



Council of the  
**INSPECTORS GENERAL**  
on INTEGRITY and EFFICIENCY

March 19, 2013

The Honorable Jeffrey D. Zients  
Deputy Director for Management  
Office of Management and Budget  
725 17th Street, NW  
Washington, DC 20503

Dear Mr. Zients:

As Chair of the Legislation Committee of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), I am pleased to provide you this summary of the Committee's current legislative initiatives. We appreciate your feedback and thank you in advance for your support of these efforts.

The CIGIE Legislation Committee (Committee) is dedicated to providing helpful and timely information about Congressional initiatives to the Inspector General (IG) community; soliciting the views and concerns of the community in response to Congressional initiatives and requests; and presenting views and recommendations to Congressional entities and the Office of Management and Budget on issues and initiatives of interest. The Committee continues to advocate legislative proposals that enhance the work of IGs. The following are among the legislative proposals:

- Computer Matching Act
- Paperwork Reduction Act
- Freedom of Information Act Exemption to Protect Sensitive Information Security Data
- Technical Amendments to the Inspector General Reform Act of 2008

The Committee also anticipates a continued interest in the 113<sup>th</sup> Congress relative to data standardization and aggregation of Federal spending data for the purpose of analysis and robust oversight. The Recovery Accountability and Transparency Board's (RATB) oversight of Federal spending pursuant to the *American Recovery and Reinvestment Act of 2009* has been acknowledged as a model for such oversight. Inspectors General across government have benefited from the analytical capability of the RATB's Recovery Operations Center (ROC). Should a congressional debate ensue relative to broadening the role of the RATB (and the data analysis capability of the ROC) to include all government spending data and to extend the tenure of the same beyond the statutory sunset, the CIGIE looks forward to providing IG Community perspectives on such a legislative proposal. An independent entity that is authorized to compile and analyze spending data across government could compliment the oversight efforts of individual Offices of Inspector General (OIGs) and serve as a continued data analysis resource for CIGIE members.

Brief summaries of CIGIE legislative proposals are provided below, and additional relevant information are provided in the enclosure.

### 1. Computer Matching Act

The Computer Matching and Privacy Protection Act (CMPPA) requires a protracted review and approval process before computer matching can be performed to identify improper or fraudulent disaster or other assistance payments. The timely use of computer matching to identify those who improperly received Federal assistance, and subsequently removing them from the program after verification, improves program efficiency and enables the government to focus resources on eligible applicants. Moreover, timely computer matching can under optimum conditions prevent improper payments from occurring in the first instance and, even following payments, usually leads to enhanced recovery of improper payments. The CIGIE has recommended that the IG community be exempt from the provisions of the Computer Matching and Privacy Protection Act to facilitate review and identification of fraud.

The Improper Payments Elimination and Recovery Improvement Act of 2012, Pub. L. 112-248, signed into law on January 10, 2013, does contain provisions that streamline the CMPPA process. It also specifically allows the OIG to enter into a Computer Matching Agreement (CMA) with other OIGs and agency heads that allow ongoing data matching, including automated data matches, in order to assist in the detection and prevention of improper payments. As the legislation is very recent, we are unable to provide any feedback as to its effect on streamlining the CMPPA process for OIGs. However, even under the new law, the review and approval process will still likely be quite lengthy and the law still requires an OIG to submit a formal proposal to the Agency's Data Integrity Board (DIB). In other words, Agencies continue to maintain control over the CMA process and thereby can limit independent oversight for the OIGs. Thus, a wholesale exemption is necessary to authorize OIGs to enter into CMAs (with other governmental and non-governmental entities) that are not subject to the exacting CMPPA requirements and approval from Agencies.

### 2. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) requires a lengthy and burdensome approval process for the collection of information by a Federal agency. The CIGIE has recommended that the PRA be amended to exempt the Federal IG offices from its requirements. Legislative proposals, such as S.976 in the 111<sup>th</sup> Congress and H.R. 2146 in the 112<sup>th</sup> Congress, sought to exempt from the PRA information collected during the conduct of any investigation, audit, inspection, evaluation, or other review conducted by a Federal IG. The provisions of these proposals would have fully addressed the concerns of the IG community. We would continue to support such provisions if introduced in the 113<sup>th</sup> Congress.

### 3. Freedom of Information Act Exemption to Protect Sensitive Information Security Data

Since the Supreme Court's 2011 decision in Milner v. Department of the Navy, OIGs across the federal government have raised serious concerns that information related to federal agencies' information security may be unprotected from disclosure under the Freedom of Information Act (FOIA). Prior to Milner, a number of federal agencies, including OIGs, used the "high 2" form of FOIA's Exemption 2 to protect this sensitive information, including audit workpapers and agency records related to agency information security vulnerabilities. After Milner, this exemption is no longer available. Although other FOIA exemptions apply to classified information and documents compiled for law enforcement purposes, no exemption currently covers the extremely large area of documents that analyze, audit, and discuss in detail the information security vulnerabilities of the federal government.

CIGIE is proposing a narrow exemption covering information that "could reasonably be expected to lead to or result in unauthorized access, use, disclosure, disruption, modification, or destruction of an agency's information system or the information that system controls, processes, stores, or transmits." This language tracks with existing FISMA language found in 44 USC § 354(a)(2)(A), and it is suggested that this intention be included in any legislative history that may be developed.

### 4. Technical Amendments to the Inspector General Reform Act of 2008

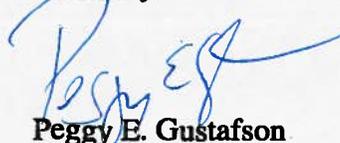
The Committee has proposed certain amendments to the *Inspector General Reform Act of 2008* (Reform Act). The proposed amendments were included in H.R. 2146, *Digital Accountability and Transparency Act of 2011*, in the 112<sup>th</sup> Congress and sought to accomplish the following:

- Codify the following provisions from the Reform Act in the Inspector General Act of 1978: (a) the designated Federal entity inspector general pay provisions set forth in section 4(b) of the Reform Act; (b) pay provisions for career Senior Executive Service personnel that become inspectors general set forth in section 4(c) of the Reform Act; and (c) the authority of the Integrity Committee to investigate allegations of wrongdoing against the Special Counsel or Deputy Special Counsel provided in section 7(b) of the Reform Act.
- Authorize all executive branch OIGs to fund or participate in CIGIE activities (the current language "department, agency, or entity of the executive branch" does not include certain designated Federal entities).
- Replace "agency" with "Federal agency, establishment or designated Federal entity" so that non-agency OIGs may promise to keep anonymous the identity of parties filing complaints.

- Clarify that reports that OIGs must post on their web-sites includes audit reports, inspection reports and evaluation reports, consistent with semi-annual reporting requirements.
- Repeal parts of the 2009 Omnibus Appropriations Act that conflict with codified Reform Act language regarding OIG websites.
- Amend Section 11(d) of the IG Act to designate the Special Counsel and the Director of the Office of Government Ethics, or their designees, as members of the Integrity Committee.
- Correct various typographical errors.

The Committee appreciates the opportunity to present to you this summary of important legislative initiatives. We look forward to working with you to advance our legislative initiatives. Should you have any questions or need more information, please do not hesitate to contact me directly at 202-205-6586.

Sincerely,



Peggy E. Gustafson  
Inspector General  
U.S. Small Business Administration

Chair, Legislation Committee  
Council of the Inspectors General on Integrity  
and Efficiency

Enclosure

Cc: CIGIE Executive Committee (w/encs)  
CIGIE IGs and Liaisons (w/out encs)