

# OMB Issues New Guidance on Agency Engagement with Inspectors General

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The Office of Management and Budget (OMB) has issued new guidance directing agency leaders and staff to “cooperate with [their] respective IG [inspector general] offices as they fulfill their statutory opportunities.” The memorandum—apparently the first public guidance in decades on cooperation with IG offices—was issued on December 3, 2021 (OMB memorandum [M-22-04](#); “Promoting Accountability through Cooperation among Agencies and Inspectors General”). It echoes and reinforces the language of the Inspector General Act of 1978 (IG Act; [5 U.S.C. Appx.](#)).

Specifically, the memorandum requests that agency leaders regularly communicate key information about the role and authority of IGs to their staff and identifies seven “general guidelines to enhance cooperation” between agencies and IGs:

1. Routine meetings between agency leadership and IGs,
2. Open discussion about IG office resources,
3. Designation of a senior agency official as liaison to the IG office,
4. Collaboration with IG staff when developing new programs or changing existing programs,
5. Providing information and training to staff on whistleblower protections,
6. Discussion of enterprise risk management with IGs, and
7. Responsiveness to IG recommendations.

OMB developed the memorandum in [consultation](#) with [the Council of Inspectors General on Integrity and Efficiency \(CIGIE\)](#), and the memorandum includes findings from a [CIGIE review](#) of agency-IG relations and example language developed by CIGIE for use by agency leaders when communicating to staff about the role of IGs.

## OMB and Inspectors General

The new memorandum appears to be OMB’s first published guidance in recent decades, if ever, to broadly address the relationship between agency leaders and IGs. While the IG Act [directs](#) that an IG reports to and is under the “general supervision” of the head of their agency, the act also bars agency

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leaders from attempting to interfere with or control investigations and audits. While this general rule has some exceptions, especially for matters related to national security, they are explicitly laid out in the IG Act. This arrangement makes clear that IGs have at least some degree of independence as they fulfill their duties but does not ensure that relations between IGs and their agency leaders will always be constructive.

The OMB memorandum describes OMB as a liaison that can “ensure a well-functioning relationship between agency leadership and IG offices.” The memorandum also notes that OMB’s deputy director for management is the [executive chairperson of CIGIE](#) and can bring together IGs and agency leaders.

OMB states that the memorandum was inspired by the Biden Administration’s recent experience implementing provisions of the [American Rescue Plan Act](#), which, in OMB’s view, “demonstrated the benefits of proactive and transparent engagement” among oversight stakeholders including IGs and agencies. This motivation may be reflected in the suggestion that agency leaders should discuss enterprise risk management with IGs and involve IG staff early in the process of developing new programs. This process included an [assessment by CIGIE](#) of communications between agency leaders and OIGs.

Congress has maintained a strong interest in the operations of the IG community and the ability of IGs to operate effectively and independently within the executive branch. Congress is currently considering the IG Independence and Empowerment Act (H.R. 2662), which has passed the House and been marked up by the Senate Committee on Homeland Security and Governmental Affairs.

## The Role of OMB Guidance Memoranda in the Management of the Executive Branch

OMB has a number of statutory duties related to the operations of executive branch agencies that support the institutional presidency. These duties include oversight of those agencies. In conducting this oversight and its other duties, OMB interacts extensively with agencies, including through the issuance of guidance memoranda, bulletins, and circulars.

OMB’s website features a [webpage](#) with links to guidance memoranda issued by OMB dating back to 1995. Agencies are expected to adjust their internal policies based upon OMB guidance memoranda, which stay in effect across presidential Administrations. The influence of OMB guidance may vary depending upon particular circumstances, including questions about the underlying statutory authority of OMB to direct or influence agency activities.

With those potential limits in mind, OMB’s new memorandum on IGs can be considered authoritative within the executive branch unless or until OMB amends, revokes, or supersedes it. However, if OMB does not prioritize enforcement of the guidance, there may be reduced or uneven compliance across the executive branch.

## Issues for Congress

Congress has shown long-standing interest in the operations and independence of the IG community. That interest is reflected in a number of bills under consideration in the 117<sup>th</sup> Congress, including H.R. 2662, the IG Independence and Empowerment Act, which passed the House in June 2021. Now that OMB has issued guidance on relations between agencies and their IGs, Congress may wish to be particularly careful in its oversight of those relationships and, in particular, OMB’s involvement for at least two reasons.

Congress may benefit from determining whether OMB’s guidance reflected in this memorandum improves the effectiveness of the IG community. If the guidance does promote congressional intent for IGs, Congress might consider codifying its policies in law. Lessons learned from implementation of the memorandum may provide data to inform future amendments to the IG Act.

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The new guidance may also set a precedent for future OMB guidance on IGs. The OMB memorandum appears to have been developed in coordination with the IG community in order to facilitate the work of IGs. However, it is possible that OMB could adopt policies in the future that would discourage agency cooperation with IGs or otherwise limit the ability of IGs to conduct their work. Should that occur, Congress may wish to take action to maintain the independence and effectiveness of the IG community.

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