

HR 2489 IH

109th CONGRESS

1st Session

H. R. 2489

To amend the Inspector General Act of 1978 to enhance the independence of the Inspectors General, to create a Council of the Inspectors General on Integrity and Efficiency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES**May 19, 2005**

Mr. COOPER (for himself, Mr. SHAYS, and Mr. VAN HOLLEN) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To amend the Inspector General Act of 1978 to enhance the independence of the Inspectors General, to create a Council of the Inspectors General on Integrity and Efficiency, and for other purposes.

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 'Improving Government Accountability Act'.

SEC. 2. ENHANCING INDEPENDENCE OF INSPECTORS GENERAL.

(a) Removal for Cause- The Inspector General Act of 1978 (5 U.S.C. App.) is amended--

(1) in section 3(b) by adding at the end the following:

'An Inspector General may be removed from office prior to the expiration of his or her term only on any of the following grounds:

'(1) Permanent incapacity.

'(2) Inefficiency.

'(3) Neglect of duty.

'(4) Malfeasance.

`(5) Conviction of a felony or conduct involving moral turpitude.'; and

(2) in section 8G(e) by adding at the end the following:

'An Inspector General may be removed from office prior to the expiration of his or her term only on any of the following grounds:

`(1) Permanent incapacity.

`(2) Inefficiency.

`(3) Neglect of duty.

`(4) Malfeasance.

'(5) Conviction of a felony or conduct involving moral turpitude.'

(b) Establishment of Terms of Office- The Inspector General Act of 1978 (5 U.S.C. App.) is amended--

(1) in section 3 by adding at the end the following:

'(e)(1) The term of office of each Inspector General shall be seven years. An individual may serve for more than one term in such office. Any individual appointed and confirmed to fill a vacancy in such position, occurring before the expiration of the term for which his or her predecessor was appointed, shall be appointed and confirmed for a full seven-year term.

'(2) An individual may continue to serve as Inspector General beyond the expiration of the term for which the individual is appointed until a successor is appointed and confirmed, except that such individual may not continue to serve for more than 1 year after the date on which the term would otherwise expire under paragraph (1).'; and

(2) in section 8G(c) by inserting '(1)' after '(c)', and by adding at the end the following:

'(2) The term of office of each Inspector General shall be seven years. An individual may serve for more than one term in such office. Any individual appointed to fill a vacancy in such position, occurring before the expiration of the term for which his or her predecessor was appointed, shall be appointed for a full 7-year term.'

(c) Application- The amendments made by this section shall apply to any Inspector General appointed before, on, or after the date of the enactment of this Act. The term of office of an Inspector General serving on such date of enactment is deemed to begin on such date of enactment.

SEC. 3. DIRECT SUBMISSION OF BUDGET REQUESTS TO CONGRESS.

Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

'(f)(1) For each fiscal year, an Inspector General may transmit an appropriation estimate and

request to the Director of the Office of Management and Budget and to the appropriate committees or subcommittees of the Congress, in addition to any appropriation estimate and request submitted to the head of the establishment concerned.

`(2) The President shall include in each budget of the United States Government submitted to the Congress--

`(A) a separate statement of the amount of appropriations requested by each Inspector General who has submitted an appropriation estimate under paragraph (1); and

`(B) a statement comparing each such appropriation estimate and request submitted by an Inspector General and the funds requested by the head of the establishment concerned.'

SEC. 4. ESTABLISHMENT OF COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.

(a) Establishment- The Inspector General Act of 1978 (5 U.S.C. App.) is amended by redesignating sections 11 and 12 in order as sections 12 and 13, and by inserting after section 10 the following new section:

`SEC. 11. ESTABLISHMENT OF THE COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.

`(a) Establishment- There is established as an independent entity within the executive branch the Inspectors General Council (in this section referred to as the `Council'). The Council's mission shall be to increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General.

`(b) Membership-

`(1) IN GENERAL- The Council shall consist of the following members:

`(A) All Inspectors General whose offices are established under--

`(i) section 2; or

`(ii) section 8G.

`(B) The Inspectors General of the Central Intelligence Agency and the Government Printing Office.

