

Menachem Begin negotiated the peace treaty that came to be known as the Camp David Accords in a series of meetings arranged by then-President Jimmy Carter at Camp David. President Sadat's leadership and commitment to peace provided a resolution of conflict that has endured nearly 40 years after its inception.

Mr. Speaker, I urge all Members to support the passage of this bill to honor President Sadat and his commitment to peace and the national security of this country, as well as the stability of the Middle East.

Mr. Speaker, I yield back the balance of my time.

Mr. TIPTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. TIPTON) that the House suspend the rules and pass the bill, H.R. 754.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### IG SUBPOENA AUTHORITY ACT

Mr. RUSSELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4917) to amend the Inspector General Act of 1978 to provide testimonial subpoena authority, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4917

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "IG Subpoena Authority Act".

#### SEC. 2. ADDITIONAL AUTHORITY PROVISIONS FOR INSPECTORS GENERAL.

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

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

#### "SEC. 6A. ADDITIONAL AUTHORITY.

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

"(b) NONDELEGATION.—The authority to issue a subpoena under subsection (a) may not be delegated.

"(c) PANEL REVIEW BEFORE ISSUANCE.—

"(1) APPROVAL REQUIRED.—

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

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

"(2) TIME TO RESPOND.—

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

"(B) ADDITIONAL INFORMATION FOR PANEL.—If the Subpoena Panel determines that additional information is necessary to approve or deny such request, the Subpoena Panel shall request such information and shall approve or deny such request not later than 20 days after the submission of such request.

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

"(d) NOTICE TO ATTORNEY GENERAL.—

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

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

"(3) ISSUANCE OF SUBPOENA APPROVED.—If the Attorney General does not object to the issuance of the subpoena during the 10-day period described in paragraph (2), the Inspector General may issue the subpoena.

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

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

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

(2) in section 5(a)—

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

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

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

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

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

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Oklahoma (Mr. RUSSELL) and the gentleman from California (Mr. GOMEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Oklahoma.

#### GENERAL LEAVE

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. RUSSELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge support of my bill, H.R. 4917, the IG Subpoena Authority Act. H.R. 4917 would provide inspectors general the authority to subpoena contractors, grant recipients, and former Federal employees for testimony necessary for their investigations.

Inspectors general perform a critical role in the performance of the Federal Government by rooting out waste, fraud, and abuse. In fiscal year 2016 alone, Federal inspectors general identified potential savings of over \$45 billion. Nearly half of those savings were identified in the course of the IG's investigative work.

Congress, the American people, and the agencies themselves rely on inspectors general reviews to find areas for improved efficiency and effectiveness, but those reviews are limited by the IG's inability to compel contractors and former employees to cooperate. The IG Subpoena Authority Act gives inspectors general a much-needed tool to fulfill their investigative function under the Inspector General Act.

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

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

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

To prevent abuse, inspectors general must get approval from a subpoena review panel that will be made up of three other inspectors general. The review panel must approve or deny the subpoena request within 10 days of the request being filed.

Further, if a subpoena request is approved by the panel, the requesting IG must notify the Attorney General of the pending subpoena. The Attorney General is then able to review the subpoena and may object to its issuance if it will interfere with an ongoing Department of Justice investigation. An IG must complete all of these steps prior to issuing the subpoena.

A version of this bill already passed the House once before. Last Congress, the committee worked on a bipartisan, bicameral basis to enact the Inspector General Empowerment Act. When it first passed the House, the Inspector General Empowerment Act included testimonial subpoena authority for IGs. Although the provision did not make it into law, I hope that changes this year.

I would like to thank the Council of Inspectors General on Integrity and Efficiency, especially the Department of Justice Inspector General Michael Horowitz, who chairs the Council, and Peace Corps Inspector General Kathy Buller, who chairs its Legislation Committee, for their work in support of this bill.

Mr. Speaker, I include in the RECORD a letter from Ms. Buller supporting the legislation.

COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY,

June 7, 2018.

Hon. TREY GOWDY,

*Chairman, House Committee on Oversight and Government Reform, House of Representatives, Washington, DC.*

Hon. ELLJAH CUMMINGS,

*Ranking Member, House Committee on Oversight and Government Reform, House of Representatives, Washington, DC.*

Hon. STEVE RUSSELL,

*House of Representatives, Washington, DC.*

DEAR CHAIRMAN GOWDY, RANKING MEMBER CUMMINGS, AND REPRESENTATIVE RUSSELL: We appreciate your efforts to address the Inspector General (IG) community's longstanding interest in obtaining testimonial subpoena authority (TSA) for all IGs and would like to outline our views on H.R. 4917, the IG Subpoena Authority Act. For many years, the Legislation Committee of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) has included TSA among its legislative priorities.

