Title: To amend the Inspector General Act of 1978 to provide that the President or certain agency heads may remove an Inspector General, or place an Inspector General on non-duty status, only if certain conditions are satisfied, 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 “Securing Inspector General Independence Act of 2020”.

SEC. 2. REMOVAL OR TRANSFER OF INSPECTORS GENERAL; PLACEMENT ON NON-DUTY STATUS.

(a) In General.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 3(b)—

(A) by inserting “(1)(A)” after “(b)”;

(B) in paragraph (1), as so designated—

(i) in subparagraph (A), as so designated, in the second sentence—

(I) by striking “reasons” and inserting the following: “substantive rationale, including detailed and case-specific reasons,”; and

(II) by inserting “(including to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Reform of the House of Representatives)” after “Houses of Congress”; and

(ii) by adding at the end the following:

“(B) If there is an open or completed inquiry into an Inspector General that relates to the removal or transfer of the Inspector General under subparagraph (A), the written communication required under that subparagraph shall—

“(i) identify each entity that is conducting, or that conducted, the inquiry; and

“(ii) in the case of a completed inquiry, contain the findings made during the inquiry.”;

and

(C) by adding at the end the following:

“(2)(A) Subject to the other provisions of this paragraph, only the President may place an Inspector General on non-duty status.

“(B) If the President places an Inspector General on non-duty status, the President shall communicate in writing the substantive rationale, including detailed and case-specific reasons, for the change in status to both Houses of Congress (including to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Reform of the House of Representatives) not later than 15 days before the date on which the change in status takes effect, except that the President may submit that communication on the date on
which the change in status takes effect if—

“(i) the President has made a determination that the continued presence of the Inspector General in the workplace poses a threat described in any of clauses (i) through (iv) of section 6329b(b)(2)(A) of title 5, United States Code; and

“(ii) in the communication, the President includes a report on the determination described in clause (i), which shall include—

“(I) a specification of which clause of section 6329b(b)(2)(A) of title 5, United States Code, the President has determined applies under clause (i) of this subparagraph;

“(II) the substantive rationale, including detailed and case-specific reasons, for the determination made under clause (i);

“(III) an identification of each entity that is conducting, or that conducted, any inquiry upon which the determination under clause (i) was made; and

“(IV) in the case of an inquiry described in subclause (III) that is completed, the findings made during that inquiry.

“(C) The President may not place an Inspector General on non-duty status during the 30-day period preceding the date on which the Inspector General is removed or transferred under paragraph (1)(A) unless the President—

“(i) has made a determination that the continued presence of the Inspector General in the workplace poses a threat described in any of clauses (i) through (iv) of section 6329b(b)(2)(A) of title 5, United States Code; and

“(ii) not later than the date on which the change in status takes effect, submits to both Houses of Congress (including to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Reform of the House of Representatives) a written communication that contains the information required under subparagraph (B), including the report required under clause (ii) of that subparagraph.

“(D) For the purposes of this paragraph—

“(i) the term ‘Inspector General’—

“(I) means an Inspector General who was appointed by the President, without regard to whether the Senate provided advice and consent with respect to that appointment; and

“(II) includes the Inspector General of an establishment, the Inspector General of the Intelligence Community, the Inspector General of the Central Intelligence Agency, the Special Inspector General for Afghanistan Reconstruction, the Special Inspector General for the Troubled Asset Relief Program, and the Special Inspector General for Pandemic Recovery; and

“(ii) a reference to the removal or transfer of an Inspector General under paragraph (1), or to the written communication described in that paragraph, shall be considered to be—

“(I) in the case of the Inspector General of the Intelligence Community, a reference to paragraph (4) of section 3033(c) of title 50, United States Code;
“(II) in the case of the Inspector General of the Central Intelligence Agency, a reference to paragraph (6) of section 3517(b) of title 50, United States Code;

“(III) in the case of the Special Inspector General for Afghanistan Reconstruction, a reference to paragraph (6) of section 1229(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 379);

“(IV) in the case of the Special Inspector General for the Troubled Asset Relief Program, a reference to paragraph (4) of section 121(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5231(b)); and

“(V) in the case of the Special Inspector General for Pandemic Recovery, a reference to paragraph (3) of section 4018(b) of the CARES Act (Public Law 116–136).”;

(2) in section 8G(e)—

(A) in paragraph (1), by inserting “or placement on non-duty status” after “a removal”;

(B) in paragraph (2)—

(i) by inserting “(A)” after “(2)”;

(ii) in subparagraph (A), as so designated, in the first sentence—

(I) by striking “reasons” and inserting the following: “substantive rationale, including detailed and case-specific reasons,”; and

