May 20, 2022

The Honorable Robert Menendez       The Honorable John Cornyn
528 Hart Senate Office Building      517 Hart Senate Office Building
Washington, DC 20510                Washington, DC 20510

Dear Senator Menendez and Senator Cornyn:

As Congress moves to begin conference on the United States Innovation and Competition Act of 2021 (H.R. 4521), we at the Project On Government Oversight (POGO) write to express our strong support of the bipartisan USTR Inspector General Act of 2021 as an amendment (Section 73003 of S.1260) to be included in the final version of the bill. We also support the USTR Inspector General Act of 2021 as a standalone bill.

POGO is a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and when the government fails to serve the public or silences those who report wrongdoing. We champion reforms to achieve a more effective, ethical, and accountable federal government that safeguards constitutional principles.

The USTR Inspector General Act and its corresponding amendment in the United States Innovation and Competition Act of 2021 would establish a statutory, independent inspector general in the office of the United States Trade Representative. They would do this by amending the Inspector General Act of 1978 to add the USTR to the list of federal agencies that are subject to oversight by inspectors general. Establishing an office of inspector general at USTR would bring much needed transparency and accountability. It would be a long overdue step towards identifying misconduct and rooting out fraud, waste, and abuse at USTR, which remains one of the few cabinet-level agencies without an affiliated IG.

Establishing a USTR IG would also fall within constitutional guidelines. This is because USTR is functionally indistinguishable from other traditional executive agencies. For instance, the Department of Justice has long interpreted the Freedom of Information Act to include USTR among those offices within the Executive Office of the President that should be treated as federal agencies.1 Moreover, given that the USTR IG would answer to the United States Trade Representative, who is subject to Senate confirmation and removable at will by the president, the reporting structure for a new USTR office of inspector general would mirror the well-established organization of other OIGs. Requiring Senate approval for an IG would send a clear message that the USTR is, in fact, constitutionally similar to other executive agencies for which Congress has established IG oversight.

---

Since the executive branch has historically been so willing to treat USTR as an executive branch agency, it follows that it should also be willing to hold USTR to the same ethical standards applied to all other executive branch agencies, including the oversight of a dedicated inspector general. The public and Congress depend on inspectors general to ensure our federal agencies are functioning effectively and are subject to rigorous, independent oversight. We thank you for your leadership in ensuring strong oversight mechanisms in the federal government, and we urge Congress to support these pieces of legislation that would establish a USTR IG to bring more transparency and accountability to this agency.

Sincerely,

Danielle Brian
Executive Director