

a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines the disclosure is unavoidable during the course of the investigation.

(c) PROHIBITION ON REPRISAL.—Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to that authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(Pub. L. 117–286, §3(b), Dec. 27, 2022, 136 Stat. 4224.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
407	5 U.S.C. App. (IGA §7)	Pub. L. 95–452, §7, Oct. 12, 1978, 92 Stat. 1105.

§ 408. Additional provisions with respect to the Inspector General of the Department of Defense

(a) INSPECTOR GENERAL.—A member of the Armed Forces, active or reserve, shall not be appointed Inspector General of the Department of Defense.

(b) AUTHORITY OF SECRETARY OF DEFENSE.—

(1) IN GENERAL.—Notwithstanding the last two sentences of section 403(a) of this title, the Inspector General shall be under the authority, direction, and control of the Secretary of Defense with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning—

- (A) sensitive operational plans;
- (B) intelligence matters;
- (C) counterintelligence matters;
- (D) ongoing criminal investigations by other administrative units of the Department of Defense related to national security; or
- (E) other matters the disclosure of which would constitute a serious threat to national security.

(2) AUTHORITY TO PROHIBIT AUDIT OR INVESTIGATION.—With respect to the information described in paragraph (1), the Secretary of Defense may prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, from accessing information described in paragraph (1), or from issuing any subpoena, after the 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 preserve the national security interests of the United States.

(3) STATEMENT CONCERNING EXERCISE OF POWER.—If the Secretary of Defense exercises any power under paragraph (1) or (2), the Inspector General shall submit a statement concerning that exercise of power within 30 days

to the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Armed Services and the Committee on Oversight and Reform of the House of Representatives and to other appropriate committees or subcommittees of the Congress.

(4) STATEMENT OF REASONS FOR EXERCISE OF POWER.—The Secretary shall, within 30 days after submission of a statement under paragraph (3), transmit a statement of the reasons for the exercise of power under paragraph (1) or (2) to the congressional committees specified in paragraph (3) and to other appropriate committees or subcommittees.

(c) ADDITIONAL DUTIES AND RESPONSIBILITIES.—In addition to the other duties and responsibilities specified in this chapter, the Inspector General of the Department of Defense shall—

(1) be the principal adviser to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste, and abuse in the programs and operations of the Department;

(2) initiate, conduct, and supervise such audits and investigations in the Department of Defense (including the military departments) as the Inspector General considers appropriate;

(3) provide policy direction for audits and investigations relating to fraud, waste, and abuse and program effectiveness;

(4) investigate fraud, waste, and abuse uncovered as a result of other contract and internal audits, as the Inspector General considers appropriate;

(5) develop policy, monitor and evaluate program performance, and provide guidance with respect to all Department activities relating to criminal investigation programs;

(6) monitor and evaluate the adherence of Department auditors to internal audit, contract audit, and internal review principles, policies, and procedures;

(7) develop policy, evaluate program performance, and monitor actions taken by all components of the Department in response to contract audits, internal audits, internal review reports, and audits conducted by the Comptroller General of the United States;

(8) request assistance as needed from other audit, inspection, and investigative units of the Department of Defense (including military departments);

(9) give particular regard to the activities of the internal audit, inspection, and investigative units of the military departments with a view toward avoiding duplication and ensuring effective coordination and cooperation; and

(10) conduct, or approve arrangements for the conduct of, external peer reviews of Department of Defense audit agencies in accordance with, and in such frequency as provided by, Government auditing standards as established by the Comptroller General of the United States.

(d) REPORTING VIOLATIONS OF CHAPTER 47 OF TITLE 10.—Notwithstanding section 404(d) of this title, the Inspector General of the Department of Defense shall expeditiously report suspected

or alleged violations of chapter 47 of title 10 (Uniform Code of Military Justice), to the Secretary of the military department concerned or the Secretary of Defense.

(e) MEMBER OF ARMED FORCES DEEMED TO BE EMPLOYEE.—For the purposes of section 407 of this title, a member of the Armed Forces shall be deemed to be an employee of the Department of Defense, except that, when the Coast Guard operates as a service of another department or agency of the Federal Government, a member of the Coast Guard shall be deemed to be an employee of that department or agency.

(f) REPORTS.—

(1) REPORTS TRANSMITTED TO CONGRESSIONAL COMMITTEES.—Each semiannual report prepared by the Inspector General of the Department of Defense under section 405(b) of this title shall be transmitted by the Secretary of Defense to the Committees on Armed Services and on Homeland Security and Governmental Affairs of the Senate and the Committees on Armed Services and on Oversight and Reform of the House of Representatives and to other appropriate committees or subcommittees of Congress. Each report shall include—

(A) information concerning the numbers and types of contract audits conducted by the Department during the reporting period; and

(B) information concerning any Department of Defense audit agency that, during the reporting period, has either received a failed opinion from an external peer review or is overdue for an external peer review required to be conducted in accordance with subsection (c)(10).

