

Congress of the United States
Washington, DC 20510

July 30, 2009

Via Electronic Transmission

The Honorable Jeffrey Zients
Executive Chair, Council of the Inspectors General for Integrity and Efficiency
Deputy Director for Management, Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Mr. Zients:

The Inspector General Reform Act (P.L. 110-409) was introduced to strengthen the independence and integrity of the Inspectors General. One of the most important provisions of the legislation was Section 3 which amended the procedures for the removal of Inspectors General. Specifically, Section 3 requires that, "the head of the designated Federal entity shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer." The Senate Committee Report (S. Rep. 110-262) accompanying the Inspectors General Reform Act stated the intent of Congress in relying on this prior notice of reasons provision to protect Inspectors General rather than adopting explicit "for cause" requirements contained in the House version of the bill:

The Committee intends that Inspectors General who fail to perform their duties properly whether through malfeasance or nonfeasance, or whose personal actions bring discredit upon the office, be removed. The requirement to notify the Congress in advance of the reasons for the removal should serve to ensure that Inspectors General are not removed for political reasons.

However, the 30-day notice provision cannot serve its purpose if it is implemented in a way that thwarts the ability of Congress to obtain timely information about the reasons for the removal of an inspector general.

Thus, we are writing to you today regarding the retirement and separation agreement of Fred E. Weiderhold, Jr., the former Inspector General (IG) of the National Railroad Passenger Corporation (Amtrak). Rather than receiving 30-days prior notice of Mr. Weiderhold's removal as Inspector General, Congress is learning only now -- more than 30 days *after* his removal -- the reasons that Amtrak's Board of Directors took action to dismiss him.

On June 18, 2009, Mr. Weiderhold entered into a separation agreement with Amtrak, which is attached to this letter. Amtrak presented the agreement to Mr. Weiderhold on June 17, 2009, indicating that if he did not sign it by June 19, 2009, the Chairman of the Board would send a 30-day notice letter to Congress to begin the process of removing him as Inspector General, as required by the IG Reform Act. Under this agreement, Amtrak agreed to pay Mr. Weiderhold a severance payment of \$244,573 and an additional lump-sum payment of \$38,090 in consideration, in part, for his agreement not to publically or privately disparage Amtrak or make any statements regarding his resignation without first clearing those statements with Amtrak. As originally entered into, the agreement did not allow for Mr. Weiderhold to speak to Congress about the Board's actions to remove him as Inspector General, the reasons for those actions, or anything else related to the circumstances of his departure as IG.

The agreement was amended to permit providing information to Congress only after we began asking questions about his removal. The time it took to amend the agreement caused a period of confusion and delay before the true facts and reasons for Mr. Weiderhold's departure could be known to Congress. This is in direct contradiction to the purposes and goals of the 30-day notice provision in the IG Reform Act. Therefore, we write today to ask for the Council of the Inspectors General for Integrity and Efficiency (CIGIE) for its views on this agreement and its gag provisions.

As you know, the Inspector General Reform Act prohibits designated federal entities such as Amtrak from paying cash bonuses or cash awards to Inspectors General.¹ Federal law also prohibits agencies from preventing employees from communicating with Congress or enforcing gag agreements that do not contain an explicit exception for providing information to Congress.² Accordingly, we would appreciate hearing CIGIE's views on the following issues:

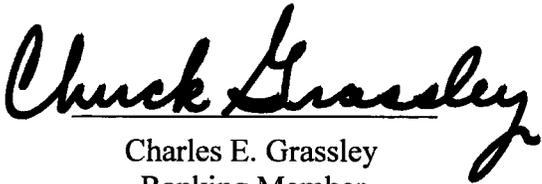
- 1) Should designated federal entities or the President be allowed to require Inspectors General to sign gag agreements without specific exceptions for communications with Congress?
- 2) Are there other examples of other Inspectors General being required to sign gag agreements or receiving large severance payments?
- 3) Does CIGIE believe that large severance payments to Inspectors General can pose the same risks to the appearance of IG independence as bonuses and cash awards. If not, what is CIGIE's view of the appropriateness of such payments?

¹ 5 U.S.C.S. Appx § 3(f)

² 5 U.S.C. § 7211; Omnibus Appropriations Act of 2009, Pub L. no. 111-8, 117 Stat. 685 (2009).

We look forward to hearing CIGIE's views on these matters. Please send your response electronically in PDF format to Brian_Downey@finance-rep.senate.gov. Thank you in advance for your assistance and we would appreciate a response to this inquiry by August 13, 2009. Should you have any questions regarding this matter, please do not hesitate to contact Jason Foster of Senator Grassley's staff at (202) 224-4515, or Stephen Castor of Congressman Issa's staff at (202) 225-5074.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on Finance



Darrell Issa
Ranking Member
Committee on Oversight and Government Reform
United States House of Representatives

cc: The Honorable Joseph I. Lieberman
Chairman
Senate Committee on Homeland Security and Governmental Affairs

The Honorable Susan M. Collins
Ranking Member
Senate Committee on Homeland Security and Governmental Affairs

The Honorable Edolphus Towns
Chairman
U.S. House Committee on Oversight and Government Reform

The Honorable Phyllis K. Fong
Council of the Inspectors General for Integrity and Efficiency- Chair
U.S. Department of Agriculture
Inspector General

Carl A. Clinefelter
Council of the Inspectors General for Integrity and Efficiency- Vice-Chair
Farm Credit Administration
Inspector General