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UNITED STATES DEPARTMENT OF COMMERCE
Office of Inspector General
Washington, D.C. 20230

October 15, 2015

VIA E-MAIL

RE: FOIA Request No. DOC-OIG-2015-001996

This letter is regarding your Freedom of Information Act (FOIA) request, tracking number DOC-OIG-2015-001996, dated September 21, 2015 and received by the Department of Commerce, Office of Inspector General (OIG) on September 28, 2015, in which you seek "a copy of the Commerce Department Office of Inspector General's 'Guide to Conducting Administrative Inquiries.'"

A search of records maintained by the OIG has located forty-five (45) pages that are responsive to your request. We have reviewed these pages under the terms of FOIA and have determined that forty-one (41) pages may be released to you in full. Four (4) pages have been partially withheld under FOIA exemption (b)(6), 5 U.S.C. § 552(b)(6), which protects information in personnel, medical or similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Copies of the forty-five pages are enclosed with the relevant withholdings noted.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. See 5 U.S.C. § 552(c) (2012 & Supp. II 2014). This response is limited to those records that are subject to the requirements of FOIA. This is a standard notification to all OIG requesters and should not be taken as an indication that excluded records do, or do not, exist.

You have the right to appeal this partial denial of your request. An appeal must be received within thirty (30) calendar days of the date of this response letter by the Counsel to the Inspector General, U.S. Department of Commerce, Office of Inspector General, Office of Counsel, Room 7898C, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Your appeal may also be sent by e-mail to FOIA@oig.doc.gov, by facsimile (fax) to 202-501-7335, or by FOIAonline, if you have an account in FOIAonline, at <https://foiaonline.regulations.gov/foia/action/public/home#>.

The appeal should include a copy of the original request and this initial denial letter. In addition, the appeal should include a statement of the reasons why the records requested should be made

available and why the adverse determination was in error. The appeal letter, the envelope, the e-mail subject line, and the fax cover sheet should be clearly marked "Freedom of Information Act Appeal." The e-mail, fax machine, FOIAonline, and Office of Counsel mailbox are monitored only on working days during normal business hours (8:30 a.m. to 5:00 p.m., Eastern Time, Monday through Friday). FOIA appeals posted to the e-mail box, fax machine, FOIAonline, or the Office of Counsel mailbox after normal business hours will be deemed received on the next normal business day. If the 30th calendar day falls on a Saturday, Sunday, or legal public holiday, an appeal received by 5:00 p.m., Eastern Time, the next business day will be deemed timely. An appeal received after the 30-day limit will not be considered.

If you have any questions, please contact me via email at FOIA@oig.doc.gov, or by phone at (202) 482-5992.

Sincerely,

RAMAN
SANTRA

Raman Santra
FOIA Officer

Enclosures



OFFICE OF INVESTIGATIONS

Guide to Conducting Administrative Inquiries

JANUARY 2012

U.S. Department of Commerce
Office of Inspector General



Guide to Conducting Administrative Inquiries

January 2012

Table of Contents

Introduction.....	2
1 – Key Principles for Conducting an Effective Administrative Inquiry	3
2 – Receiving a Complaint Referral from OIG.....	5
3 – Planning an Administrative Inquiry.....	6
4 – Information and Evidence Gathering.....	9
5 – Conducting Interviews	11
6 – Evaluating the Information and Evidence.....	14
7 – Preparing the Response to OIG.....	16
Contacting the OIG.....	17
Appendix A – DAO 207-10, DOO 23-1, and DOO 10-13	18
Appendix B – Sample Documents and Forms.....	35
Appendix C – Employee Rights and Protections.....	40
Appendix D – FAQs about OIG Investigations.....	41

Introduction

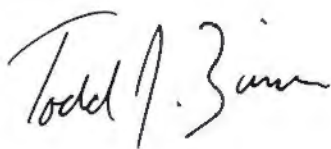
In November 2011, the Office of Inspector General (OIG) initiated a community of interest forum to educate and engage Department of Commerce (DOC) operating units on managing hotline complaint referrals. As part of our statutory mission, the OIG routinely receives a variety of complaints involving Commerce programs, operations, and personnel. Based on the nature of the issues raised in any complaint, the OIG will often determine that the matter is best addressed by the management of the involved DOC operating unit. Many such complaints concern program management issues and some involve sometimes overlapping employee misconduct issues. In our initial community of interest forum, we introduced DOC operating unit officials to OIG's hotline complaint process and requested feedback on how we can enhance our guidance for conducting administrative inquiries. We announced that we would be providing a manual to assist operating units in conducting inquiries, and the participants responded very positively to this idea.

The goal for this manual is to provide operating unit officials handling complaint inquiries with a useful resource to conduct effective inquiries that are independent, methodologically sound, and thorough in order to sufficiently address involved issues.

This Guide is presented in six sections, which outline the process of conducting an administrative inquiry, from the receipt of a referral through the operating unit's submission of a report to OIG and OIG's sufficiency review. We have included an appendix section with sample forms and documents as well as FAQs about OIG investigations.

We hope that this manual will be a useful resource, and that it can serve to initiate further dialogue about how to conduct successful administrative inquiries. Please provide us with feedback on areas that we could expand or clarify. Additionally, we welcome any techniques or approaches that have been used with success in carrying out administrative inquiries. Please feel free to contact (b) (6), our Acting Director of Special Investigations and Complaint Analysis, at (b) (6) or (b) (6)@oig.doc.gov.

Thank you,



Todd J. Zinser
Inspector General
U.S. Department of Commerce

1 – Key Principles for Conducting an Effective Administrative Inquiry

Due Diligence: The overarching principle, which simply involves taking complaints seriously and applying care and prudence in addressing the predicate issues/allegations; the goal being to ensure the DOC operating unit’s response has credibility and can withstand scrutiny (including any “Washington Post test”).

Independence: A critical principle is ensuring objectivity through assigning an inquiry official who is unbiased and does not have a vested interest or stake in the outcome. Avoiding even the appearance of predisposition or cover-up is imperative.

Soundness of Methodology: Ensuring the approach to resolving the predicate issues/allegations is structured, transparent, and reflects common sense. Two key steps are (a) interviewing the complainant(s) (when known) at the outset; and (b) interviewing the employee(s) who are the subject of the complaint early-on to obtain their explanations, provided doing so would not compromise the inquiry.

Thoroughness: Ensuring all predicate issues and allegations are sufficiently addressed through researching applicable standards, analyzing pertinent documents, interviewing persons involved, applying findings to the standards, and comprehensively reporting the results of inquiry—including corrective actions taken.

Avoiding Pitfalls: This involves adhering to the above principles and being alert to problematic situations, including:

- Insufficient interviewing (*example:* an inquiry official limited an interview to accepting simple “yes” or “no” responses without seeking corresponding explanations and logically following-up).
- Selective investigation and reporting (*example:* an inquiry official did not follow-up on information implicating impropriety by senior management; another omitted exculpatory information from the report).
- Scrutinizing or retaliating against employees who raise complaints (*example:* a manager criticized an employee in the employee’s performance appraisal for going outside the organization to express concerns.) DOC operating unit management is responsible for promoting an environment that is both conducive to employees raising issues internally and respectful of the right of employees to voice their concerns to external oversight entities (e.g., OIG, Congress). OIG, along with the U.S. Office of Special Counsel (OSC), investigates alleged whistleblower reprisal.
- Violating employee privacy interests (*example:* an inquiry official disclosed sensitive information to employees not having a need to know and without a reasonable basis).

- Inappropriate tactics and lack of professionalism (example: an inquiry official advised a witness that the witness' religion teaches forgiveness and that the manager in question was "under pressure" so the witness should "forgive her.")

Please consider OIG a consulting resource regarding administrative inquiries, both in response to our referrals as well as internally generated inquiries. We welcome questions and dialogue.

2 – Receiving a Complaint Referral from OIG

As part of our statutory mission, the OIG receives complaints from Department of Commerce employees, contractors, grantees, Congress, GAO, other government agencies, and the public. DAO 207-10 outlines the types of complaints which Commerce employees should report to the OIG, and also prescribes the policies and procedures for the initiation and conduct of investigations. DOOs 10-13 and 23-1 prescribe OIG's organizational structure and functions. DAO 207-10, DOO 23-1 and DOO 10-13 are provided in Appendix A.

