



## **COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY**

February 22, 2023

Mr. Jason Miller  
Executive Chairperson  
Council of the Inspectors General on Integrity and Efficiency  
Deputy Director for Management, Office of Management and Budget

Subject: CIGIE Legislative Priorities for the 118<sup>th</sup> Congress

Mr. Miller,

I am reaching out to you as Chair of the Legislation Committee (the Committee) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) to provide CIGIE's Legislative Priorities for the 118<sup>th</sup> Congress, which are discussed in detail below. The Committee provides timely information to the Inspector General (IG) community about congressional initiatives; solicits the technical advice of the IG community in response to proposed legislation; and presents views and recommendations to Congress and the Office of Management and Budget on legislative matters that broadly affect the IG community. At the start of each new Congress, the Committee issues Legislative Priorities to improve oversight and effectiveness of Offices of Inspectors General (OIGs) and strengthen the integrity of Federal programs and operations.

CIGIE appreciates the Administration's support and Congress' bipartisan efforts to further the mission of IGs and strengthen IG independence and effectiveness by enacting the National Defense Authorization Act for Fiscal Year 2023 (NDAA).<sup>1</sup> This legislation enacted several of CIGIE's Legislative Priorities for the 117<sup>th</sup> Congress, including Vacancies Act reform, congressional notification when an IG is placed on non-duty status, and reforms to OIG semiannual reports. The NDAA also includes Section 5274, which requires OIGs to provide certain entities an opportunity to comment on final audit, evaluation, or other non-investigative reports, even if the entity was already provided an opportunity to comment during the drafting of the report. As OIGs have begun to implement the provision, they have identified aspects of the requirement that may impact oversight efforts. The Committee seeks to work with congressional stakeholders to discuss these potential unintended consequences while achieving the congressional stakeholders' goals.

Presented below are legislative proposals that CIGIE considers of high priority to the IG community. If enacted, CIGIE's Legislative Priorities for the 118<sup>th</sup> Congress would provide

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<sup>1</sup> Public Law No. 117-263.

much needed tools and authorities for strengthening independent government oversight. We welcome the opportunity to provide technical assistance on legislation related to these priorities.

- A. Prohibiting the Use of Appropriated Funds Government-wide to Deny IGs Full and Prompt Access
- B. Improving CIGIE Transparency and Accountability through a Single Appropriation
- C. Permanent Data and Analytics Capability for the IG Community
- D. Enhancing Independence and Efficiency by Providing Separate and Flexible OIG Funding
- E. Establishing Authority for IGs to Provide Continuous Oversight During a Lapse in Appropriations
- F. Testimonial Subpoena Authority

Summaries of CIGIE's legislative proposals are provided below. Additional relevant information about the priorities, as well as other recommendations for improving government oversight and accountability, are provided in the enclosure.

## **CIGIE Priorities for the 118<sup>th</sup> Congress**

### **A. Prohibiting the Use of Appropriated Funds Government-wide to Deny IGs Full and Prompt Access**

Despite clear language in the Inspector General Act of 1978 (IG Act) authorizing IGs to have full and timely access to all agency information, IGs on occasion are denied the access they need to provide robust oversight. On an *ad hoc* basis, Congress has effectively resolved such denials by including, within subcommittee appropriations acts, a prohibition on an agency's use of appropriated funds to deny full and prompt IG access. Such prohibitions have had great practical effect because the consequences of denying the IG access could lead to an Antideficiency Act violation. However, the existing appropriation prohibitions apply to only those agencies funded under the particular subcommittee appropriations act. CIGIE accordingly recommends a government-wide prohibition on the use of appropriated funds to deny an IG access and a requirement of congressional notification when access is denied. Consistent with current law and existing appropriation prohibitions, CIGIE believes the prohibition should recognize existing statutes that limit IG access and those that prevent an IG from further disclosing information protected by law.

### **B. Improving CIGIE Transparency and Accountability through a Single Appropriation**

Acting as the collective body of IGs, CIGIE fulfills its twin mission to (1) address integrity, economy, and effectiveness issues that transcend individual Government agencies and (2) increase the professionalism and effectiveness of IG community employees. While CIGIE has steadily increased the amount and scope of its work over its 15 years of existence, this independent agency is still primarily funded through an inefficient and complicated process of interagency collections individually deposited into a revolving fund. OIGs make these individual deposits without clear congressional direction regarding how much funding CIGIE should receive or how much any individual OIG should provide. In contrast, CIGIE has leveraged to great effect limited, one-time appropriations for enhancements to Oversight.gov. In addition, Congress authorized a partial appropriation for CIGIE. A direct, annual appropriation will

streamline and make more transparent the process by which CIGIE is funded. Moreover, with a direct, annual appropriation, Congress and the President can better align funding with CIGIE’s responsibilities, and the work congressional stakeholders frequently ask of it.

### **C. Permanent Data Analytics Capability for the IG Community**

CIGIE seeks to establish the Central Analytics and Support Hub (the Hub) as a mechanism to preserve the data analytics capabilities developed by CIGIE’s Pandemic Response Accountability Committee (PRAC) in its Pandemic Analytics Center of Excellence (PACE) and make data, as well as data analytics services available to the entire OIG community. Data analytics capabilities are powerful tools for OIGs to identify and prevent potential fraud and misuse of covered funds and analyze the effectiveness of government programs. The IG community has benefitted from two temporary data analytics centers, the inter-IG Recovery Operations Center (ROC) and the PACE. Many OIGs within the community would benefit from the services of skilled data analysts and a permanent shared technical infrastructure, which are necessary to unleash this capability in their own work. The PRAC, which sunsets September 30, 2025, has amassed the data, established the systems, and employed data analysts necessary to provide these analytics services to OIGs. The PRAC moved swiftly to stand up the PACE, leveraging leading practices and lessons learned from the ROC that sunset in 2015. The Government Accountability Office (GAO) has previously recommended that Congress preserve the ROC’s capabilities to sustain oversight of Federal expenditures. In Senate testimony, Comptroller General Gene Dodaro stressed the importance of fraud analytics and urged Congress to “establish a permanent analytics center of excellence to aid the oversight community in identifying improper payments and fraud.”<sup>2</sup> The Hub would support IGs in the oversight of covered funds primarily through data analytics and the sharing of data. The Hub would operate with the concurrence of relevant IGs to identify major risks that cut across program and agency boundaries and conduct and coordinate oversight of covered funds to detect and prevent fraud, waste, abuse, and mismanagement.