The authority in H.R. 4917 would assist government oversight by providing a critical tool to address fraud, waste, and abuse by authorizing all IGs to subpoena the attendance and testimony of certain witnesses, as necessary, to fulfill the functions of the Inspector General Act of 1978, as amended (IG Act). CIGIE supports the language in the bill aligning the scope of TSA with the IG's existing documentary subpoena authority, found in Section 6(a)(4) of the IG Act. While requiring that any subpoena be necessary in the performance of IG work, the language does not limit who may be subpoenaed, other than with respect to current Federal employees (as they are already generally required to cooperate with OIGs).

Congress has already granted some IGs TSA under the IG Act or through other laws. The Department of Defense Office of Inspector General (DOD OIG) was provided TSA under Section 1042 of the National Defense Authorization Act of 2010, codified at Section 8(i) of the IG Act. As noted in the Congressional record, DOD OIG has used this author-

ity judiciously and sparingly. The Department of Health and Human Services OIG also has testimonial subpoena power in certain circumstances. Moreover, IGs overseeing appropriations under the American Recovery and Reinvestment Act of 2009 received TSA to be exercised through the now-sunsetted Recovery Accountability and Transparency Board.

Following the practice of those IGs who already have or had TSA, CIGIE is committed to ensuring that the authority will be used appropriately and fairly. In short, CIGIE echoes Ranking Member Cummings's belief that IGs would "act responsibly and use this authority only when absolutely necessary," and that appropriate safeguards provide checks on potential abuse.

#### THE NEED FOR TSA

While the current IG documentary subpoena authority under the IG Act is a powerful tool, it is a tool with inherent limitations. Most notably, Federal employees who are the subjects of IG investigations can retire or resign while being investigated. In such cases, limitations on IG documentary subpoena authority or other IG Act authorities can thwart IG investigations. For example, this could impact the ability to pursue the investigations considered under the Official Personnel File Enhancement Act.

These limitations have had negative, real world effects on IG oversight and can impact Congressional initiatives. As Chairman Gowdy has recognized, "[y]ou're only as good as your access to information and witnesses." An informal survey of the IG community revealed TSA would have strengthened IG oversight throughout the Federal government as illustrated in the following examples:

One agency's OIG conducted an investigation of a senior staff member who allegedly modified official documents and impersonated an official, before retiring during the investigation. The former senior staff member was not receptive to being interviewed after retiring. Because the OIG lacked TSA, the OIG could not compel testimony from the retired senior staff member to conduct an effective investigation.

In connection with an OIG's review of alleged safety issues at an agency facility, the OIG was unable to interview the central person identified in the allegation or that person's supervisor since both had left Federal service and declined voluntary interviews. The unavailability of those key witnesses hampered the OIG's ability to fully investigate alleged safety issues or to address a key objective of the inspection, which was to identify factors that may have contributed to leadership being unaware of those issues.

During another OIG's investigation into a small business owner who received two Federal grants for overlapping business proposals, key individuals declined to be interviewed by the OIG. One of the employees confessed to destroying company documents and creating new ones at the request of the owner. After the confession, other individuals involved declined to be interviewed. Without TSA or the cooperation of another employee or the owner, the OIG was unable to pursue obstruction and other potential charges against the subjects.

Another agency's OIG faced obstacles when investigating fraud associated with a loan program. The loan officer was the only source of information to determine the individual associated with the borrower. The OIG was unable to effectively complete the investigation because the bank declined to make the loan officer available for an interview.

A different OIG discovered a contractor was being paid for services it did not provide, and only minimal information could be collected through documentary subpoena authority. Attempts to contact the contractor

were unproductive. If that OIG had TSA, the OIG could have compelled the contractor's representative to be interviewed.

An OIG was reviewing third-party contractors retained by the agency to provide healthcare services to eligible individuals. The OIG could not determine if the contractors provided proper notifications to individuals about their eligibility for the services. Without the ability to compel the contractors to testify, the OIG could rely only on records, which did not contain specific information on which to base conclusions.