OIG determines whether to investigate complaints, refer them to the appropriate Commerce operating unit, or to close without further action. OIG may refer a complaint to your operating unit either with a response to OIG required, or with no response required.

- **Referral with a response to OIG required:** When an operating unit receives a complaint referral with a response required (which OIG codes as an "H" referral), OIG requests it to (1) conduct an administrative inquiry into the issues at hand; and (2) provide a report detailing the inquiry's methodology, findings, and any recommended corrective action. OIG will then review the report to assess whether the inquiry conducted by the operating unit was handled in an independent, thorough, and otherwise proper manner. In keeping with OIG's oversight responsibilities under the IG Act, we conduct these sufficiency reviews to ensure in part that all issues/allegations have been addressed in an adequate manner, to help mitigate any risks to the operating unit and the Department. Generally, OIG's sufficiency review should precede the operating unit taking corrective action. (See Section 7 for more details.)

Referrals for response typically contain issues/allegations of mismanagement, employee misconduct or programmatic issues that are more appropriately handled by your operating unit. Before deciding to refer a complaint to an operating unit in this manner, OIG weighs the seriousness of the allegations of mismanagement, program impropriety, or employee misconduct along with their potential impact on the Commerce Department. In other words, OIG will only refer a complaint in this manner when the complaint appears to be of a potentially significant or serious nature, warranting the prompt attention of your operating unit. See Appendix B for an example of this type of referral.

- **Referral with no response required:** An operating unit may also receive from OIG a complaint referral with no response required (which OIG codes as an "N" referral), which may include non-frivolous allegations of impropriety that do not appear to involve serious issues but nonetheless should be brought to the attention of management for review, inquiry, and possible corrective action. See Appendix B for an example of this type of referral.

Regardless of whether a complaint referred to your operating unit requires a response to OIG, it is important that any inquiry adhere to the principles identified above.

3 – Planning an Administrative Inquiry

This section provides guidance for bureaus during the planning stages of an administrative inquiry. As a reminder, if you ever have questions, or would like to seek further guidance about any aspect of the administrative inquiry process, do not hesitate to call the OIG. Our goal is to serve as a consulting resource in support of your administrative inquiries, to ensure that they are conducted in a thorough and otherwise proper and effective manner.

Before an operating unit commences an administrative inquiry, it is important that the assigned inquiry official properly plan the inquiry. Good planning helps ensure quality, efficiency, and the best use of resources. The following are essential considerations in the planning process. Please pay particular attention to the “important reminders” bullet at the end of this section.

- Assign an independent inquiry official:** It is critical that the operating unit appoint an inquiry official who is outside the supervisory chain of the subject and removed from the immediate affairs that the allegations relate to. The inquiry official should sign a written statement of independence before commencing the administrative inquiry (see Appendix B for a sample). Ideally, the inquiry official should be at an equivalent or higher grade level than the subject. When selecting an official to conduct the inquiry, operating units should consider individuals who are known for being thorough and fair-minded. In some cases, it may be appropriate to create a team of officials to inquire into the matter at hand, especially in cases where subject-matter expertise will be needed to evaluate evidence, or understand programmatic issues. In a case where an operating unit cannot identify an independent inquiry official or otherwise lacks suitable staffing, it should explore obtaining appropriate resources from another operating unit, the Department, or contracting for the necessary expertise. It is important that inquiries be supervised and supervision/oversight should be provided by a manager from outside the specific affected program office or sub-organization.
- Define the scope of the inquiry:** Once the official is selected to conduct the inquiry, it is important to clearly define the scope of the inquiry. The scope of the administrative inquiry should outline which allegations the inquiry intends to look into. When your operating unit transmits its final report on the inquiry to OIG for its review, all allegations contained in the complaint referral must be addressed. However, this does not mean that the inquiry must actively pursue all of the allegations contained in the complaint. Before the inquiry begins, the operating unit should determine which allegations the inquiry official should look into, and which allegations will be addressed in the report to OIG without further inquiry activity. The operating unit may choose to reserve the most serious allegations for the inquiring official’s work, or to filter out allegations of a trivial nature. However, if your operating unit decides not to inquire into certain allegations, OIG requests that a justification of this decision be included in the report. For instance, the report should identify whether particular issues are being addressed through other processes (e.g., grievance, EEO). If your operating unit has any questions about selecting which allegations to address in the administrative inquiry, do not hesitate to contact the OIG for guidance.

- **Develop a methodology:** Once assigned, inquiry officials should begin by developing a written plan that outlines how the inquiry will be conducted. OIG may request this methodology at the conclusion of the inquiry as part of its sufficiency review. Inquiry officials may find it helpful to include the following information in the plan, which may be modified as the inquiry progresses:
 - ***Applicable standards:*** Research the relevant laws, regulations, policies, or procedures pertaining to the predicate issues or allegations.
 - ***Circumstances to be examined:*** Summarize the relevant actions or events in the case that require closer scrutiny.
 - ***Planned inquiry steps:*** Prepare a list of the necessary actions to take during the inquiry, including evidentiary documents to obtain and review, and interviews of involved witnesses and subjects. A line of questioning should be prepared in advance of each interview to guide the inquiry officer in conducting the interview. In general, inquiry actions should be planned to accomplish the following:
 - Substantiate or disprove the predicate allegations/issues, to include identifying any violation of applicable standards (i.e., law, regulation, policy, or procedure) or other programmatic improprieties (e.g., evident mismanagement or abuse of authority);
 - Determine whether a subject had knowledge or intent where it is an element of the alleged impropriety;
 - Corroborate or refute relevant interview statements or other evidence;
 - Establish the credibility of witnesses and their interview statements; and
 - Identify additional sources of relevant information.
- **Important reminders:** Please keep the following in mind while conducting the inquiry. If questions arise about how to proceed during the inquiry, do not hesitate to contact OIG for advice.
 - ***Complainant/Whistleblower Protection:*** Information provided by or about the complainant must be kept in the strictest confidence, save to the extent needed to address the allegations/issues where the complainant consents to the release of his/her identity. Moreover, operating units must not take unfavorable personnel actions or withhold (or threaten to withhold) a favorable personnel action as a reprisal against any employee who makes a complaint to OIG or otherwise discloses information to the OIG or other authorized recipient (e.g., agency management, Congress). Commerce employees who communicate complaints to OIG are protected from unlawful reprisal by the Whistleblower Protection Act, as well as the Inspector General Act.

- ***Discovery of other matters during inquiry:*** If during the progress of an administrative inquiry, the inquiry official discovers evidence of additional or more serious issues/allegations than specified in the original allegation, the operating unit is obligated (by DAO 207-10) to report this to the OIG immediately. The OIG may reconsider the referral under such circumstances.

4 – Information and Evidence Gathering

In an administrative inquiry, gathering information and evidence is to establish the “who, what, when, where, how, and why” regarding the issues and allegations raised in a complaint. It is critical that inquiry officials act with prudence and caution while gathering information and evidence, restricting what is shared about the inquiry and the issues/allegations, particularly to persons potentially involved and others not having a need to know.

