1) to the original requestor, the Direc-
2 tor of National Intelligence, and the head of the relevant
3 element of the intelligence community.

4 “(3)(A) Notwithstanding any other provision of law,
5 the Comptroller General may inspect records of any ele-
6 ment of the intelligence community relating to intelligence
7 sources and methods, or covert actions in order to conduct
8 audits and evaluations under paragraph (1).

9 “(B) If in the conduct of an audit or evaluation under
10 paragraph (1), an agency record is not made available to
11 the Comptroller General in accordance with section 716,
12 the Comptroller General shall consult with the original re-
13 questor before filing a report under subsection (b)(1) of
14 such section.

15 “(4)(A) The Comptroller General shall maintain the
16 same level of confidentiality for a record made available
17 for conducting an audit under paragraph (1) as is required
18 of the head of the element of the intelligence community
19 from which it is obtained. Officers and employees of the
20 Government Accountability Office are subject to the same
21 statutory penalties for unauthorized disclosure or use as
22 officers or employees of the intelligence community ele-
23 ment that provided the Comptroller General or officers
24 and employees of the Government Accountability Office
25 with access to such records.

1 “(B) All workpapers of the Comptroller General and
2 all records and property of any element of the intelligence
3 community that the Comptroller General uses during an
4 audit or evaluation under paragraph (1) shall remain in
5 facilities provided by that element of the intelligence com-
6 munity. Elements of the intelligence community shall give
7 the Comptroller General suitable and secure offices and
8 furniture, telephones, and access to copying facilities, for
9 purposes of audits and evaluations under paragraph (1).

10 “(C) After consultation with the Select Committee on
11 Intelligence of the Senate and with the Permanent Select
12 Committee on Intelligence of the House of Representa-
13 tives, the Comptroller General shall establish procedures
14 to protect from unauthorized disclosure all classified and
15 other sensitive information furnished to the Comptroller
16 General or any representative of the Comptroller General
17 for conducting an audit or evaluation under paragraph
18 (1).

19 “(D) Before initiating an audit or evaluation under
20 paragraph (1), the Comptroller General shall provide the
21 Director of National Intelligence and the head of the rel-
22 evant element with the name of each officer and employee
23 of the Government Accountability Office who has obtained
24 appropriate security clearance and to whom, upon proper
25 identification, records, and information of the element of

1 the intelligence community shall be made available in con-
2 ducting the audit or evaluation.

3 “(d) Elements of the intelligence community shall co-
4 operate fully with the Comptroller General and provide
5 timely responses to Comptroller General requests for docu-
6 mentation and information.

7 “(e) With the exception of the types of audits and
8 evaluations specified in subsection (c)(1), nothing in this
9 section or any other provision of law shall be construed
10 as restricting or limiting the authority of the Comptroller
11 General to audit and evaluate, or obtain access to the
12 records of, elements of the intelligence community absent
13 specific statutory language restricting or limiting such au-
14 dits, evaluations, or access to records.”.

15 (b) TECHNICAL AND CONFORMING AMENDMENT.—
16 The table of sections for chapter 35 of title 31, United
17 States Code, is amended by inserting after the item relat-
18 ing to section 3523 the following:

“3523a. Audits of intelligence community; audits and requesters.”.

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