### **D. Enhancing Independence and Efficiency by Providing Separate and Flexible OIG Funding**

Through the 2008 amendments to the Inspector General Act of 1978, Congress recognized that OIGs benefit from greater budgetary independence from their agency. For some OIGs, the appropriations through which they receive funding can further that goal. CIGIE supports certain revisions to OIG funding that would help safeguard the independence of OIGs, ensure effective management of OIG resources, and protect against budget cuts by agencies. For many OIGs, this could be accomplished by providing the OIG: (1) their own funding level, such as through a separate appropriation sub account, separate line item, or by specifying an amount “no less than” and (2) funding that is flexible, such as two-year, multi-year, or no-year funding, as appropriate. CIGIE supports providing flexibility, as appropriate, to OIGs who request additional budgetary independence and flexibility through appropriations that explicitly provide OIG funding levels and providing funding across more than one year to ensure continuity of operations.

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<sup>2</sup> Pandemic Response and Accountability: Reducing Fraud and Expanding Access to COVID-19 Relief Through Effective Oversight: Hearing Before the Committee on Homeland Security and Governmental Affairs, 117<sup>th</sup> Cong. 33 (2022).

## **E. Establishing Authority for IGs to Provide Continuous Oversight During a Lapse in Appropriations**

CIGIE proposes giving IGs specific authority to continue oversight of agency operations during lapses in appropriations. Lapses in appropriations generally require government agencies, including OIGs, to shut down and furlough employees. However, many agencies, contractors, grantees, and other program participants continue certain operations even during such lapses. As a result, critical government activities, such as law enforcement operations and awards of billions of dollars in contracts and grants, continue to operate under limited oversight. CIGIE recommends authorizing OIGs to continue operations during a lapse in appropriations as if they were operating under a continuing resolution to the extent necessary to oversee the programs and operations of their agency that also continue during a lapse in appropriations.

## **F. Testimonial Subpoena Authority**

OIG oversight can be substantially hampered by the inability to compel the testimony of witnesses who have information that cannot be obtained by other means. Congress could address this concern by providing IGs with the authority to subpoena the testimony of certain witnesses as necessary in the performance of OIG oversight. For example, this authority is especially important in cases where a federal employee resigns. Without testimonial subpoena authority, that employee's resignation can limit an IG audit, investigation, or other review into matters pertaining to that individual's former responsibilities. IGs also face difficulty accessing key information during an inquiry into other individuals or entities with whom the Federal government does business. Examples include subcontractors or subgrantees that have no direct contractual relationship with the Federal government but are suspected of defrauding a federally funded program; in these cases, IGs have limited recourse if employees of contractors refuse to provide information to the IG during an audit or investigation. To address these issues, CIGIE recommends the authority mirror the IGs' current documentary subpoena authority, similar to the testimonial subpoena authority granted to the Pandemic Response Accountability Committee of CIGIE and the IGs it supports. In doing so, Congress would enhance IG access to the testimonial evidence that is so often a critical component of IG oversight.

## **Additional Recommendations for Improving Government Oversight**

The CIGIE Legislative Priorities described above are not an exhaustive list of legislative reforms that would promote more effective government oversight and accountability or help resolve oversight challenges IGs face under current law. Below are additional recommended good government reforms supported by CIGIE that will help strengthen government oversight. You will find detailed information related to these additional recommendations in the enclosure:

- Reforming the Program Fraud Civil Remedies Act (PFCRA)<sup>3</sup>
- Protecting Cybersecurity Vulnerability Information
- Congressional Notification When Legislative Branch IGs are Placed on Non-Duty Status
- Statutory Exclusion for Felony Fraud Convicts to Protect Federal Funds; and

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<sup>3</sup> During the 117<sup>th</sup> Congress, CIGIE issued a [views letter](#) on [S. 2429 the Administrative False Claims Act](#), which reforms PFCRA. The Committee looks forward to continuing to work with Congressional stakeholders on this important initiative.

- Enhancing CIGIE’s Role in Recommending IG Candidates.

Finally, we note that the continuing application of a nearly decade-long pay freeze for political appointees to several categories of IGs is inconsistent with the core principle of IG independence. IGs are independent oversight professionals who are appointed without regard to political affiliation and, unlike most political appointees, are not tied to the term of a particular President. Continued application of the pay freeze could make IG recruitment and retention efforts more challenging. The Committee looks forward to working with congressional stakeholders to provide technical assistance on a legislative solution that addresses this issue.

The Committee appreciates the opportunity to present this summary of important legislative initiatives. We look forward to working with you during the next two-year period to address other emerging issues and advancing legislation that will improve oversight and accountability of Federal programs and operations. Should you have any questions or need more information, please do not hesitate to contact me at 202-692-2900.

Sincerely,



Joaquin Ferrao  
Chair  
CIGIE Legislation Committee

CC: CIGIE Executive Council  
CIGIE Members and liaisons