- **Consider what types of information/evidence are needed:** The primary sources of information for an administrative inquiry are usually documentary evidence: records and files maintained or held by the agency or electronic records (e-mail and electronic documents). When possible, documentary evidence should be obtained and reviewed, including documented standards (e.g., applicable laws, regulations, policies and procedures) before any witness or subject interviews are conducted. [Note: Complainant interviews should be conducted first, including for the purpose of having complainants identify documents/records to be examined.]
 - **Documentary:** Documentary evidence exists in written form, either on paper or electronically. Techniques that can be used to obtain meaningful documentary evidence include examining records and computer databases for relevant information or examining a representative sample of those records regarding certain issues. In certain instances, when faced with a large amount of documentary evidence to examine, the inquiry may be best served by employing a statistical sampling technique, where a randomly-selected portion of the database is selected for analysis.
 - **Testimonial:** Testimonial evidence is obtained from the statements of individuals through interviews of complainants, witnesses, and subjects (Subjects are individuals who reportedly committed improprieties, such as misconduct, mismanagement or other performance-related deficiencies.) Depending upon the nature of the issues/allegations, inquiry officials should consider interviewing subject employees, particularly supervisors/managers, early-on if doing so would not compromise the inquiry. This serves a couple key purposes: first, it affords the subject employee (again, particularly supervisors/managers) the opportunity to address and even resolve the issues/allegations prior to involving others in the affected organization with the inquiry. Second and importantly, early interviews with subject supervisors/managers should remind and caution against any retaliatory action against any employee for raising the involved issues/allegations. It is not uncommon for complainants, witnesses, and subjects to be interviewed more than once during the course of an inquiry. See Section 5 for more information on interviewing techniques.
 - **Observational:** Observational evidence is observed actions or behavior either seen or heard by the inquiry official. In order to obtain observational evidence, inquiry officials may physically observe where alleged misconduct is reportedly occurring and record observations of physical facts, acts, and movement. Observational evidence can be strengthened by confirmations from independent third parties.

- **Determine how to collect the evidence required:** When communicating requests for information to other officials in the agency, inquiry officials should attempt to avoid disclosing more information than absolutely necessary about the inquiry. In some cases, it may be appropriate to consult with the management officials who assigned the case to determine the most effective and efficient method to obtain needed documents. If the inquiry necessitates the review of sensitive documents such as email or personnel files, it may be appropriate for a senior official in the operating unit to assist with the request. High level coordination can help minimize the risk of unnecessary disclosures about the inquiry. Consult with operating officials or with the OIG if questions arise about how to best obtain needed evidence.
- **Care for all evidence in a proper manner:** Inquiry officials gather materials during the course of administrative inquiries that may be used to support potential administrative action. When obtaining such information, inquiry officials must protect all documents/records collected:
 - ***Evidence organization and integrity:*** Mark all documents obtained over the course of an inquiry, with initials, and the date and from whom the evidence was received. Original and sensitive materials should be transferred via receipt signed by both the inquiry official and the person from whom the material was obtained (i.e., chain of custody). Inquiry officials need to be careful not to add anything to any document after it is obtained and do not destroy, remove, or contribute to its deterioration.
 - ***Personally Identifiable Information and privacy rights:*** If personally identifiable information (PII) is collected as a part of the inquiry, be sure to follow the Department's policies regarding the care and handling of PII. In addition, inquiry officials must take care to observe applicable privacy rights of individuals. These rights may include prohibitions on the disclosure of records or information about an individual without the written consent of the individual to whom the record or information pertains. If you have questions about the handling of this type of information, do not hesitate to contact the OIG with questions.

5 – Conducting Interviews

This section provides a brief overview on conducting interviews. The purpose of an interview is to obtain factual information that will ultimately help substantiate or refute the allegations being pursued. As noted in the previous section on evidence, an interview should aim to establish the “who, what, when, where, how, and why” of an inquiry. A successful interview requires that the inquiry officials establish and maintain effective communication with the interviewee. This can be a difficult and complex task, and the particular skills, knowledge and techniques to apply will vary from interview to interview. There is no simple formula to assure success in all interviews.

- **Identify potential interviewees:** Many administrative inquiries require that officials talk with one or more of the persons involved, including complainants, witnesses, and the subject.
 - **Complainant:** Usually the complainant is the person who provided the initial information or allegation that started the inquiry. The complainant, if known, should be interviewed to assure that the complaint is clearly understood and that the inquiry addresses all relevant issues. Particular attention should be given to eliciting the specific and pertinent facts known to the complainant, the basis for that knowledge, and the basis for any opinions expressed about the matters at issue. Similarly, the complainant should be questioned about whether there were witnesses to any alleged incident or conversation, or written records to document the event. If so, the official conducting the inquiry should obtain specific information about what witnesses or records can corroborate the allegations.
 - **Witnesses:** Witnesses are persons who have first-hand knowledge of particular actions, events or decisions that are being pursued by the inquiry. The success of any administrative inquiry may depend on the success in finding and obtaining the testimony of witnesses who can provide credible and reliable information as to the “who, what, when, where, why, and how” of particular incidents, actions or decisions. Witnesses who may have knowledge of the allegations should be contacted regardless of whether employed by the Department of Commerce, or the U.S. government. Though non-Commerce employees may not wish to speak with inquiry officials, if the interview will further the inquiry, an effort should be made to conduct the interview. Any refusal by an employee to be interviewed should be immediately brought to OIG’s attention and documented for inclusion in the operating unit’s report of inquiry.
 - **Subjects:** Subjects are individuals who reportedly committed improprieties, such as misconduct, mismanagement or other performance-related deficiencies.
- **Define the scope of the interview:** Before deciding to conduct an interview, inquiry officials should define the purpose of the interview to help shape the questions asked, and to serve as a check if the interview charts an unexpected course. Though interviews should ultimately help substantiate or refute the allegations being pursued, individual interviews should generally aim to accomplish one or often more of the following:
 - Acquire new facts about the allegation, or relevant circumstances;

- Explain or expand upon information previously acquired;
 - Verify what other witnesses heard, said, did or observed;
 - Clarify, identify, and/or explain documents already obtained; or
 - Allow an opportunity for subjects to admit, deny, or explain their particular roles or actions related to the allegations.
- **Prepare thoroughly for the interview:** Before conducting an interview, inquiry officials must have a clear understanding of the background of the matter, the issues/allegations involved, and the applicable laws, regulations, and policies regarding the issues/allegation. Inquiry officials should prepare a written line of questioning in advance of any interview. Inquiry officials should be aware of the scope of probable knowledge of interviewees based on available information concerning the individuals, the positions they hold, and their roles in the particular matter. The initial contact with the interviewee sets the stage and the tone for the interview and the extent to which the individual is cooperative.
 - **Choose a neutral space to conduct the interview:** Inquiry officials should take care to decide where to conduct the interview. If possible, avoid conducting the interview in the interviewee's office. Choose a more neutral territory, such as a conference room or other office. The inquiry official should arrive ahead of time and arrange the area in a manner conducive to a successful interview. For example, arranging the chairs to promote good alignment with the interviewee, and eliminating items that act as barriers can help facilitate a successful interview.
 - **Advisement prefacing employee interview:** At the outset of any interview, it is important that the inquiry official advise the employee that the inquiry is administrative in nature and, as such, they are obligated under DAO 207-10 to fully cooperate.
 - **Be considerate of the interviewee:** The privacy of each individual interviewed should always be considered. The inquiry official should conduct the interview in a place that will be free from interruption and will permit the interviewee to speak candidly without a fear of being overheard. Interviewees should not be subjected to inappropriate questions or unnecessary inquiry into their private affairs. It is important that the inquiry official disclose contact with any interviewee only to those persons having a need to know.
 - **Advisement at conclusion of interview:** It is important that the inquiry official request that the interviewee not discuss the interview with anyone having any potential, even remote, involvement in the inquiry matter.

- **Important reminders:**

- ***Union representative:*** Consistent with current prevailing law, employees who are bargaining unit members may be permitted to have a union representative present during interviews.
- ***Attorney representation:*** Department of Commerce attorneys may not represent an employee during an interview as they represent the agency only and may not act on behalf of an employee. An employee may retain a private attorney at personal expense to serve as an interview witness; however, the attorney may not answer questions on behalf of the interviewee.
- ***Be discrete while managing information:*** In order to minimize the interviewer's influence on the interviewee and protect the integrity of the inquiry, do not reveal more information about the allegation than is absolutely necessary. Do not reveal information during interviews that would violate any employee's rights under the Privacy Act. Be discrete.

6 – Evaluating the Information and Evidence

The standard in an administrative inquiry for whether an issue/allegation is substantiated is *preponderance of the evidence*, which means over 50 percent of the information and evidence disclosed by the inquiry supports a finding of substantiation. It is critical that the analysis and evaluation of evidence, like all other elements of the inquiry, be sound, coherent, and well-documented.