(2) ADDITIONAL REPORTS TRANSMITTED TO CONGRESSIONAL COMMITTEES.—Any report required to be transmitted by the Secretary of Defense to the appropriate committees or subcommittees of the Congress under section 405(e) of this title shall also be transmitted, within the 7-day period specified in section 405(e) of this title, to the congressional committees specified in paragraph (1).

(g) NON-APPLICABILITY OF SECTION 1385 OF TITLE 18.—The provisions of section 1385 of title 18,¹ shall not apply to audits and investigations conducted by, under the direction of, or at the request of the Inspector General of the Department of Defense to carry out the purposes of this chapter.

(h) GENERAL COUNSEL TO INSPECTOR GENERAL OF DEPARTMENT OF DEFENSE.—

(1) IN GENERAL.—There is a General Counsel to the Inspector General of the Department of Defense, who shall be appointed by the Inspector General of the Department of Defense.

(2) DUTIES AND FUNCTIONS.—

(A) Notwithstanding section 140(b) of title 10, the General Counsel is the chief legal officer of the Office of the Inspector General.

(B) The Inspector General is the exclusive legal client of the General Counsel.

(C) The General Counsel shall perform such functions as the Inspector General may prescribe.

(D) The General Counsel shall serve at the discretion of the Inspector General.

(3) OFFICE OF GENERAL COUNSEL.—There is an Office of the General Counsel to the Inspector General of the Department of Defense. The Inspector General may appoint to the Office to serve as staff of the General Counsel such legal counsel as the Inspector General considers appropriate.

(i) AUTHORITY TO REQUIRE ATTENDANCE AND TESTIMONY OF WITNESSES.—

(1) SUBPOENA.—The Inspector General of the Department of Defense is authorized to require by subpoena the attendance and testimony of witnesses as necessary in the performance of functions assigned to the Inspector General by this chapter, except that the Inspector General shall use procedures other than subpoenas to obtain attendance and testimony from Federal employees.

(2) ENFORCEMENT.—A subpoena issued under this subsection, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court.

(3) NOTIFICATION.—The Inspector General shall notify the Attorney General 7 days before issuing any subpoena under this section.

(Pub. L. 117-286, §3(b), Dec. 27, 2022, 136 Stat. 4224.)

AMENDMENTS NOT SHOWN IN TEXT

This section was derived from section 8 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 8 of Pub. L. 95-452 was amended by Pub. L. 117-263, div. E, title LII, §5272(3), Dec. 23, 2022, 136 Stat. 3239, prior to being repealed and reenacted as this section by Pub. L. 117-286, §§3(b), 7, Dec. 27, 2022, 136 Stat. 4224, 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 8 of Pub. L. 95-452 was amended as follows:

(1) in subsection (b)—

(A) in paragraph (3), by striking “the Committees on Armed Services and Governmental Affairs of the Senate and the Committee on Armed Services and the Committee on Government Reform and Oversight of the House of Representatives and to other appropriate committees or subcommittees of the Congress” and inserting “the appropriate congressional committees, including the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives”; and

(B) in paragraph (4), by striking “and to other appropriate committees or subcommittees”; and

(2) in subsection (f)—

(A) in paragraph (1), by striking “the Committees on Armed Services and on Homeland Security and Governmental Affairs of the Senate and the Committees on Armed Services and on Oversight and Government Reform of the House of Representatives and to other appropriate committees or subcommittees of Congress” and

¹ So in original. The comma probably should not appear.

inserting “the appropriate congressional committees, including the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives”; and

(B) in paragraph (2), by striking “committees or subcommittees of the Congress” and inserting “congressional committees”.

The text directed to be stricken in subsections (b)(3) and (f)(1) did not appear exactly as quoted in the text enacted by Pub. L. 117–286. See Historical and Revision notes below.

For definition of “appropriate congressional committees” as seen in 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)
408	5 U.S.C. App. (IGA § 8)	Pub. L. 95–452, § 8, Oct. 12, 1978, 92 Stat. 1105; Pub. L. 97–252, title XI, § 1117(b), Sept. 8, 1982, 96 Stat. 751; Pub. L. 100–504, title I, § 110(b), Oct. 18, 1988, 102 Stat. 2529; Pub. L. 104–106, div. A, title XV, § 1502(f)(6), Feb. 10, 1996, 110 Stat. 510; Pub. L. 106–65, div. A, title X, § 1067(17), Oct. 5, 1999, 113 Stat. 775; Pub. L. 110–417, [div. A], title IX, § 907, Oct. 14, 2008, 122 Stat. 4569; Pub. L. 111–84, div. A, title X, § 1042, Oct. 28, 2009, 123 Stat. 2455; Pub. L. 112–239, div. A, title XVI, § 1614, Jan. 2, 2013, 126 Stat. 2066; Pub. L. 114–317, § 6(1), Dec. 16, 2016, 130 Stat. 1604.

