



Council of the
INSPECTORS GENERAL
on INTEGRITY and EFFICIENCY

November 29, 2017

The Honorable Ron Johnson
Chairman
The Honorable Claire McCaskill
Ranking Member
Committee on Homeland Security and
Governmental Affairs
United States Senate

The Honorable Trey Gowdy
Chairman
The Honorable Elijah Cummings
Ranking Member
Committee on Oversight and
Government Reform
U.S. House of Representatives

Dear Mr. Chairmen and Ranking Members,

This letter serves to document a discussion with your respective staffs on October 31, 2017, regarding how Offices of Inspectors General (OIGs) plan to provide the effective oversight envisioned in the Grants Oversight and New Efficiency Act (GONE Act). In short, the OIGs that are required by the GONE Act to conduct a risk assessment of their respective agency's grant closeout process will do so by March 31, 2020.

CIGIE understands that the goal of the GONE Act is for federal agencies to identify and close certain expired grants that have not been properly closed out from the federal financial payment systems. This process will improve financial accountability over grant programs. The GONE Act mandates certain reporting and notices by agency heads to both Congress and the Secretary of Health and Human Services (HHS). The law also mandates that the Secretary of HHS report on such notices to Congress. Finally, the GONE Act mandates that IGs at agencies with more than \$500 million in annual grant funding conduct a risk assessment of their respective agency's grant closeout process.

As we discussed with your respective staffs, we are concerned that the GONE Act lacks clarity regarding the date by which IGs must conduct this risk assessment. More specifically, we agreed that section 2 of the GONE Act, when read literally, contains what appears to be a "mismatch" in subsections 2(b)(1), 2(b)(2) and 2(c).

The ambiguous timing of the statutorily-mandated risk assessment stems from the requirement in subsection 2(c), which requires certain IGs to conduct a risk assessment 1 year after the head of

each agency provides notice to Congress under subsection (b)(2); however, (b)(2) requires the Secretary of HHS, not agency heads, to provide Congress with a report, not a notice. This statutory discrepancy, can be best demonstrated by laying out the reporting and notification requirements in the order in which the requirements appear in the statute.

- Section 2(a)(1) requires *agency heads* to provide a *report* to *Congress* and the *Secretary of HHS* by December 31, 2017, listing all grant awards that have not been closed.¹
- Section 2(b)(1) requires *agency heads* to provide a *notice* to the *Secretary of HHS* by December 31, 2018, specifying which grant awards listed in the prior year's section 2(a)(1) report have not yet been closed.
- Section 2(b)(2) requires the *Secretary of HHS* to compile the section 2(b)(1) notices and provide a consolidated *report* to *Congress* of all of the notices by March 31, 2019.
- Section 2(c) requires each IG of an agency with more than \$500 million in annual grant funding to conduct a risk assessment to determine if an audit or review of the agency's grant closeout process is warranted. The risk assessment must be conducted "1 year after the date on which the head of an agency provides notice to Congress *under subsection (b)(2).*" (Emphasis added).

The cross-reference in subsection 2(c) to subsection (b)(2) is incorrectly expressed in the law. Under section 2(b)(2), the agency heads *do not* provide notice or otherwise report to Congress. Rather, under section 2(b)(2), the Secretary of HHS reports to Congress, based on the agency heads' notices provided 90 days earlier. The cross-reference in 2(c) cannot simply be understood as a mere typographical error intended to refer to subsection 2(b)(1), because in subsection 2(b)(1) the agency heads provide notice to the Secretary of HHS, but not Congress.

The only two logical dates for conducting the IG risk assessments would be either by December 31, 2019, or by March 31, 2020. As we discussed with your staff, subsection 2(d) mandates that OMB submit a report to Congress. In that report, due no later than September 30, 2019, OMB shall report on recommendations, if any, for legislation to improve accountability and oversight in grants management. Once this report is submitted to Congress, it will also become available to the IG community. Access to the information in that report, we all agreed, will enhance the IGs' respective risk assessments. Given all of these considerations, the more reasonable interpretation of subsection 2(c) is that the IG risk assessment would be due no later than March 31, 2020, which is 1 year after the HHS report is submitted to Congress on March 31, 2019.

In keeping with the above summary, the IGs covered by this provision intend to conduct the requisite risk assessments no later than March 31, 2020.

¹ Section 2(a)(1) required the Office of Management and Budget (OMB) to instruct the head of each agency to make its report no later than December 31 of the calendar year following the enactment of the GONE Act. As the GONE Act was enacted on January 28, 2016, the deadline for the initial agency report is December 31, 2017. Substantively, the report functions as an inventory of grants, including their respective balances and expiration dates. Subsequent notices and reports build upon this initial report in 2017.

Should you or any of your staff members have further questions about how the IG community will approach the GONE Act requirement, please do not hesitate me at (202) 514-3435 or Christopher Fontanesi, of the CIGIE Legislation Committee at (202) 692-2900.

Sincerely,



Michael E. Horowitz
Chair, Council of the Inspectors General on the Integrity and Efficiency
Inspector General, U.S. Department of Justice

cc: The Honorable Deb Fischer
United States Senate

The Honorable Joe Manchin
United States Senate