- **Determine the relevance and significance of the evidence collected:** In reviewing the documentary and other evidence collected in the case, inquiry officials should consider whether the evidence substantiates or refutes the issues/allegations. How reliable is the evidence itself? Is there any evidence that casts doubt on allegations? It is essential for inquiry officials to consider and note in the report any credible exculpatory information regarding subjects of the inquiry.
- **Determine the credibility of interviewees:** In seeking and obtaining information from persons, the inquiry official must evaluate and weigh the credibility of the person and the accuracy and reliability of the information he or she provides; these considerations may be interdependent.
 - Consider whether the person was physically, organizationally, functionally, or otherwise capable of having observed, heard, understood, or otherwise accessed the particular information. An added test is the consistency of the person's interview statements to information inquiry officials already know to be true.
 - Consider the way in which the person responds to questioning, e.g., how careful he or she was in thinking before speaking, in explaining answers, or simply in responding to the question. Any notable signs of tension or nervousness, resistance, body language, and inconsistent statements should also be noted. Any revealed or perceived biases of the person should also be considered in assessing his or her credibility.
 - Consider whether testimony provided in interviews helps to corroborate other evidence collected, or whether it conflicts with other evidence. Note that differing accounts of an incident are different than conflicting accounts. Also note that in some cases identical statements may give reason for suspicion to the same degree that conflicting statements do.
- **Determine the status of the allegations:** Individual allegations should be classified as substantiated, unsubstantiated, unfounded, or lacking merit.
 - **Substantiated:** This indicates that the inquiry found sufficient evidence to justify a conclusion that the events and circumstances contained in the complaint occurred;
 - **Unsubstantiated:** This indicates that the inquiry did not find sufficient evidence to justify a conclusion that the events and circumstances contained in the complaint occurred;

- ***Unfounded:*** This indicates that the issues/allegations presented in the complaint were found to be not factual or that the identified subject was not involved in the matter;
- ***Lacking Merit:*** This indicates that that the allegation was found to be either trivial in nature, or not related to the affairs of the Department of Commerce.

7 – Preparing the Response to OIG

At the conclusion of the inquiry, the inquiry official prepares a detailed response summarizing the methodology and inquiry activities that took place, whether the issues/allegations were substantiated, and any recommended administrative action (if any) to be considered by operating unit management. Upon receipt, OIG reviews the report to assess the sufficiency of inquiry, pursuant to OIG's oversight responsibilities under the IG Act. Generally, OIG's sufficiency review should precede the operating unit taking corrective action for identified program-related improprieties (e.g., mismanagement) or employee misconduct. If circumstances dictate taking immediate administrative action, prior to OIG completing its sufficiency review, the operating unit should discuss this with OIG in advance. OIG's sufficiency review may entail requesting supporting documents as part of the review, so ensure that all evidentiary documents, interview notes, and other case materials are saved and organized. If OIG's assessment is that the inquiry was not sufficient—if it did not fully address the issues/ allegations or was not otherwise conducted properly—OIG will send a memorandum to the operating unit identifying steps to be taken and/or meet with the operating unit. In certain instances, OIG will conduct follow-on investigative activities.

Regardless of the outcome of the inquiry, it is important that the response to OIG clearly document the following:

- That the inquiry was carried out by an impartial official not in the chain of command of the subject(s);
- Names, titles, and grades of individuals who were involved in conducting the inquiry;
- The methodology of the inquiry;
- Detailed findings for each issue/allegation, and a specific explanation for any issue/allegation not addressed during the inquiry;
- Description of any recommended corrective action taken based on the inquiry findings; and
- Point of contact for OIG to contact for any additional information or follow-up.

Contacting the OIG

The Office of the Inspector General welcomes contact from Commerce employees, members of the public, and the media.

- **OIG Complaint Intake Unit:**
 - U.S. domestic, toll-free phone number: **800-424-5197**
 - Telecommunication Devices for the Deaf (TDD) toll-free: **800-854-8407**
 - Washington, DC phone number: **202-482-2495**
 - Washington, DC TDD: **202-482-5923**
 - Fax, Washington, DC phone number: **202-482-2803**
 - Email address: **hotline@oig.doc.gov** at website: **<http://www.oig.doc.gov/Pages/online-hotline-complaint-form.aspx>**
 - U.S. Mail address: **Office of Inspector General
Complaint Intake Unit, Mail Stop 7886
1401 Constitution Ave NW
Washington, DC 20230**
- **Acting Director of Special Investigations and Complaint Analysis:** (b) (6) is the Acting Director of Special Investigations and Complaint Analysis. She can be reached at (b) (6) or (b) (6)@oig.doc.gov.
- **Assistant Inspector General for Investigations:** (b) (6) is the Assistant Inspector General for Investigations. He can be reached at (b) (6) or (b) (6)@oig.doc.gov.
- **Principal Assistant Inspector General for Investigations:** Rick Beitel is the Principal Assistant Inspector General for Investigations & Whistleblower Protection. He can be reached at (202) 482-2558 or rbeitel@oig.doc.gov.

Appendix A – DAO 207-10, DOO 23-1, and DOO 10-13

Department Administrative Orders (DAOs) are used to document and mandate continuing policies, standards requirements, and procedures prescribed by the Office of the Secretary for Department-wide application or for application to two or more major program areas of the Department. The DAOs cover substantive program matters as well as administrative management, legal, or special staff functions. Department Organization Orders (DOOs) are used to prescribe the basic management structure and organizational arrangements of the Department of Commerce. DOOs are issued for each Secretarial Officer, Departmental Office, and Operating Unit of the Department of Commerce.

Attached are DAO 207-10, DOO 23-1, and DOO 10-13. [Note: Re: Section 3.05(d) of DAO 207-10, pursuant to the IG Act, OIG encourages reporting alleged whistleblower reprisal to OIG. Along with the U.S. Office of Special Counsel, OIG investigates alleged reprisal against DOC employees and contractors who make protected disclosures concerning suspected fraud, waste, abuse, and mismanagement.]

INSPECTOR GENERAL INVESTIGATIONS

Number: DAO 207-10

Effective Date: 2006-10-19

SECTION 1. PURPOSE.

.01 This Order prescribes the policies and procedures for the initiation and conduct of investigations by the Office of Inspector General (OIG), for the action to be taken on investigative reports, and for other matters relating to investigations and investigative activities conducted by the OIG Office of Investigations (OI).

.02 This revision generally updates the Order to reflect investigative policies and procedures of the OIG not previously contained in the Order.

SECTION 2. AUTHORITY.

.01 The Inspector General has the authority to conduct and supervise investigations relating to the activities, programs, and operations of the Department of Commerce (the Department) as provided in the Inspector General Act of 1978, as amended, 5 U.S.C.A. Appendix 3 (the Act). All investigative activities not otherwise authorized to the Department or its operating units are the responsibility of the OIG and shall be carried out by or under the direction of the OIG's Office of Investigations headed by the Assistant Inspector General for Investigations (AIGI).

.02 In conducting its investigative function for the Department, the Inspector General is authorized, under the Act, to have access to all records, reports, audits, reviews, documents, papers, recommendations and other material available to the Department that relate to Department programs and operations.

SECTION 3. MATTERS TO BE REPORTED TO THE OIG.

.01 Scope. The Act requires the OIG to conduct and supervise investigations and other activities designed to prevent and detect fraud, waste, and abuse in Department programs and operations, and, to that end, authorizes the Inspector General, through the AIGI, to investigate activity which may constitute mismanagement, waste of funds, abuse of authority, or a violation of law or regulation. Accordingly, information indicating the possible existence of any of these activities is to be reported to the OIG in accordance with Section 4 of this Order. If a Department official or employee has any question about whether a particular matter should be reported to the OIG, the official or employee should contact the OIG Hotline (see paragraph 4.01 of this Order).