`(C) The Controller of the Office of Federal Financial Management.

`(D) A senior level official of the Federal Bureau of Investigation designated by the Director of the Federal Bureau of Investigation.

`(E) The Director of the Office of Government Ethics.

`(F) The Special Counsel of the Office of Special Counsel.

`(G) The Deputy Director of the Office of Personnel Management.

`(H) The Deputy Director for Management of the Office of Management and Budget.

`(2) CHAIRPERSON AND EXECUTIVE CHAIRPERSON-

`(A) EXECUTIVE CHAIRPERSON- The Deputy Director for Management of the Office of Management and Budget shall be the Executive Chairperson of the Council.

`(B) CHAIRPERSON- The Council shall elect one of the Inspectors General referred to in paragraph (1)(A) or (B) to act as Chairperson of the Council. The term of office of the Chairperson shall be two years.

`(3) FUNCTIONS OF CHAIRPERSON AND EXECUTIVE CHAIRPERSON-

`(A) EXECUTIVE CHAIRPERSON- The Executive Chairperson shall--

`(i) preside over meetings of the Council;

`(ii) provide to the heads of agencies and entities represented on the Council with summary reports of the activities of the Council; and

`(iii) provide to the Council such information relating to the agencies and entities represented on the Council as will assist the Council in performing its functions.

`(B) CHAIRPERSON- The Chairperson shall--

`(i) convene meetings of the Council--

`(I) at least six times each year;

`(II) monthly to the extent possible; and

`(III) more frequently at his or her discretion;

`(ii) exercise the functions and duties of the Council under subsection (c);

`(iii) appoint a Vice Chairperson to assist in carrying out the functions of the Council and act in the absence of the Chairperson, from a category of Inspectors General described in subparagraph (A)(i), (A)(ii), or (B) of subsection [(a)(1)/(b)(1)?], other than the category from which the Chairperson was elected;

`(iv) make such payments from funds otherwise available to the Council as may be necessary to carry out the functions of the Council;

`(v) select, appoint, and employ personnel as needed to carry out the functions

of the Council subject to the availability of appropriations and the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates;

`(vi) to the extent and in such amounts as may be provided in advance by appropriations Acts, enter into contracts and other arrangements with public agencies and private persons to carry out the functions and duties of the Council;

`(vii) establish, in consultation with the members of the Council, such committees as determined by the Chairperson to be necessary and appropriate for the efficient conduct of Council functions; and

`(viii) prepare and transmit a report annually on behalf of the Council to the President on the activities of the Council.

`(c) Functions and Duties of Council-

`(1) IN GENERAL- The Council shall--

`(A) continually identify, review, and discuss areas of weakness and vulnerability in Federal programs and operations with respect to fraud, waste, and abuse;

`(B) develop plans for coordinated, Government-wide activities that address these problems and promote economy and efficiency in Federal programs and operations, including interagency and inter-entity audit, investigation, inspection, and evaluation programs and projects to deal efficiently and effectively with those problems concerning fraud and waste that exceed the capability or jurisdiction of an individual agency or entity;

`(C) develop policies that will aid in the maintenance of a corps of well-trained and highly skilled Office of Inspector General personnel;

`(D) maintain an Internet Web site and other electronic systems for the benefit of all Inspectors General, as the Council determines are necessary or desirable;

`(E) maintain one or more academies as the Council considers desirable for the professional training of auditors, investigators, inspectors, evaluators, and other personnel of the various offices of Inspector General; and

`(F) make such reports to the Congress as the Chairperson determines are necessary or appropriate.

`(2) ADHERENCE AND PARTICIPATION BY MEMBERS- Each member of the Council should, to the extent permitted under law, and to the extent not inconsistent with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions, adhere to professional standards developed by the Council and participate in the plans, programs, and projects of the Council.

`(3) EXISTING AUTHORITIES AND RESPONSIBILITIES- The creation and operation of the Council--

`(A) shall not affect the preeminent policy-setting role of the Department of Justice in law enforcement and litigation;

`(B) shall not affect the authority or responsibilities of any Government agency or entity; and

`(C) shall not affect the authority or responsibilities of individual members of the Council.

