

Union Calendar No. 158

114TH CONGRESS
1ST SESSION

H. R. 2395

[Report No. 114-210]

To amend the Inspector General Act of 1978 to strengthen the independence of the Inspectors General, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2015

Mr. CHAFFETZ (for himself, Mr. CUMMINGS, and Mr. MEADOWS) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

JULY 16, 2015

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend the Inspector General Act of 1978 to strengthen the independence of the Inspectors General, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Inspector General Empowerment Act of 2015”.

6 (b) TABLE OF CONTENTS.—The table of contents for
 7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Additional authority provisions for Inspectors General.
- Sec. 3. Additional responsibilities of the Council of the Inspectors General on Integrity and Efficiency.
- Sec. 4. Paperwork Reduction Act exemption.
- Sec. 5. Amendments to the Inspector General Act of 1978 and the Inspector General Reform Act of 2008.
- Sec. 6. Reports required.
- Sec. 7. Public release of misconduct report.

8 **SEC. 2. ADDITIONAL AUTHORITY PROVISIONS FOR INSPEC-**
 9 **TORS GENERAL.**

10 (a) SUBPOENA AUTHORITY FOR INSPECTORS GEN-
 11 ERAL TO REQUIRE TESTIMONY OF CERTAIN PERSONS.—
 12 The Inspector General Act of 1978 (5 U.S.C. App.) is
 13 amended—

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

16 **“SEC. 6A. ADDITIONAL AUTHORITY.**

17 “(a) TESTIMONIAL SUBPOENA AUTHORITY.—In ad-
 18 dition to the authority otherwise provided by this Act and
 19 in accordance with the requirements of this section, each
 20 Inspector General (and each Special Inspector General not
 21 established under this Act), in carrying out the provisions

1 of this Act (or in the case of a Special Inspector General,
2 the provisions of the authorizing statute), is authorized
3 to require by subpoena the attendance and testimony of
4 certain witnesses, including a contractor with the Federal
5 Government or a designated Federal entity and any
6 former Federal employee or employee of a designated Fed-
7 eral entity (but not including any Federal employee), nec-
8 essary in the performance of the functions assigned by this
9 Act, which subpoena, in the case of contumacy or refusal
10 to obey, shall be enforceable by order of any appropriate
11 United States district court.

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

14 “(c) LIMITATION.—The authority to issue a subpoena
15 under subsection (a) is limited to an investigation of fraud
16 or waste in excess of \$100,000 unless there is reasonable
17 cause to believe a crime has been committed.

18 “(d) PANEL REVIEW BEFORE ISSUANCE.—

19 “(1) APPROVAL REQUIRED.—

20 “(A) REQUEST FOR APPROVAL BY SUB-
21 POENA PANEL.—Before the issuance of a sub-
22 poena described in subsection (a), an Inspector
23 General shall submit a request for approval to
24 issue a subpoena to a panel (in this section, re-
25 ferred to as the ‘Subpoena Panel’), which shall

1 be comprised of three Inspectors General of the
2 Council of the Inspectors General on Integrity
3 and Efficiency, who shall be designated by the
4 Inspector General serving as Chairperson of the
5 Council.

6 “(B) REASONABLE CAUSE.—Any request
7 submitted by an Inspector General under sub-
8 paragraph (A) shall demonstrate reasonable
9 cause that each witness requested by the sub-
10 poena possesses information pertinent and nec-
11 essary to the investigation.

12 “(C) PROTECTION FROM DISCLOSURE.—
13 The information contained in the request sub-
14 mitted by an Inspector General under subpara-
15 graph (A) and the identification of a witness
16 shall be protected from disclosure to the extent
17 practicable.

18 “(2) TIME TO RESPOND.—

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

24 “(B) ADDITIONAL INFORMATION FOR
25 PANEL.—If the Subpoena Panel determines

1 that additional information is necessary to ap-
2 prove or deny such request, the Subpoena Panel
3 shall request such information and shall ap-
4 prove or deny such request not later than 20
5 days after the submission of such request.