(II) by inserting “(including to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Reform of the House of Representatives)” after “Houses of Congress”; and

(iii) by adding at the end the following:

“(B) If there is an open or completed inquiry into an Inspector General that relates to the removal or transfer of the Inspector General under subparagraph (A), the written communication required under that subparagraph shall—

“(i) identify each entity that is conducting, or that conducted, the inquiry; and

“(ii) in the case of a completed inquiry, contain the findings made during the inquiry.”;

and

(C) by adding at the end the following:

“(3)(A) Subject to the other provisions of this paragraph, only the head of the applicable designated Federal entity (referred to in this paragraph as the ‘covered official’) may place an Inspector General on non-duty status.

“(B) If a covered official places an Inspector General on non-duty status, the covered official shall communicate in writing the substantive rationale, including detailed and case-specific reasons, for the change in status to both Houses of Congress (including to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Reform of the House of Representatives) not later than 15 days before the date on which the change in status takes effect, except that the covered official may submit that communication on
the date on which the change in status takes effect if—

“(i) the covered official has made a determination that the continued presence of the Inspector General in the workplace poses a threat described in any of clauses (i) through (iv) of section 6329b(b)(2)(A) of title 5, United States Code; and

“(ii) in the communication, the covered official includes a report on the determination described in clause (i), which shall include—

“(I) a specification of which clause of section 6329b(b)(2)(A) of title 5, United States Code, the covered official has determined applies under clause (i) of this subparagraph;

“(II) the substantive rationale, including detailed and case-specific reasons, for the determination made under clause (i);

“(III) an identification of each entity that is conducting, or that conducted, any inquiry upon which the determination under clause (i) was made; and

“(IV) in the case of an inquiry described in subclause (III) that is completed, the findings made during that inquiry.

“(C) A covered official may not place an Inspector General on non-duty status during the 30-day period preceding the date on which the Inspector General is removed or transferred under paragraph (2)(A) unless the covered official—

“(i) has made a determination that the continued presence of the Inspector General in the workplace poses a threat described in any of clauses (i) through (iv) of section 6329b(b)(2)(A) of title 5, United States Code; and

“(ii) not later than the date on which the change in status takes effect, submits to both Houses of Congress (including to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Reform of the House of Representatives) a written communication that contains the information required under subparagraph (B), including the report required under clause (ii) of that subparagraph.

“(D) Nothing in this paragraph may be construed to limit or otherwise modify—

“(i) any statutory protection that is afforded to an Inspector General; or

“(ii) any other action that a covered official may take under law with respect to an Inspector General.”.

(b) Technical and Conforming Amendment.—Section 12(3) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting “except as otherwise expressly provided,” before “the term”.

SEC. 3. VACANCY IN POSITION OF INSPECTOR GENERAL.

(a) In General.—Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

“(h)(1) In this subsection—
“(A) the term ‘first assistant to the position of Inspector General’ means, with respect to
an Office of Inspector General—

“(i) an individual who, as of the day before the date on which the Inspector General
dies, resigns, or otherwise becomes unable to perform the functions and duties of that
position—

“(I) is serving in a position in that Office; and

“(II) has been designated in writing by the Inspector General, through an order
or succession or otherwise, as the first assistant to the position of Inspector
General; or

“(ii) if the Inspector General has not made a designation described in clause (i)(II)—

“(I) the Principal Deputy Inspector General of that Office, as of the day before
the date on which the Inspector General dies, resigns, or otherwise becomes
unable to perform the functions and duties of that position; or

“(II) if there is no Principal Deputy Inspector General of that Office, the
Deputy Inspector General of that Office, as of the day before the date on which
the Inspector General dies, resigns, or otherwise becomes unable to perform the
functions and duties of that position; and

“(B) the term ‘Inspector General’—

“(i) means an Inspector General who is appointed by the President, by and with the
advice and consent of the Senate; and

“(ii) includes the Inspector General of an establishment, the Inspector General of the
Intelligence Community, the Inspector General of the Central Intelligence Agency, the
Special Inspector General for the Troubled Asset Relief Program, and the Special
Inspector General for Pandemic Recovery.