Yet another OIG was unable to effectively examine potential false and fraudulent billing after discovering an unauthorized subcontractor was performing the majority of work under a large contract. As the subcontractor was not in a direct contractual relationship with the agency, the OIG had to rely on documentary subpoenas. If that OIG had TSA, it could have fully examined the potentially false and fraudulent billing.

An investigation conducted on behalf of the Integrity Committee was unable to obtain evidence from a former senior level OIG employee who had retired from Federal service and declined to speak with investigators. The investigation concluded without the former senior level OIG employee's evidence.

Another OIG encountered a significant obstacle while conducting an audit where several former government officials refused to be interviewed. Without the ability to compel their testimony, the OIG had to report their refusal to the appropriate Congressional oversight committee. Only after the OIG reported this refusal to Congress did these former government officials finally agree to be interviewed. If that OIG had TSA, it would not have needed Congressional intervention to complete its oversight work.

#### SUBPOENA PANEL AND OTHER PROVISIONS

With respect to the IG subpoena panel created in the bill, and given the nature of the authority being granted, we understand the interest of Congress in putting in place an additional check on the use of TSA. While, in our view, the provision is unnecessary, we do not object to its inclusion. CIGIE requests, however, that two additional points related to the language of the legislation be reconsidered. First, the non-delegation clause in the proposed IG Act Section "6A(b)" may create problems for OIGs subject to the Federal Vacancies Reform Act. Most relevantly, it could limit long-serving acting IGs from exercising the authority when the acting IG is no longer able to perform the "duties and functions" designated solely to the IG. To avoid this issue, we recommend that this provision be removed. Second, with respect to the proposed IG Act Section "6A(e)", having the CIGIE Chair issue guidelines to IGs, rather than promulgate regulations, would achieve Congress's intent of standardizing and governing the use of TSA without requiring CIGIE to undergo a lengthy and resource-intensive rulemaking process. Moreover, it will be more economical to update or modify guidelines as needed.

#### SUPPORT FROM CONGRESS AND OTHER STAKEHOLDERS

The benefits of this legislation are reflected in the support expressed by government oversight stakeholders for providing IGs with TSA. Importantly, bi-partisan support for providing IGs with TSA has come not just from the House Oversight and Government Reform Committee, but also from the unanimous consent it received in the House of Representatives last Congress. Other important government oversight stakeholders have also expressed how government oversight would benefit from OIGs

receiving TSA. For example the Office of Special Counsel wrote to Senate leadership describing how providing IGs with this authority will enhance IG efforts to reduce government waste and abuse, and how TSA has been helpful in reprisal investigations undertaken by the Office of Special Counsel. Nongovernmental organizations emphasized in a May 2016 letter to Congress that OIGs are essential to a well-functioning Government, and noted that providing access to agency information, including through TSA, would allow OIGs to conduct proper oversight. As evidenced by both Congressional and stakeholder support, TSA will benefit the IG community in carrying out its oversight operations.

#### CONCLUSION

CIGIE appreciates your continued support of our work and the House Committee on Oversight and Government Reform's efforts to improve government oversight through H.R. 4917. In the decades since the IG Act's passage, IGs have saved taxpayers hundreds of billions of dollars and improved the programs and operations of the Federal government through their independent oversight. Testimonial subpoena authority would further improve the ability of IGs to detect and prevent fraud, waste, and abuse in Federal operations. As Representative Russell stated, "Inspectors General are an essential partner for Congress and by extension to we the people that empower government," and "we must provide Inspectors General with the tools they need to fully accomplish their mission. Testimonial subpoena authority is one such tool, and a critical one at that."

Thank you for your continued support of CIGIE and its member IGs. We remain available to continue to work with you and the Congress on the important issues addressed in this legislation. If you have any questions, please do not hesitate to contact me.

Sincerely,

KATHY A. BULLER,  
Chair, CIGIE Legislation Committee.

Mr. RUSSELL. Mr. Speaker, lastly, I would like to thank my Democratic colleagues for their support and thoughtful dialogue, particularly the gentleman from Virginia (Mr. CONNOLLY) and the gentleman from Pennsylvania (Mr. CARTWRIGHT), who sponsored this bill with me.

Mr. Speaker, I urge my colleagues to support the bill, and I reserve the balance of my time.

□ 1900

Mr. GOMEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would give inspectors general the ability to subpoena witnesses to testify. This would be a significant new authority.

Although I believe most IGs would act responsibly, it is important that we include safeguards to protect against potential abuse of this new authority.

This bill includes several such safeguards. The bill would require an IG, before issuing a subpoena, to go through two reviews.