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

9 “(e) NOTICE TO ATTORNEY GENERAL.—

10 “(1) IN GENERAL.—If the Subpoena Panel ap-
11 proves a subpoena under subsection (d), the Inspec-
12 tor General shall notify the Attorney General that
13 the Inspector General intends to issue the subpoena.

14 “(2) DENIAL FOR INTERFERENCE WITH AN ON-
15 GOING INVESTIGATION.—The Attorney General shall
16 approve or deny the issuance of a subpoena. If the
17 Attorney General denies the issuance of the sub-
18 poena, the subpoena may not be issued. The Attor-
19 ney General shall make every effort to issue an ap-
20 proval or denial under this paragraph within 30 days
21 after notification by the Inspector General under
22 paragraph (1).

23 “(3) ISSUANCE OF SUBPOENA.—An Inspector
24 General may not issue a subpoena under this section

1 unless the Attorney General approves the issuance of
2 the subpoena.

3 “(f) REGULATIONS.—The Chairperson of the Council
4 of the Inspectors General on Integrity and Efficiency, in
5 consultation with the Attorney General, shall prescribe
6 regulations to carry out the purposes of this section.”; and

7 (2) in section 5(a)—

8 (A) in paragraph (15), by striking “; and”
9 and inserting a semicolon;

10 (B) in paragraph (16), by striking the pe-
11 riod at the end and inserting “; and”; and

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

14 “(17) a description of the use of subpoenas for
15 the attendance and testimony of certain witnesses
16 authorized under section 6A.”.

17 (b) MATCHING PROGRAM EXCEPTION FOR INSPEC-
18 TORS GENERAL.—Section 6(a) of the Inspector General
19 Act of 1978 (5 U.S.C. App.) is amended—

20 (1) in paragraph (8), by striking “; and” and
21 inserting a semicolon;

22 (2) by redesignating paragraph (9) as para-
23 graph (10); and

24 (3) by inserting after paragraph (8) the fol-
25 lowing new paragraph:

1 “(9) notwithstanding paragraph (12) of sub-
2 section (e) and subsections (o), (p), (q), (r), and (u)
3 of section 552a of title 5, United States Code—

4 “(A) to compare, through a matching pro-
5 gram (as defined in such section), any Federal
6 records with other Federal or non-Federal
7 records, while conducting an audit, investiga-
8 tion, inspection, evaluation, or other review au-
9 thorized under this Act to identify weaknesses
10 that may lead to waste, fraud, or abuse and to
11 detect improper payments and fraud; and

12 “(B) to take action to protect any informa-
13 tion collected pursuant to subparagraph (A);
14 and”.

15 **SEC. 3. ADDITIONAL RESPONSIBILITIES OF THE COUNCIL**
16 **OF THE INSPECTORS GENERAL ON INTEG-**
17 **RITY AND EFFICIENCY.**

18 (a) FUNCTIONS AND DUTIES OF COUNCIL.—Section
19 11(c)(1) of the Inspector General Act of 1978 (5 U.S.C.
20 App.) is amended—

21 (1) in subparagraph (G), by striking “; and”
22 and inserting a semicolon;

23 (2) by redesignating subparagraph (H) as sub-
24 paragraph (I); and

1 (3) by inserting after subparagraph (G) the fol-
2 lowing new subparagraph:

3 “(H) receive, review, and mediate any dis-
4 putes submitted in writing to the Council by an
5 Office of Inspector General regarding an audit,
6 investigation, inspection, evaluation, or project
7 that involves the jurisdiction of more than one
8 Federal agency or entity; and”.