`(d) Integrity Committee-

`(1) ESTABLISHMENT- The Council shall have an Integrity Committee, which shall receive, review, and refer for investigation allegations of wrongdoing that are made against Inspectors General and certain staff members of the various Offices of Inspector General.

`(2) MEMBERSHIP- The Integrity Committee shall consist of the following members:

`(A) The official of the Federal Bureau of Investigation serving on the Council, who shall serve as Chairperson of the Integrity Committee.

`(B) 3 or more Inspectors General described in subparagraph (A) or (B) of subsection (b)(1) appointed by the Chairperson of the Council, representing both establishments and designated Federal entities (as that term is defined in section 8G(a)).

`(C) The Special Counsel of the Office of Special Counsel.

`(D) The Director of the Office of Government Ethics.

`(3) LEGAL ADVISOR- The Chief of the Public Integrity Section of the Criminal Division of the Department of Justice, or his designee, shall serve as a legal advisor to the Integrity Committee.

`(4) REFERRAL OF ALLEGATIONS-

`(A) REQUIREMENT- An Inspector General shall refer to the Integrity Committee any allegation of wrongdoing against a staff member of his or her office, if--

`(i) review of the substance of the allegation cannot be assigned to an agency of the executive branch with appropriate jurisdiction over the matter; and

`(ii) the Inspector General determines that--

`(I) an objective internal investigation of the allegation is not feasible; or

`(II) an internal investigation of the allegation may appear not to be objective.

`(B) STAFF MEMBER DEFINED- In this subsection the term `staff member' means-

`(i) any employee of an Office of Inspector General who reports directly to an Inspector General; or

`(ii) who is designated by an Inspector General under subparagraph (C).

`(C) DESIGNATION OF STAFF MEMBERS- Each Inspector General shall annually submit to the Chairperson of the Integrity Committee a designation of positions whose holders are staff members for purposes of subparagraph (B).

`(5) REVIEW OF ALLEGATIONS- The Integrity Committee shall--

`(A) review all allegations of wrongdoing it receives against an Inspector General, or against a staff member of an Office of Inspector General; and

`(B) refer to the Chairperson of the Integrity Committee any allegation of wrongdoing determined by the Integrity Committee to be meritorious that cannot be referred to an agency of the executive branch with appropriate jurisdiction over the matter.

`(6) AUTHORITY TO INVESTIGATE ALLEGATIONS-

`(A) REQUIREMENT- The Chairperson of the Integrity Committee shall cause a thorough and timely investigation of each allegation referred under paragraph (5)(B) to be conducted in accordance with this paragraph.

`(B) RESOURCES- At the request of the Chairperson of the Integrity Committee, the head of each agency or entity represented on the Council--

`(i) may provide resources necessary to the Integrity Committee; and

`(ii) may detail employees from that agency or entity to the Integrity Committee, subject to the control and direction of the Chairperson, to conduct an investigation pursuant to this subsection.

`(7) PROCEDURES FOR INVESTIGATIONS-

`(A) STANDARDS APPLICABLE- Investigations initiated under this subsection shall be conducted in accordance with the most current Quality Standards for Investigations issued by the Council or by its predecessors (the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency).

`(B) ADDITIONAL POLICIES AND PROCEDURES- The Integrity Committee, in conjunction with the Chairperson of the Council, shall establish additional policies and procedures necessary to ensure fairness and consistency in--

`(i) determining whether to initiate an investigation;

`(ii) conducting investigations;

(iii) reporting the results of an investigation; and

(iv) providing the person who is the subject of an investigation with an opportunity to respond to any Integrity Committee report.

(C) REPORTS- The Chairperson of the Integrity Committee shall report to the Executive Chairperson of the Council the results of any investigation that substantiates any allegation certified under paragraph (5)(B).

(8) NO RIGHT OR BENEFIT- This subsection is not intended to create any right or benefit, substantive or procedural, enforceable at law by a person against the United States, its agencies, its officers, or any person.

(e) Application- The provisions of this section apply only to the Inspectors General (and their offices) listed in subsection (b)(1)(A) and (B).'