“(2) If an Inspector General dies, resigns, or is otherwise unable to perform the functions and
duties of the position—

“(A) section 3345(a) of title 5, United States Code, and section 3025(e) of title 50, United
States Code, shall not apply;

“(B) subject to paragraph (4), the first assistant to the position of Inspector General shall
perform the functions and duties of the Inspector General temporarily in an acting capacity
subject to the time limitations of section 3346 of title 5, United States Code; and

“(C) notwithstanding subparagraph (B), and subject to paragraphs (4) and (5), the
President (and only the President) may direct an officer or employee of any Office of an
Inspector General to perform the functions and duties of the Inspector General temporarily
in an acting capacity subject to the time limitations of section 3346 of title 5, United States
Code, only if—

“(i) during the 365-day period preceding the date of death, resignation, or beginning
of inability to serve of the Inspector General, the officer or employee served in a
position in an Office of an Inspector General for not less than 90 days, except that—

“(I) the requirement under this clause shall not apply if the officer is an
Inspector General; and

“(II) for the purposes of this subparagraph, performing the functions and duties of an Inspector General temporarily in an acting capacity does not qualify as service in a position in an Office of an Inspector General;

“(ii) the rate of pay for the position of the officer or employee described in clause (i) is equal to or greater than the minimum rate of pay payable for a position at GS–15 of the General Schedule; and

“(iii) the officer or employee has demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations; and

“(iv) not later than 30 days before the date on which the direction takes effect, the President communicates in writing to both Houses of Congress the substantive rationale, including the detailed and case-specific reasons, for such direction, including the reason for the direction that someone other than the individual who is performing the functions and duties of the Inspector General temporarily in an acting capacity (as of the date on which the President issues that direction) perform those functions and duties temporarily in an acting capacity.

“(3) Notwithstanding section 3345(a) of title 5, United States Code, section 3025(e) of title 50, United States Code, and subparagraphs (B) and (C) of paragraph (2), and subject to paragraph (4), during any period in which an Inspector General is on non-duty status—

“(A) the first assistant to the position of Inspector General shall perform the functions and duties of the position temporarily in an acting capacity subject to the time limitations of section 3346 of title 5, United States Code; and

“(B) if the first assistant described in subparagraph (A) dies, resigns, or becomes otherwise unable to perform those functions and duties, the President (and only the President) may direct an officer or employee in that Office of Inspector General to perform those functions and duties temporarily in an acting capacity, subject to the time limitations of section 3346 of title 5, United States Code, if—

“(i) that direction satisfies the requirements under clauses (ii), (iii), and (iv) of paragraph (2)(C); and

“(ii) that officer or employee served in a position in that Office of Inspector General for not fewer than 90 of the 365 days preceding the date on which the President makes that direction.

“(4) An individual may perform the functions and duties of an Inspector General temporarily and in an acting capacity under subparagraph (B) or (C) of paragraph (2), or under paragraph (3), with respect to only 1 Inspector General position at any given time.

“(5) If the President makes a direction under paragraph (2)(C), during the 30-day period preceding the date on which the direction of the President takes effect, the functions and duties of the position of the applicable Inspector General shall be performed by—

“(A) the first assistant to the position of Inspector General; or

“(B) the individual performing those functions and duties temporarily in an acting
capacity, as of the date on which the President issues that direction, if that individual is an
individual other than the first assistant to the position of Inspector General.”.

(b) Rule of Construction.—Nothing in the amendment made by subsection (a) may be
construed to limit the applicability of sections 3345 through 3349d of title 5, United States Code
(commonly known as the “Federal Vacancies Reform Act of 1998”), other than with respect to
section 3345(a) of that title.

c) Effective Date.—

(1) Definition.—In this subsection, the term “Inspector General” has the meaning given
App.), as added by subsection (a) of this section.

(2) Applicability.—

(A) In General.—Except as provided in subparagraph (B), this section, and the
amendments made by this section, shall take effect on the date of enactment of this
Act.

(B) Existing Vacancies.—If, as of the date of enactment of this Act, an individual
is performing the functions and duties of an Inspector General temporarily in an acting
capacity, this section, and the amendments made by this section, shall take effect with
respect to that Inspector General position on the date that is 30 days after the date of
enactment of this Act.

SEC. 4. OFFICE OF INSPECTOR GENERAL
WHISTLEBLOWER COMPLAINTS.

(a) Whistleblower Protection Coordinator.—Section 3(d)(1)(C) of the Inspector General Act
of 1978 (5 U.S.C. App.) is amended—

(1) in clause (i), in the matter preceding subclause (I), by inserting “, including
employees of that Office of Inspector General” after “employees”; and

(2) in clause (iii), by inserting “(including the Integrity Committee of that Council)” after
“and Efficiency”.

(b) Council of the Inspectors General on Integrity and Efficiency.—Section 11(c)(5)(B) of the
and inserting the following: “and allegations of reprisal (including the timely and appropriate
handling and consideration of protected disclosures and allegations of reprisal that are internal to
an Office of Inspector General)”.

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