9 (b) INTEGRITY COMMITTEE.—Section 11(d) of the
10 Inspector General Act of 1978 (5 U.S.C. App.) is amend-
11 ed—

12 (1) in paragraph (5)—

13 (A) in subparagraph (B), by striking “;
14 and” and inserting a semicolon;

15 (B) in subparagraph (C), by striking the
16 period at the end and inserting “; and”; and

17 (C) by inserting at the end the following
18 new subparagraph:

19 “(D) not later than 60 days after the date
20 on which an allegation of wrongdoing is re-
21 ceived by the Integrity Committee, make a de-
22 termination whether the Integrity Committee
23 will initiate an investigation of such allegation
24 under this subsection.”;

1 (2) in paragraph (6)(B)(i), by striking “may”
2 and inserting “shall”; and

3 (3) in paragraph (7)—

4 (A) in subparagraph (B)(i)—

5 (i) in subclause (III), by striking “;
6 and” and inserting a semicolon;

7 (ii) in subclause (IV), by striking the
8 period at the end and inserting a semi-
9 colon; and

10 (iii) by inserting at the end the fol-
11 lowing new subclauses:

12 “(V) creating a regular rotation
13 of Inspectors General assigned to in-
14 vestigate complaints through the In-
15 tegrity Committee; and

16 “(VI) creating procedures to
17 avoid conflicts of interest for Integrity
18 Committee investigations.”;

19 (B) by redesignating subparagraph (C) as
20 subparagraph (E); and

21 (C) by inserting after subparagraph (B)
22 the following new subparagraphs:

23 “(C) COMPLETION OF INVESTIGATION.—If
24 a determination is made under paragraph (5) to

1 initiate an investigation, the Integrity Com-
2 mittee—

3 “(i) shall complete the investigation
4 not later than six months after the date on
5 which the Integrity Committee made such
6 determination;

7 “(ii) if the investigation cannot be
8 completed within such six-month period,
9 shall—

10 “(I) promptly notify the congress-
11 sional committees listed in paragraph
12 (8)(A)(iii); and

13 “(II) to the maximum extent
14 practicable, complete the investigation
15 not later than 3 months after the ex-
16 piration of the six-month period; and

17 “(iii) if the investigation cannot be
18 completed within such nine-month period,
19 shall brief the congressional committees
20 listed in paragraph (8)(A)(iii) every thirty
21 days until the investigation is complete.

22 “(D) CONCURRENT INVESTIGATION.—If an
23 investigation of an allegation of wrongdoing
24 against an Inspector General or a staff member
25 of an Office of Inspector General described

1 under paragraph (4)(C) is initiated by a gov-
2 ernmental entity other than the Integrity Com-
3 mittee, the Integrity Committee may conduct
4 any related investigation for which a determina-
5 tion to initiate an investigation was made under
6 paragraph (5) concurrently with the other gov-
7 ernment entity.”.

8 (c) TECHNICAL CORRECTION; DESIGNEE AUTHOR-
9 ITY.—Section 11 of the Inspector General Act of 1978 (5
10 U.S.C. App.) is amended—

11 (1) in subsection (b)(1)(B) by striking “Direc-
12 tor of National Intelligence” and inserting “Intel-
13 ligence Community”; and

14 (2) in subsection (d)(2)—

15 (A) in subparagraph (C), by inserting “or
16 the designee of the Special Counsel” before the
17 period at the end; and

18 (B) in subparagraph (D), by inserting “or
19 the designee of the Director” before the period
20 at the end.

21 **SEC. 4. PAPERWORK REDUCTION ACT EXEMPTION.**

22 Section 3518(c) of title 44, United States Code, is
23 amended—

24 (1) in paragraph (1), by striking “paragraph
25 (2)” and inserting “paragraph (3)”;

1 (2) by redesignating paragraph (2) as para-
2 graph (3); and

3 (3) by inserting after paragraph (1) the fol-
4 lowing new paragraph:

5 “(2) Notwithstanding paragraph (3), this subchapter
6 shall not apply to the collection of information during the
7 conduct of any evaluation, or other review conducted by
8 the Recovery Accountability and Transparency Board, or
9 during the conduct of any audit, investigation, inspection,
10 evaluation, or any other review conducted by the Council
11 of the Inspectors General on Integrity and Efficiency or
12 any Office of Inspector General, including any Office of
13 Special Inspector General.”.