.02 Examples. Matters to be reported to the OIG include, but are not limited to, the following:

- a. Theft, conversion, misappropriation, embezzlement or misuse of government funds or property by any person, including a Department official, employee, grantee, contractor, or recipient of financial assistance;
- b. Submission of a false claim or a false statement to the Department by any person, including a Department official, employee, grantee, contractor, or recipient of financial assistance;

- c. Concealment, removal, obliteration, falsification, forgery, alteration, or unauthorized destruction of government records;
- d. Fraud or conspiracy to defraud the government or a government official in connection with any matter relating to the programs and operations of the Department;
- e. Bribery, extortion, blackmail, or any attempt to bribe, extort or blackmail a Department official or employee;
- f. Conflicts of interest involving a Department official or employee, or other violations of the standards of ethical conduct by a Department official or employee;
- g. Reprisal against a Department employee for making a complaint, reporting information or otherwise assisting or cooperating with the OIG; and
- h. Serious mismanagement or abuse of authority by a Department official or employee.

.03 Matters disclosed by outside law enforcement authorities. The Federal Bureau of Investigation and other investigative agencies may be involved in cases relating to programs and operations of the Department. Matters required to be reported to the OIG under this Section that may be brought to the attention of a Department officer or employee by an outside investigatory or law enforcement agency should be reported to the OIG.

.04 Sanctions for failing to report. Knowing failure of a Department officer or employee to comply with the reporting requirements prescribed by this Order may result in disciplinary action in accordance with DAO 202-751.

.05 Matters not required to be reported to the OIG.

- a. Thefts of personal or non-Commerce property should be reported to local law enforcement officers or the Office of Security, as appropriate. Assistance of these authorities should be sought where there is an imminent threat of harm to the safety or security of persons or property on Department premises, e.g., robberies, assaults, disorderly conduct, or vandalism.
- b. Violations of statutes or regulations governing the classification and handling of national security or intelligence information, administratively controlled information, and physical security shall be reported to the Office of Security or other appropriate officials in accordance with DAO 207-1.
- c. Violations of statutes or implementing regulations administered by a Department organizational unit charged with enforcing a regulatory scheme through a compliance program (e.g., the National Marine Fisheries Service's Office of Protected Resources, the Bureau of Industry and Security's Office of Export Enforcement) shall be reported to the appropriate unit.
- d. In view of other available avenues of redress, the OIG does not normally investigate (1) individual complaints of discrimination based on race, color, national origin, religion, sex, age, sexual preference, or disability, or (2) other personnel matters (except reprisals for contacts with the OIG) where personal relief is sought, such as employee grievances and complaints of prohibited personnel practices (including reprisal for whistleblowing). These matters should be referred to the Department's Office of Civil Rights, the Merit Systems Protection Board or the U.S. Office of Special Counsel, as appropriate.

SECTION 4. PROCEDURES FOR REPORTING TO THE OIG; REQUESTS FOR INVESTIGATIONS.

.01 **Hotline.** The OIG maintains a dedicated telephone line, post office box, and e-mail address for reporting allegations. The toll-free number is 1-800-424-5197 (or Telecommunication Devices for the Deaf (TDD): 1-800-854-8407). The local Washington, D.C. number is 202-482-2495 (or TDD: 202-482-5923). The OIG Hotline address is: Ben Franklin Station, Post Office Box 612, Washington, D.C. 20044. The OIG Hotline e-mail address is: hotline@oig.doc.gov.

.02 **OIG Offices of Investigations.** Criminal investigators are available to receive information and complaints in OIG headquarters and in OI field offices. Contact information is available on the OIG web site at: www.oig.doc.gov.

.03 **Confidentiality.** The OIG shall not, after receipt of a complaint or information from a Department officer or employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

.04 **No Reprisal.** No employee or official who has authority to take, direct others to take, recommend, or approve any personnel action, shall direct any employee to refrain from making a complaint, reporting information or cooperating with the OIG. Further, no employee or official shall take or threaten to take any action against any employee as a reprisal for making a complaint, disclosing information to or cooperating with the OIG, or for evidencing an intention to do so, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

SECTION 5. INVESTIGATIONS; ACTION ON INVESTIGATIVE REPORTS AND RECOMMENDATIONS.

.01 **Action on complaints.** Upon receipt of a complaint, OI will create and maintain a record of the complaint, and may:

- a. Open and undertake an investigation;
- b. Refer the information to another OIG office (e.g., Office of Audits, Office of Inspections and Program Evaluations, Office of Systems Evaluation);
- c. Refer the matter to or coordinate OIG investigative activities with another Federal, State or local law enforcement authority; or
- d. In appropriate cases, where the information received concerns minor administrative, managerial or personnel issues that do not require the specialized skills of OI for determination of the facts, OI may refer the matter to an appropriate Department operating unit or agency for its information or may request the operating unit or agency to conduct an independent inquiry and report its results to the AIGL. In such cases, the operating unit or agency shall report its findings, or if the inquiry is not concluded shall report its progress, within 60 days of the referral and every 60 days thereafter until the inquiry is completed. In its final report to the AIGL, the operating unit or agency should include a statement describing any administrative or disciplinary action taken as a result of the inquiry.

.02 **Referrals to the Attorney General.** The OIG shall report expeditiously to the Department of Justice whenever the OIG has reasonable grounds to believe there has been a violation of federal criminal

law.

.03 Reports of Investigation. Upon completion of an investigation, the AIGI may transmit a written Report of Investigation (ROI), including investigative findings, conclusions and recommendations, to the head of the appropriate operating unit or agency. Administrative control of ROIs and related materials transmitted by the OIG shall be subject to Section 7 of this Order.

.04 Action on Reports of Investigation. Within 60 days of the issuance of an ROI recommending administrative or disciplinary action, the head of the operating unit or agency shall advise the OIG of any administrative or disciplinary action taken or planned in response to the findings and recommendations in the ROI. To the extent that the action has not been completed within the 60-day period, the operating unit or agency shall submit progress reports to the OIG every 90 days thereafter until all action has been concluded.

.05 Quality Standards. OI manages its activities using a quality control system designed to assure that established professional standards, policies, and procedures are adhered to in the conduct of investigations, report of findings, and closure of investigative cases, and in performing all other aspects of its assigned duties. OI conducts a quality assurance program in accordance with guidelines prescribed by the Attorney General and the investigative standards promulgated by the President's Council on Integrity and Efficiency in order to ensure that OIG investigative activities adhere to established procedures and comply with appropriate standards.

SECTION 6. COOPERATION WITH OIG INVESTIGATIONS.

.01 Access by the OIG to agency records. Each Department organizational unit, officer, and employee, shall furnish the OIG promptly upon request access to and copies of all records, documents, papers, data or other information requested. Each organizational unit shall also provide the necessary authorizations for OIG access to computer and other data when such are maintained by another government agency or by any outside contractor, grantee, or other recipient of Department financial assistance.

.02 Department officers and employees.

a. Department officers and employees shall cooperate fully with any OIG investigation; shall not withhold information or documentary materials from the OIG; shall furnish sworn oral or subscribed statements upon request, subject to subparagraph .02b of this Section; and shall answer questions relating to their employment and to matters coming to their attention in their official capacity or by reason of their employment.

b. Department officers and employees may assert their Fifth Amendment right to refuse to answer questions on the grounds that the answers might be used against them in a criminal proceeding. An employee who asserts his or her Fifth Amendment right against self-incrimination may not be disciplined solely for remaining silent. However, an employee's silence may be considered, in taking disciplinary action, for its evidentiary value as warranted by the facts surrounding the case.

.03 Failure to cooperate with OIG investigation. Department officers and employees who refuse to answer questions or otherwise cooperate with an OIG investigation may be disciplined. In the case of a criminal investigation, an employee may be disciplined for refusing to cooperate with the OIG if, after receiving either a grant of immunity from criminal prosecution or being advised of a declination of prosecution by the Department of Justice or other prosecuting authority, the employee continues to refuse to cooperate with the investigation.

SECTION 7. CONTROL OF INVESTIGATIVE REPORTS AND RELATED MATERIALS: DISCLOSURE OF INFORMATION.