In subsection (b)(3), the words “Committee on Homeland Security and Governmental Affairs of the Senate” are substituted for “[Committee on] Governmental Affairs of the Senate” on authority of Senate Resolution No. 445, 108th Congress, October 9, 2004 (effective January 4, 2005).

In subsection (b)(3), the words “Committee on Oversight and Reform” are substituted for “Committee on Government Reform and Oversight” on authority of House Resolution No. 5 (106th Congress, January 6, 1999), House Resolution No. 6 (110th Congress, January 5, 2007), and rule X(1)(n) of the Rules of the House of Representatives, adopted by House Resolution No. 6 (116th Congress, January 9, 2019).

In subsection (c)(9), the word “ensuring” is substituted for “insuring” for clarity.

In subsection (f)(1) (matter before subparagraph (A)), the words “[Committee on] Oversight and Reform” are substituted for “[Committee on] Oversight and Government Reform” on authority of rule X(1)(n) of the Rules of the House of Representatives, adopted by House Resolution No. 6 (116th Congress, January 9, 2019).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

§ 409. Special provisions concerning the Agency for International Development

(a) DEFINITION OF AGENCY FOR INTERNATIONAL DEVELOPMENT.—As used in this chapter, the term “Agency for International Development”

includes any successor agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.).

(b) MEMBERS OF FOREIGN SERVICE.—In addition to the officers and employees provided for in section 406(a)(7) of this title, members of the Foreign Service may, at the request of the Inspector General of the Agency for International Development, be assigned as employees of the Inspector General. Members of the Foreign Service so assigned shall be responsible solely to the Inspector General, and the Inspector General (or the Inspector General’s designee) shall prepare the performance evaluation reports for the members assigned as employees of the Inspector General.

(c) FIELD OFFICES.—In establishing and staffing field offices pursuant to section 406(d) of this title, the Administrator of the Agency for International Development shall not be bound by overseas personnel ceilings.

(d) ADDITIONAL OFFICER.—The Inspector General of the Agency for International Development shall be in addition to the officers provided for in section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a)).

(Pub. L. 117–286, § 3(b), Dec. 27, 2022, 136 Stat. 4227.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
409(a)	5 U.S.C. App. (IGA § 8A(f))	Pub. L. 95–452, § 8A(f), formerly (h), as added Pub. L. 97–113, title VII, § 705(a)(3), Dec. 29, 1981, 95 Stat. 1545; redesignated (f), Pub. L. 105–277, div. G, subdiv. A, title XIV, § 1422(b)(2)(C), Oct. 21, 1998, 112 Stat. 2681–792.
409(b)	5 U.S.C. App. (IGA § 8A(c))	Pub. L. 95–452, § 8A(c), formerly (d), as added Pub. L. 97–113, title VII, § 705(a)(3), Dec. 29, 1981, 95 Stat. 1545; redesignated (c), Pub. L. 105–277, div. G, subdiv. A, title XIV, § 1422(b)(2)(C), Oct. 21, 1998, 112 Stat. 2681–792.
409(c)	5 U.S.C. App. (IGA § 8A(d))	Pub. L. 95–452, § 8A(d), formerly (e), as added Pub. L. 97–113, title VII, § 705(a)(3), Dec. 29, 1981, 95 Stat. 1545; redesignated (d), Pub. L. 105–277, div. G, subdiv. A, title XIV, § 1422(b)(2)(C), Oct. 21, 1998, 112 Stat. 2681–792; Pub. L. 114–317, § 7(d)(2)(E), Dec. 16, 2016, 130 Stat. 1606.
409(d)	5 U.S.C. App. (IGA § 8A(e))	Pub. L. 95–452, § 8A(e), formerly (g), as added Pub. L. 97–113, title VII, § 705(a)(3), Dec. 29, 1981, 95 Stat. 1545; redesignated (e), Pub. L. 105–277, div. G, subdiv. A, title XIV, § 1422(b)(2)(C), Oct. 21, 1998, 112 Stat. 2681–792.

In subsection (b), the reference to “section 406(a)(7) of this title” is substituted for “section 6(a)(6) of this Act” for clarity and to correct an error in the law. In the source law (section 8A(c) of the Inspector General Act of 1978), the reference to “section 6(a)(6) of this Act” is incorrect. Section 6(a)(6) of the Inspector General Act of 1978 was redesignated as section 6(a)(7) of that Act by section 107(1) of the Inspector General Act Amendments of 1988 (Public Law 100–504, 102 Stat. 2528).

In subsection (c), the words “overseas personnel ceilings” are substituted for “overseas personnel ceilings established under the Monitoring Overseas Direct Employment policy” to eliminate obsolete language. The