14 **SEC. 5. AMENDMENTS TO THE INSPECTOR GENERAL ACT**
15 **OF 1978 AND THE INSPECTOR GENERAL RE-**
16 **FORM ACT OF 2008.**

17 (a) INCORPORATION OF PROVISIONS FROM THE IN-
18 SPECTOR GENERAL REFORM ACT OF 2008 INTO THE IN-
19 SPECTOR GENERAL ACT OF 1978.—

20 (1) AMENDMENT.—Section 11(d) of the Inspec-
21 tor General Act of 1978 (5 U.S.C. App.) is amended
22 by adding at the end the following new paragraph:

23 “(12) ALLEGATIONS OF WRONGDOING AGAINST
24 SPECIAL COUNSEL OR DEPUTY SPECIAL COUNSEL.—

1 “(A) SPECIAL COUNSEL DEFINED.—In this
2 paragraph, the term ‘Special Counsel’ means
3 the Special Counsel appointed under section
4 1211(b) of title 5, United States Code.

5 “(B) AUTHORITY OF INTEGRITY COM-
6 MITTEE.—

7 “(i) IN GENERAL.—An allegation of
8 wrongdoing against the Special Counsel or
9 the Deputy Special Counsel may be re-
10 ceived, reviewed, and referred for investiga-
11 tion by the Integrity Committee to the
12 same extent and in the same manner as in
13 the case of an allegation against an Inspec-
14 tor General (or a member of the staff of
15 an Office of Inspector General), subject to
16 the requirement that the Special Counsel
17 recuse himself or herself from the consider-
18 ation of any allegation brought under this
19 paragraph.

20 “(ii) COORDINATION WITH EXISTING
21 PROVISIONS OF LAW.—This paragraph
22 does not eliminate access to the Merit Sys-
23 tems Protection Board for review under
24 section 7701 of title 5, United States
25 Code. To the extent that an allegation

1 brought under this subsection involves sec-
2 tion 2302(b)(8) of that title, a failure to
3 obtain corrective action within 120 days
4 after the date on which that allegation is
5 received by the Integrity Committee shall,
6 for purposes of section 1221 of such title,
7 be considered to satisfy section
8 1214(a)(3)(B) of that title.

9 “(C) REGULATIONS.—The Integrity Com-
10 mittee may prescribe any rules or regulations
11 necessary to carry out this paragraph, subject
12 to such consultation or other requirements as
13 might otherwise apply.”.

14 (2) CONFORMING AMENDMENT.—Section 7(b)
15 of the Inspector General Reform Act of 2008 (Public
16 Law 110–409; 122 Stat. 4312; 5 U.S.C. 1211 note)
17 is repealed.

18 (b) AGENCY APPLICABILITY.—

19 (1) AMENDMENTS.—The Inspector General Act
20 of 1978 (5 U.S.C. App.), as amended by section
21 2(a), is further amended—

22 (A) in section 8M—

23 (i) in subsection (a)(1)—

1 (I) by striking the first “agency”
2 and inserting “Federal agency and
3 designated Federal entity”; and

4 (II) by striking the second and
5 third “agency” and inserting “Federal
6 agency or designated Federal entity”;
7 and

8 (ii) in subsection (b)—

9 (I) in paragraph (1), by striking
10 “agency” and inserting “Federal
11 agency and designated Federal enti-
12 ty”; and

13 (II) in paragraph (2)—

14 (aa) in subparagraph (A),
15 by striking “agency” and insert-
16 ing “Federal agency and des-
17 ignated Federal entity”; and

18 (bb) in subparagraph (B),
19 by striking “agency” and insert-
20 ing “Federal agency and des-
21 ignated Federal entity”; and

22 (B) in section 11(c)(3)(A)(ii), by striking
23 “department, agency, or entity of the executive
24 branch” and inserting “Federal agency or des-
25 ignated Federal entity”.

1 (2) IMPLEMENTATION.—Not later than 180
2 days after the date of the enactment of this Act, the
3 head and the Inspector General of each Federal
4 agency and each designated Federal entity (as such
5 terms are defined in sections 12 and 8G of the In-
6 spector General Act of 1978 (5 U.S.C. App.), re-
7 spectively) shall implement the amendments made by
8 this subsection.

