

1 Title: To amend the Inspector General Act of 1978 to provide that the President or certain agency
2 heads may remove an Inspector General, or place an Inspector General on non-duty status, only
3 if certain conditions are satisfied, and for other purposes.
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6 Be it enacted by the Senate and House of Representatives of the United States of America in
7 Congress assembled,

8 SECTION 1. SHORT TITLE.

9 This Act may be cited as the “Securing Inspector General Independence Act of 2020”.

10 SEC. 2. REMOVAL OR TRANSFER OF INSPECTORS 11 GENERAL; PLACEMENT ON NON-DUTY STATUS.

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

13 (1) in section 3(b)—

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

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

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

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

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

22 (ii) by adding at the end the following:

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

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

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

29 (C) by adding at the end the following:

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

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

1 which the change in status takes effect if—

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

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

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

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

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

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

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

19 “(i) has made a determination that the continued presence of the Inspector General in the
20 workplace poses a threat described in any of clauses (i) through (iv) of section
21 6329b(b)(2)(A) of title 5, United States Code; and

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

27 “(D) For the purposes of this paragraph—

28 “(i) the term ‘Inspector General’—

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

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

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

39 “(I) in the case of the Inspector General of the Intelligence Community, a reference
40 to paragraph (4) of section 3033(c) of title 50, United States Code;

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

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

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

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

12 (2) in section 8G(e)—

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

15 (B) in paragraph (2)—

16 (i) by inserting “(A)” after “(2)”;

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

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

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

23 (iii) by adding at the end the following:

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

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

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

30 (C) by adding at the end the following:

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

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

1 the date on which the change in status takes effect if—

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

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

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

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

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

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

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

19 “(i) has made a determination that the continued presence of the Inspector General in the
20 workplace poses a threat described in any of clauses (i) through (iv) of section
21 6329b(b)(2)(A) of title 5, United States Code; and

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

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

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

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

31 (b) Technical and Conforming Amendment.—Section 12(3) of the Inspector General Act of
32 1978 (5 U.S.C. App.) is amended by inserting “except as otherwise expressly provided,” before
33 “the term”.

34 SEC. 3. VACANCY IN POSITION OF INSPECTOR 35 GENERAL.

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

38 “(h)(1) In this subsection—

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

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

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

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

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

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

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

18 “(B) the term ‘Inspector General’—

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

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

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

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

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

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

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

40 “(I) the requirement under this clause shall not apply if the officer is an

1 Inspector General; and

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

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

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

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

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

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

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

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

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

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

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

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

41 “(B) the individual performing those functions and duties temporarily in an acting

1 capacity, as of the date on which the President issues that direction, if that individual is an
2 individual other than the first assistant to the position of Inspector General.”.

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

7 (c) Effective Date.—

8 (1) DEFINITION.—In this subsection, the term “Inspector General” has the meaning given
9 the term in subsection (h)(1)(B) of section 3 of the Inspector General Act of 1978 (5 U.S.C.
10 App.), as added by subsection (a) of this section.

11 (2) APPLICABILITY.—

12 (A) IN GENERAL.—Except as provided in subparagraph (B), this section, and the
13 amendments made by this section, shall take effect on the date of enactment of this
14 Act.

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

20 SEC. 4. OFFICE OF INSPECTOR GENERAL 21 WHISTLEBLOWER COMPLAINTS.

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

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

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

28 (b) Council of the Inspectors General on Integrity and Efficiency.—Section 11(c)(5)(B) of the
29 Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking “, allegations of reprisal,”
30 and inserting the following: “and allegations of reprisal (including the timely and appropriate
31 handling and consideration of protected disclosures and allegations of reprisal that are internal to
32 an Office of Inspector General)”.