.01 Dissemination of Reports of Investigation and Related Materials.

a. ROIs, including all exhibits thereto, interim investigative reports, memoranda transmitting such reports, notifications of referral to the Department of Justice, OIG summaries, reports of disposition by the Department of Justice, and related materials shall be considered to be marked "For Official Use Only," and are subject to applicable Department regulations concerning administratively controlled material. Such materials may be shared only with those agency officials who have a need for the information in the exercise of their official duties. No other dissemination or release of these documents may be made without the prior express written approval of the Counsel to the Inspector General.

b. The materials noted in subparagraph .01a of this Section shall not be discussed with or provided to the subject of an investigation or to the subject's representative(s) without the prior express approval of the OIG.

c. All Department operating units, officials, and employees receiving OIG ROIs and/or related documents must safeguard them from inappropriate release or disclosure. None of the information contained in these documents may be disseminated to any third parties except as required by law, or as necessary to implement disciplinary or administrative action on the findings and recommendations in the report.

d. Operating units and officials receiving requests under the Freedom of Information Act (FOIA) or Privacy Act for any of the materials noted in subparagraph .01a of this Section shall refer all such requests, promptly upon receipt, to the OIG FOIA Officer. Nothing herein is intended to derogate from the authority of program officials to process and respond to Privacy Act or FOIA requests for the operating unit's records.

e. When all administrative actions relating to the materials noted in subparagraph .01a of this Section are completed, the Department operating unit shall return all the materials to the OIG without retaining copies, except when express written OIG approval has been given or where such materials have become part of a record in an administrative or other proceeding.

.02 Disclosure of information in response to inquiries from third parties. Inquiries from the media or other third-party entities for information or comment relating to an OIG investigation, including matters under investigation or prosecution by Federal, State or local authorities, shall be referred to the OIG Office of Counsel.

SECTION 8. LIAISON WITH LAW ENFORCEMENT AGENCIES ON INVESTIGATIVE MATTERS.

The OIG shall be the Department liaison with Federal, State, and local law enforcement and investigative agencies, with respect to information reported under paragraph 3.02 of this Order and all matters, policies, and activities relating to the prevention, detection, and redress of fraud, waste, mismanagement, serious abuses of authority, and violations of law, regulation or ethical standards in the programs and operations of the Department.

SECTION 9. NAME CHECKS AND VETTING CHECKS.

.01 Name Checks.

a. A "name check" is an inquiry performed by OI to obtain criminal history which may be relevant to the Department's decisions with respect to an award of financial assistance. As used in this Order, name checks refer only to those inquiries performed as part of the preaward screening process conducted by the OIG Office of Audits pursuant to paragraph 3.07 of DAO 213-3; they do not refer to criminal history inquiries that the OIG undertakes in connection with its own investigations.

b. It is the Department's policy to request the OIG to perform name checks to help determine the responsibility of individuals who, either in their individual capacities or as key officers, employees or representatives of a corporation, organization or other legal entity, are applicants for financial assistance from the Department or one of its organizational units.

.02 Vetting Checks.

a. A "vetting check" is an inquiry performed by OI to obtain information from the OIG investigative case data system which may be relevant to the Department's decisions with respect to the appointment or promotion of certain employees; appointments to Department boards, commissions, or advisory committees; selection of DOC employees or private individuals or organizations for particular honors or awards; or the selection of private individuals or organizations to participate in certain activities sponsored by the Department or in particular meetings or other official interactions with Department officers or employees.

b. It is the Department's policy to request the OIG to perform vetting checks in aid of the nomination processes for the appointment and promotion of officers in the NOAA Corps and the Foreign Service; the appointment of private individuals to Department boards, commissions, and advisory committees; selections for Gold and Silver Medals, Malcolm Baldrige National Quality Awards, and Presidential Rank Awards; and the selection process for participants in trade missions and similar activities sponsored by the Department.

SECTION 10. EFFECT ON OTHER ORDERS.

.01 This order supersedes DAO 207-10, dated January 19, 1981.

.02 All Department Administrative Orders, to the extent that they contain inconsistent provisions, are hereby constructively amended to conform to the provisions of this Order.

Signed by: Inspector General

Approved by: Secretary of Commerce

OFFICE OF INSPECTOR GENERAL

Number: DOO 23-1

Effective Date: 2006-08-31

SECTION 1. PURPOSE.

.01 This Order prescribes the organization and functions of the Office of Inspector General (OIG) established in the Department of Commerce (the Department) under the Inspector General Act of 1978, 5 U.S.C.A. Appendix 3 (the Act). The scope of authority and functions of the Inspector General are set forth in Department Organization Order 10-13.

.02 This revision updates the Order to incorporate previous amendments and to reflect the current organizational structure of the OIG, including the establishment of the Office of Systems Evaluation, title changes to certain offices within the OIG, and realignment of various functions and responsibilities among the offices. Specifically, the Office of Compliance and Audit Resolution has been re-titled as the Office of Administration, and the Office of Inspections and Resource Management has been re-titled as the Office of Inspections and Program Evaluations. In concert with these actions, all resource management and administrative functions have been transferred from the former Office of Inspections and Resource Management to the Office of Administration; inspection and program evaluation functions are now shared by the Office of Inspections and Program Evaluations and the Office of Systems Evaluation; and responsibility for audit resolution and follow-up has been reinstated in the Office of Audits from the former Office of Compliance and Audit Resolution.

SECTION 2. ORGANIZATION.

The OIG, directed by the Inspector General, is composed of the immediate office of the Inspector General, the Office of Audits, the Office of Investigations, the Office of Inspections and Program Evaluations, the Office of Systems Evaluation, the Office of Administration, and the Office of Counsel to the Inspector General. The OIG conducts its operations at headquarters offices located in the Herbert C. Hoover Building in Washington, D.C., and at such regional and field offices as may be established by the Inspector General.

SECTION 3. OFFICE OF AUDITS.

.01 Organization. The Office of Audits (OA) will be headed by an Assistant Inspector General for Auditing (AIGA), who shall be responsible for supervising the performance of auditing activities relating to the programs and operations of the Department, and will report and be responsible to the Deputy Inspector General and the Inspector General. The AIGA will supervise the performance of all functions and duties assigned to the OA by the Inspector General; will be advisor to, and serve as representative of, the Inspector General on all audit matters; will advise other Department officials regarding these matters; and will represent the Department with officials of other Federal agencies or other public or private groups regarding audit matters. The AIGA may arrange with other Federal, State, and local agencies, and with other private organizations, to perform audits of Departmental programs.

a. The AIGA may be assisted by a Deputy Assistant Inspector General for Auditing (DAIGA), and a Deputy Assistant Inspector General for Regional Audits (DAIG/RA), who reports to the DAIGA. The

DAIGA and the DAIG/RA will be the chief operating aides to the AIGA on audit matters; will be responsible for the day-to-day management of the OA staff and for supervising the quality control of audits and audit reports; and will perform other duties and functions as the AIGA may assign. The DAIGA will perform the duties and functions of the AIGA in his or her absence.

b. The functions and duties of the OA will be carried out by headquarters audit divisions, regional audit offices, and such other offices or specialized units as may be established to facilitate the performance of OA's assigned responsibilities.

1. Each headquarters audit division will be headed by a Director, who reports to the DAIGA, and is responsible for conducting audits and audit related activities as directed by the DAIGA.

2. Each regional audit office will be headed by a Regional Inspector General for Audits, who reports to the DAIG/RA, and is responsible for conducting audits and audit related activities as directed by the DAIG/RA.

.02 Functions. The OA will conduct, supervise, and coordinate audits of all organizational units and activities of the Department; will review the operating, administrative, and financial activities of the Department's operating units, including reviews to determine compliance with applicable laws, economy, efficiency, and achievement of program goals; and will conduct such other activities as may be assigned to facilitate the accomplishment of the OIG's mission.

a. The primary categories of audits conducted by the OA are described below:

1. Financial Audits. Financial audits include: financial statement audits, and financial assistance and contract audits.

(a) Financial statement audits are primarily concerned with providing reasonable assurance about whether the financial statements of an audited entity are presented fairly in all material respects and in conformity with generally accepted accounting principles.