9 (c) REQUIREMENTS FOR INSPECTORS GENERAL
10 WEBSITES.—Section 8M(b)(1) of the Inspector General
11 Act of 1978 (5 U.S.C. App.) is amended—

12 (1) in subparagraph (A), by striking “report or
13 audit (or portion of any report or audit)” and insert-
14 ing “audit report, inspection report, or evaluation
15 report (or portion of any such report)”; and

16 (2) by striking “report or audit (or portion of
17 that report or audit)” and inserting “report (or por-
18 tion of that report)”, each place it appears.

19 (d) CORRECTIONS.—

20 (1) EXECUTIVE ORDER NUMBER.—Section
21 7(c)(2) of the Inspector General Reform Act of 2008
22 (Public Law 110–409; 122 Stat. 4313; 31 U.S.C.
23 501 note) is amended by striking “12933” and in-
24 serting “12993”.

1 (2) PUNCTUATION AND CROSS-REFERENCES.—
2 The Inspector General Act of 1978 (5 U.S.C. App.),
3 as amended by section 2(a) and subsection (b), is
4 further amended—

5 (A) in section 4(b)(2)—

6 (i) by striking “8F(a)(2)” and insert-
7 ing “8G(a)(2)”, each place it appears; and

8 (ii) by striking “8F(a)(1)” and insert-
9 ing “8G(a)(1)”;

10 (B) in section 6(a)(4), by striking “infor-
11 mation, as well as any tangible thing)” and in-
12 serting “information), as well as any tangible
13 thing”;

14 (C) in section 8G(g)(3), by striking “8C”
15 and inserting “8D”; and

16 (D) in section 5(a)(13), by striking
17 “05(b)” and inserting “804(b)”.

18 (3) SPELLING.—The Inspector General Act of
19 1978 (5 U.S.C. App.), as amended by section 2(a),
20 subsection (b), and paragraph (2), is further amend-
21 ed—

22 (A) in section 3(a), by striking “subpena”
23 and inserting “subpoena”;

1 (B) in section 6(a)(4), by striking “sub-
2 pena” and “subpenas” and inserting “sub-
3 poena” and “subpoenas”, respectively;

4 (C) in section 8D(a)—

5 (i) in paragraph (1), by striking “sub-
6 penas” and inserting “subpoenas”; and

7 (ii) in paragraph (2), by striking
8 “subpena” and inserting “subpoena”, each
9 place it appears;

10 (D) in section 8E(a)—

11 (i) in paragraph (1), by striking “sub-
12 penas” and inserting “subpoenas”; and

13 (ii) in paragraph (2), by striking
14 “subpena” and inserting “subpoena”, each
15 place it appears; and

16 (E) in section 8G(d), by striking “sub-
17 pena” and inserting “subpoena”.

18 (e) REPEAL.—Section 744 of the Financial Services
19 and General Government Appropriations Act, 2009 (divi-
20 sion D of Public Law 111–8; 123 Stat. 693) is repealed.

21 **SEC. 6. REPORTS REQUIRED.**

22 (a) REPORT ON VACANCIES IN THE OFFICES OF IN-
23 SPECTOR GENERAL.—

24 (1) GAO STUDY REQUIRED.—The Comptroller
25 General shall conduct a study of prolonged vacancies

1 in the Offices of Inspector General, during which a
2 temporary appointee has served as the head of the
3 office that includes—

4 (A) the number and duration of Inspector
5 General vacancies;

6 (B) an examination of the extent to which
7 the number and duration of such vacancies has
8 changed over time;

9 (C) an evaluation of the impact such va-
10 cancies have had on the ability of the relevant
11 Office of the Inspector General to effectively
12 carry out statutory requirements; and

13 (D) recommendations to minimize the du-
14 ration of such vacancies.

15 (2) COMMITTEE BRIEFING REQUIRED.—Not
16 later than nine months after the date of the enact-
17 ment of this Act, the Comptroller General shall
18 present a briefing on the findings of the study de-
19 scribed in subsection (a) to the Committee on Over-
20 sight and Government Reform of the House of Rep-
21 resentatives and the Committee on Homeland Secu-
22 rity and Governmental Affairs of the Senate.