The first review would be conducted by the Council of Inspectors General for Integrity and Efficiency. A panel of three council members would have to approve the subpoena before the IG could issue it.

The second review would be conducted by the attorney general, who would have the opportunity to block a

subpoena if it would interfere with an ongoing investigation.

The bill attempts to strike a careful balance in granting IGs the authority to interview witnesses outside of the government while also providing these important checks against potential abuse.

Mr. Speaker, I yield back the balance of my time.

Mr. RUSSELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one of the chief complaints of the American people is that we can't hold our government accountable. This bill goes a long way to correct that.

In the future, no longer will people be able to simply walk away from agencies and duties in government without any accounting. We have built in the safeguards, and we have worked in a bipartisan way, so that we can achieve that aim.

Mr. Speaker, I urge adoption of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. RUSSELL) that the House suspend the rules and pass the bill, H.R. 4917.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### GUIDANCE OUT OF DARKNESS ACT

Mr. RUSSELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4809) to increase access to agency guidance documents, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4809

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Guidance Out Of Darkness Act" or the "GOOD Act".

#### SEC. 2. PURPOSE.

It is the purpose of this Act to increase the transparency of agency guidance documents and to make guidance documents more readily available to the public.

#### SEC. 3. PUBLICATION OF GUIDANCE DOCUMENTS ON THE INTERNET.

(a) IN GENERAL.—On the date on which an agency issues a guidance document, the head of the agency shall publish the guidance document in accordance with subsection (c).

(b) PREVIOUSLY ISSUED GUIDANCE DOCUMENTS.—With respect to any guidance document issued by an agency before the effective date of this Act that is in effect on the effective date of this Act, the head of each agency shall meet the requirements of subsection (c).

(c) SINGLE LOCATION.—The head of each agency shall:

(1) Publish any guidance document issued by the agency in a single location on an online portal designated by the Director of the Office of Management and Budget.

(2) With respect to a guidance document issued by an agency, include a hyperlink on

the online portal of the agency that provides access to the guidance document published pursuant to paragraph (1).

(3) Ensure that any guidance document published pursuant to paragraph (1) is—

(A) clearly identified as a guidance document;

(B) sorted into subcategories, as appropriate;

(C) published in a machine-readable and open format; and

(D) searchable.

(4) Ensure that any hyperlink described in paragraph (2) be prominently displayed on the online portal of the agency.

(d) RESCINDED GUIDANCE DOCUMENTS.—Not later than the date on which a guidance document issued by an agency is rescinded, the head of the agency shall on the online portal described in subsection (c)(1)—

(1) maintain a copy of the rescinded guidance document; and

(2) indicate—

(A) that the guidance document is rescinded; and

(B) the date on which the guidance document was rescinded.

(e) DEADLINE TO DESIGNATE PORTAL.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall designate an online portal in accordance with subsection (c)(1).

#### SEC. 4. RULES OF CONSTRUCTION.

(a) GUIDANCE DOCUMENTS.—In this Act, the term "guidance document" shall be construed broadly.

(b) CONGRESSIONAL REVIEW.—Nothing in this Act may be construed to affect whether a guidance document qualifies as a rule for purposes of chapter 8 of title 5, United States Code.

#### SEC. 5. DEFINITIONS.

In this Act:

(1) AGENCY.—The term "agency" has the meaning given that term in section 551 of title 5, United States Code.

(2) GUIDANCE DOCUMENT.—The term "guidance document"—

(A) means an agency statement of general applicability (other than a rule that has the force and effect of law promulgated in accordance with the notice and public procedure under section 553 of title 5, United States Code) that—

(i) does not have the force and effect of law; and

(ii) sets forth—

(I) an agency decision or a policy on a statutory, regulatory, or technical issue; or

(II) an interpretation of a statutory or regulatory issue; and

(B) may include any of the following:

(i) A memorandum.

(ii) A notice.

(iii) A bulletin.

(iv) A directive.

(v) A news release.

(vi) A letter.

(vii) A blog post.

(viii) A no-action letter.

(ix) A speech by an agency official.

(x) An advisory.

(xi) A manual.

(xii) A circular.

(xiii) Any combination of the items described in clauses (i) through (xii).

(3) RULE.—The term "rule" has the meaning given that term in section 551 of title 5, United States Code.

#### SEC. 6. EFFECTIVE DATE.

Except as provided in section 3(e), this Act shall take effect on the date that is 180 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from