(b) Financial assistance and contract audits include determining whether financial information is presented in accordance with established or stated criteria, whether the entity has adhered to specific financial compliance requirements, and whether the entity's internal control structure over financial reporting is suitably designed and implemented to achieve the control objectives.

2. Performance Audits. A performance audit is an objective and systematic examination for the purpose of providing an independent assessment of the performance of a government organization, program, activity, or function in order to provide information to improve public accountability and facilitate decision making by parties with responsibility to oversee or initiate corrective action. Performance audits include economy and efficiency audits and program audits.

3. Attestation Engagements. Attestation engagements concern examining, reviewing, or performing agreed upon procedures on a subject matter or an assertion about a subject matter and reporting on the results. The subject matter of the attestation engagement may take many forms, including historical or prospective performance or condition, historical events, analyses, or systems and processes. Attestation engagements can cover a broad range of financial or nonfinancial objectives such as: an entity's internal control over financial reporting; an entity's compliance with requirements of specified laws, regulations, rules, contracts, or grants; management's discussion and analysis presentation; reliability of performance measures; and allowability and reasonableness of final grant and contract costs.

b. The OA will conduct resolution and follow-up on all recommendations made in OIG audit reports, and will review reports on audits performed by State or local governments or other independent audit organizations, and where appropriate, will conduct resolution and follow-up of findings and recommendations made in such reports. The OA's responsibilities for resolution and follow-up will include:

1. Evaluating operating unit responses and proposed actions on OIG recommendations; resolving disputes between OIG auditors and management officials; liaison with the Department's audit follow-up official; and assistance to the Inspector General in his or her role as a member of the Department's Audit Resolution Council.
2. Evaluating the Department's implementation of corrective actions; identifying cases in which audit recommendations have been ignored or circumvented; and recommending specific corrective actions.
3. Maintaining, in conjunction with the Office of the Secretary, a tracking system for all audit findings and recommendations; and preparing reports and conducting such other activities relating to audit resolution and follow-up as required by the Act, relevant OMB Circulars, and DAO 213-5.

SECTION 4. OFFICE OF INVESTIGATIONS.

.01 Organization. The Office of Investigations (OI) will be headed by an Assistant Inspector General for Investigations (AIGI), who shall be responsible for supervising the performance of investigative activities relating to programs and operations of the Department, and will report and be responsible to the Deputy Inspector General and the Inspector General. The AIGI will supervise the performance of all functions and duties assigned to the OI by the Inspector General; will be advisor to and serve as the representative of the Inspector General on all investigative matters; will advise Department officials regarding OIG investigative matters; and will represent the Department with officials of the Department of Justice and other Federal agencies or other public or private groups regarding investigative matters covered by the Act.

- a. The AIGI may be assisted by a Deputy Assistant Inspector General for Investigations (DAIGI), who will be the chief operating aide to the AIGI on investigative matters; will be responsible for the day-to-day management of the OI staff and for supervising the quality control of investigations and investigative reports; will perform other duties and functions as the AIGI may assign; and will perform the functions and duties of the AIGI in his or her absence.
- b. The functions and duties of the OI will be carried out by field offices and such other offices or specialized units as may be established to facilitate the performance of the OI's assigned responsibilities. Each field office will be headed by a Special Agent in Charge (SAC), who reports to the DAIGI, or a Resident Agent in Charge (RAC), who reports to a SAC.

.02 Functions. The OI will conduct, supervise, and coordinate criminal, civil, and administrative investigations of Department employees, programs, and operations, as authorized by the Act; will perform related activities designed to prevent and detect fraud, waste, and abuse in the programs and operations of the Department; and will conduct such other activities as may be assigned to facilitate the accomplishment of the OIG's mission.

SECTION 5. OFFICE OF INSPECTIONS AND PROGRAM EVALUATIONS.

.01 Organization. The Office of Inspections and Program Evaluations (OIPE) will be headed by an Assistant Inspector General for Inspections and Program Evaluations (AIG/IPE), who will report and be responsible to the Deputy Inspector General and the Inspector General.

a. The AIG/IPE will supervise the planning and performance of inspections and program evaluations relating to programs and operations of the Department; will advise and represent the Inspector General on matters regarding inspections and program evaluations; will advise Department officials regarding these matters; and will represent the OIG with officials of other Federal agencies or other groups regarding inspections and program evaluation matters.

b. The AIG/IPE may be assisted by a Deputy Assistant Inspector General for Inspections and Program Evaluations (DAIG/IPE) who will be the chief operating aide to the AIG/IPE on inspections and program evaluations; will be responsible for the day-to-day supervision of the OIPE staff and of the quality control of inspections and program evaluations; will perform other duties and functions as the AIG/IPE may assign; and will perform the duties and functions of the AIG/IPE in his or her absence.

.02 Functions. The OIPE will conduct, supervise and coordinate inspections and program evaluations of all programs, operations, and organizational units of the Department, except those pertaining to information technology (IT) and systems, which will be conducted by the Office of Systems Evaluation, as set forth in Section 6 of this Order; and will conduct such other activities as may be assigned to facilitate the accomplishment of the OIG's mission.

a. An inspection is a brief review of a Department program, operation or activity intended to gather current information about administrative and programmatic problems while there is time to correct them, and to highlight for Department managers those activities that are being performed well. Inspections may cover individual offices, divisions, branches, units, field offices, or other Department facilities, installations, or property; and may review program or administrative areas, functions, services, or processes without regard to organizational placement in the Department, including functions and services provided by contractors, or activities conducted by other parties dealing with the Department, including recipients of financial assistance.

b. Program evaluations are in-depth reviews of specific management issues, policies, or programs.

SECTION 6. OFFICE OF SYSTEMS EVALUATION.

.01 Organization. The Office of Systems Evaluation (OSE) will be headed by an Assistant Inspector General for Systems Evaluation (AIG/SE), who will report and be responsible to the Deputy Inspector General and the Inspector General.

a. The AIG/SE will supervise the planning and performance of inspections and evaluations of the Department's information technology and other systems, programs, and assets; will advise and represent the Inspector General on matters regarding systems inspections and evaluations; will advise Department officials regarding these matters; and will represent the OIG with officials of other Federal agencies or other public or private groups regarding systems inspections and evaluation matters.

b. The AIG/SE may be assisted by a Deputy Assistant Inspector General for Systems Evaluation (DAIG/SE), who will be the chief operating aide to the AIG/SE on systems evaluations and inspections; will be responsible for the day-to-day supervision of the OSE staff and of the quality control of systems evaluations and inspections; will perform other duties and functions as the AIG/SE may assign; and will perform the duties and functions of the AIG/SE in his or her absence.

.02 Functions. The OSE will conduct, supervise, and coordinate systems evaluations and inspections involving information technology and systems of all programs, operations, and organizational units of the Department; and will conduct such other activities as may be assigned to facilitate the accomplishment of the OIG's mission.

a. Systems evaluations are reviews of planning, acquisition, development, deployment, operations, maintenance, policy, and all related aspects, such as information security and contracts, for Department information technology systems and other systems. They address management, technical, operational, and contractual issues and seek to improve efficiency, effectiveness, and security. Systems evaluations are also conducted to help ensure that systems investments are well managed and maintain an appropriate balance between achieving technical requirements and managing costs, schedules, and other risks.

b. The OSE will conduct inspections, as described in subparagraph 02.a. above, involving information technology and systems of all organizational units and activities of the Department.

SECTION 7. OFFICE OF ADMINISTRATION.

.01 Organization. The Office of Administration (OADM) will be headed by an Assistant Inspector General for Administration (AIG/ADM), who will report and be responsible to the Deputy Inspector General and the Inspector General.

a. The AIG/ADM will supervise the provision and management of administrative resources and services to the OIG, and will be the principal advisor to the Inspector General on matters relating to OIG resource management, including planning, information and information technology management, personnel administration and security, budget formulation and execution, and support services; will advise and represent the Inspector General on resource management and administrative matters; will advise Department officials regarding these matters; and will represent the OIG with officials of other Federal agencies or other public or private groups regarding resource management and administrative matters.

b. The AIG/ADM may be assisted by a Deputy Assistant Inspector General for Administration (DAIG/ADM), who will be the chief operating aide to the AIG/ADM on resource management and administrative matters; will be responsible for the day-to-day supervision of the OADM staff; will perform other duties and functions as the AIG/ADM may assign; and will perform the duties and functions of the AIG/ADM in his or her absence.

c. The functions and duties of the OADM will be carried out by a Division of Human Resources Management, a Division of Information Technology Management, and such other offices or specialized units as may be established to facilitate the performance of OADM's assigned responsibilities.