23 (3) REPORT TO CONGRESS.—Not later than fif-
24 teen months after the date of the enactment of this
25 Act, the Comptroller General shall submit a report

1 on the findings of the study described in subsection
2 (a) to the Committee on Oversight and Government
3 Reform of the House of Representatives and the
4 Committee on Homeland Security and Governmental
5 Affairs of the Senate.

6 (b) REPORT ON ISSUES INVOLVING MULTIPLE OF-
7 FICES OF INSPECTOR GENERAL.—

8 (1) EXAMINATION REQUIRED.—The Council of
9 the Inspectors General on Integrity and Efficiency
10 shall conduct an analysis of critical issues that in-
11 volve the jurisdiction of more than one individual
12 Federal agency or entity to identify—

13 (A) each such issue that could be better
14 addressed through greater coordination among,
15 and cooperation between, individual Offices of
16 Inspector General;

17 (B) the best practices that can be em-
18 ployed by the Offices of Inspector General to in-
19 crease coordination and cooperation on each
20 issue identified; and

21 (C) any recommended statutory changes
22 that would facilitate coordination and coopera-
23 tion among Offices of Inspector General on crit-
24 ical issues.

1 (2) REPORT TO CONGRESS.—Not later than one
2 year after the date of the enactment of this Act, the
3 Council of the Inspectors General on Integrity and
4 Efficiency shall submit a report on the findings of
5 the analysis described in subsection (a) to the Com-
6 mittee on Oversight and Government Reform of the
7 House of Representatives and the Committee on
8 Homeland Security and Governmental Affairs of the
9 Senate.

10 **SEC. 7. PUBLIC RELEASE OF MISCONDUCT REPORT.**

11 (a) PUBLIC RELEASE BY INSPECTORS GENERAL OF
12 REPORT OF MISCONDUCT.—Section 4(a) of the Inspector
13 General Act of 1978 (5 U.S.C. App.) is amended—

14 (1) in paragraph (4), by striking “; and” and
15 inserting a semicolon;

16 (2) in paragraph (5), by striking the period and
17 inserting “; and”; and

18 (3) by inserting at the end the following new
19 paragraph:

20 “(6) to make publicly available not later than
21 60 days after issuing a final report on any adminis-
22 trative investigation that confirms misconduct, in-
23 cluding any violation of Federal law and any viola-
24 tion of Federal agency policy, by any member of the
25 Senior Executive Service, employee in a position that

1 is excepted from the competitive service because of
2 its confidential, policy-determining, policy-making, or
3 policy-advocating character, or commissioned officer
4 in the Armed Forces in pay grades O–6 and above
5 (ensuring that information protected under section
6 552 of title 5, United States Code (commonly known
7 as the ‘Freedom of Information Act’), section 552a
8 of title 5, United States Code (commonly known as
9 the ‘Privacy Act of 1974’), and section 6103 of the
10 Internal Revenue Code of 1986 is not disclosed).”.

11 (b) REPORTS OF MISCONDUCT IN SEMIANNUAL RE-
12 PORTS.—Section 5(a) of the Inspector General Act of
13 1978 (5 U.S.C. App.), as amended by section 2(a)(2) is
14 further amended—

15 (1) in paragraph (16), by striking “; and” and
16 inserting a semicolon;

17 (2) in paragraph (17), by striking the period at
18 the end and inserting “; and”; and

19 (3) by inserting at the end the following new
20 paragraph:

21 “(18) a list of and summary of any administra-
22 tive investigation that confirms misconduct, includ-
23 ing any violation of Federal law and violation of any
24 Federal agency policy, by any member of the Senior
25 Executive Service, employee in a position that is ex-

1 cepted from the competitive service because of its
2 confidential, policy-determining, policy-making, or
3 policy-advocating character, or commissioned officer
4 in the Armed Forces in pay grades O-6 and above.”.

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A BILL

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