(b) Existing Executive Orders- Executive Order 12805, dated May 14, 1992, Executive Order 12805, dated March 21, 1996, and Executive Order 12993, dated March 26, 1996, shall have no force or effect.

(c) Conforming Amendments-

(1) INSPECTOR GENERAL ACT OF 1978- The Inspector General Act of 1978 (5 U.S.C. App.) is amended--

(A) in sections 2(1), 4(b)(2), and 8G(a)(1)(A) by striking 'section 11(2)' each place it appears and inserting 'section 12(2)'; and

(B) in section 8G(a), in the matter preceding paragraph (1), by striking 'section 11' and inserting 'section 12'.

(2) TITLE 31, U.S.C- Section 1105(a) of title 31, United States Code, is amended by striking the first paragraph (33) and inserting the following:

(33) a separate appropriation account for appropriations for the Inspectors General Council, and, included in that account, a separate statement of the aggregate amount of appropriations requested for each academy maintained by the Inspectors General Council.'

SEC. 5. MISCELLANEOUS ENHANCEMENTS.

(a) Offices as Discrete Agencies- Section 6(d) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended to read as follows:

(d)(1)(A) For purposes of applying the provisions of law identified in subparagraph (B)--

(i) each Office of Inspector General shall be considered to be a separate agency; and

(ii) the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office, have the functions, powers, and duties of an agency head or appointing authority under such provisions.

(B) This paragraph applies with respect to the following provisions of title 5, United States Code:

(i) Subchapter II of chapter 35.

(ii) Sections 8335(b), 8336, 8414, and 8425(b).

(iii) All provisions relating to the Senior Executive Service (as determined by the Office of Personnel Management), subject to paragraph (2).

(2) For purposes of applying section 4507(b) of title 5, United States Code, paragraph (1)(A)(ii) shall be applied by substituting 'the Council of the Inspectors General on Integrity and Efficiency (established by section 11 of the Inspector General Act) shall' for 'the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office,'.

(b) Inspectors General of Designated Federal Entities- Notwithstanding any other provision of law, the Inspector General of each designated Federal entity (as those terms are defined under section 8G of the Inspector General Act of 1978) shall, for pay and all other purposes, be classified at a grade, level, or rank designation, as the case may be, comparable to those of a majority of the senior staff members of such designated Federal entity (such as, but not limited to, a General Counsel, Deputy Director, or Chief of Staff) that report directly to the head of such designated Federal entity.

(c) Subpoena Power- Section 6(a)(4) of the Inspector General Act of 1978 (5 U.S.C. App.), is amended--

(1) by inserting 'in any medium (including electronically stored information, as well as any tangible thing)' after 'other data'; and

(2) by striking 'subpena' and inserting 'subpoena'.

(d) Law Enforcement Authority for Designated Federal Entities- Section 6(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended--

(1) in paragraph (1) by striking 'appointed under section 3'; and

(2) by adding at the end the following:

(9) In this subsection the term 'Inspector General' means an Inspector General appointed under section 3 or an Inspector General appointed under section 8G'.

SEC. 6. PROGRAM FRAUD CIVIL REMEDIES ACT.

Section 3801(a)(1) of title 31, United States Code, is amended by striking 'and' after the semicolon at the end of subparagraph (C), by adding 'and' after the semicolon at the end of subparagraph (D), and by adding at the end the following:

(E) a designated Federal entity (as such term is defined under section 8G(a)(2) of the Inspector General Act of 1978).'

SEC. 7. APPLICATION OF SEMIANNUAL REPORTING REQUIREMENTS WITH

RESPECT TO INSPECTION REPORTS AND EVALUATION REPORTS.

Section 5 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended--

(1) in each of subsections (a)(6), (a)(8), (a)(9), (b)(2), and (b)(3)--

(A) by inserting `, inspection reports, and evaluation reports' after `audit reports' the first place it appears; and

(B) by striking `audit' the second place it appears; and

(2) in subsection (a)(10) by inserting `, inspection reports, and evaluation reports' after `audit reports'.

END