.02 Functions. The OADM will be responsible for the provision and management of administrative resources and services for the OIG, as provided below; and will conduct such other activities as may be assigned to facilitate the accomplishment of the OIG's mission.

a. The OADM will direct and coordinate the OIG's efforts relating to strategic, tactical, and operational planning and organizational performance planning, measurement, and reporting, including the development and periodic update of its strategic plan, work plan, and other plans and reports as deemed necessary to support the accomplishment of the OIG's mission.

- b. The OADM will formulate, justify, and defend the OIG's annual budget requests; will develop its annual budget operating plan and oversee the plan's implementation; and will provide for sound financial management of the OIG by effectively monitoring and controlling costs and ensuring that budget outlays and obligations do not exceed appropriated funds and reimbursements.
- c. The OADM will develop and administer the OIG's management accountability and control program in accordance with the Federal Managers' Financial Integrity Act of 1982 (FMFIA) and OMB Circular No. A-123, "Management Accountability and Control," to include developing, maintaining, and overseeing the implementation of a management and financial control plan for OIG resources and activities, and preparing the OIG's annual statements on management and financial controls for inclusion in the Secretary's Annual FMFIA Report to the President.
- d. The OADM will administer the OIG's responsibilities relating to employee health and safety; security (personnel, facilities, information, systems, and other resources); and emergency preparedness, including continuity of operations planning and management.
- e. The OADM will administer the OIG's procurement program, including ensuring that the OIG has appropriate policies, systems, and procedures in place to acquire the goods and services it needs in a timely, efficient, and cost-effective manner.
- f. The OADM will manage travel and transportation services for OIG employees, including overseeing use of the contractor-issued government travel card.
- g. The OADM will administer the OIG's human resources function in accordance with the authorities established in the Act. This function includes recruitment; staffing; personnel security; position classification; employee relations, performance management and recognition; development and training; equal employment opportunity (EEO) and affirmative action; and personnel/payroll processing.
- h. The OADM will plan for, acquire, secure, control, and manage OIG office space, facilities, and personal property, and manage conference and meeting planning activities for the OIG.
- i. The OADM will provide for the effective planning, acquisition, and management of IT hardware, software, computer systems, networks, and e-mail services; will develop and administer an OIG-wide IT systems security program; provide for the periodic assessment, testing, certification, and accreditation of all OIG computer systems, networks, and applications; administer OIG systems; and provide IT support services to the OIG.
- j. The OADM will manage OIG information resources and records throughout their life cycle. This function includes responsibility for the compilation, preparation, and publication of the Inspector General's Semiannual Report to the Congress and other reports required by the Act; provision of writing, editing, graphic design, publishing, and administrative support for the production, cataloging, dissemination, and archiving of information products, such as audit and inspection reports, strategic plans, congressional testimony, and correspondence; administration of the OIG records management program; and management of the OIG website and information resources center.

SECTION 8. OFFICE OF COUNSEL TO THE INSPECTOR GENERAL

.01 Organization. The Office of Counsel to the Inspector General (OC) will be headed by a Counsel to the Inspector General (Counsel), who will report and be responsible to the Deputy Inspector General

and the Inspector General.

a. The Counsel will be the principal legal advisor to the Inspector General; will manage the provision of legal services to the Inspector General and the OIG staff; will represent the Inspector General on legal matters with the Department's Office of General Counsel and with other Department officials; and will represent the OIG with officials of the Department of Justice and other Federal agencies or other public and private groups regarding legal matters.

b. The Counsel may be assisted by a Deputy Counsel, who will be the chief operating aide to the Counsel; will be responsible for the day-to-day supervision of OC attorneys and other staff; will perform other duties and functions as the Counsel may assign; and will perform the duties and functions of the Counsel in his or her absence.

.02 Functions. OC will provide legal advice and counsel to the Inspector General, the Deputy Inspector General, the Assistant Inspectors General, and OIG staff in connection with the activities and operations of the OIG, including but not limited to the services set forth below; and will conduct such other activities as may be assigned to facilitate the accomplishment of the OIG's mission.

a. OC will advise the Inspector General and the Deputy Inspector General on the authorities and responsibilities of the OIG under the Act and other relevant statutes and regulations, and will provide legal advice and services to OIG staff on matters relating to the work of the OIG, including but not limited to, audits, inspections, program evaluations, investigations, Inspector General subpoenas, employee standards of conduct, Privacy Act and Freedom of Information Act requests, and personnel issues. On such matters, the Inspector General or the Counsel to the Inspector General may consult with the General Counsel. The Inspector General or Counsel to the Inspector General shall consult with the General Counsel on legal matters when they involve significant issues in important cases which may have a substantial impact on the operations of the Department. Where, in the judgment of the Inspector General, consultation on such significant issues would hinder or impede an audit, inspection, program evaluation, or investigation, the Inspector General may decline to consult.

b. The Inspector General and Counsel to the Inspector General shall consult with and give due regard to the opinion of the General Counsel on significant issues regarding all other legal matters, particularly program statutes and regulations, Department Orders, and general statutes such as the Freedom of Information Act and the Privacy Act.

c. OC will represent the OIG in interactions with the Department's Office of General Counsel and with other Department officials, with officials of the Department of Justice and other Federal agencies, and with other public and private groups; and will represent the OIG in criminal, civil, and administrative proceedings arising from OIG activities and operations, including audits, investigations, inspections, program evaluations, and personnel and administrative matters.

d. OC will prepare or review pleadings, briefs, memoranda, and other legal documents necessary for judicial or administrative proceedings involving the OIG or the Department, which are requested by the Department of Justice or the Office of General Counsel for use in such proceedings.

e. OC will provide legal and policy advice to the Inspector General in conjunction with the review of legislative and executive proposals relating to the management and operations of Department agencies and programs, including internal orders, regulations, guidelines, and policies; and will prepare or review comments, statements, or other expressions of the Inspector General's views or position on proposed or pending legislation, or other matters within the scope of the Inspector General's responsibilities, including the preparation or review of testimony to be given before a committee of

the Congress

.03 In the performance of the responsibilities of his or her office, the General Counsel will respect the independence and integrity of the OIG; in the performance of the responsibilities of his or her office, the Inspector General will give due regard to the authority of the General Counsel as chief legal officer for the Department.

SECTION 9. EFFECT ON OTHER ORDERS

This Order supersedes DOO 23-1, dated December 8, 1989, as amended.

Signed by: Inspector General

Approved by: Secretary of Commerce

INSPECTOR GENERAL

Number: DOO 10-13
Effective Date: 2006-08-31

SECTION 1. PURPOSE.

.01 This Order prescribes the scope of authority and functions of the Inspector General of the Department of Commerce. The organization of the Office of Inspector General (OIG) is set forth in Department Organization Order 23-1.

.02 This revision updates the Order to incorporate previous amendments, to remove a provision that is duplicative of the authority set forth in DOO 23-1, and to reflect title changes of certain subordinate officials who assist the Inspector General. Specifically, this Order changes the title of Assistant Inspector General for Inspections and Resource Management to Assistant Inspector General for Inspections and Program Evaluations, and the title of Assistant Inspector General for Compliance and Audit Resolution to Assistant Inspector General for Administration. This revision also establishes the position of Assistant Inspector General for Systems Evaluation.

SECTION 2. STATUS AND LINE OF AUTHORITY.

.01 The Inspector General Act of 1978 (the Act), 5 U.S.C.A. Appendix 3, established in the Department of Commerce (the Department) an Office of Inspector General headed by an Inspector General appointed by the President by and with the advice and consent of the Senate. The Act provides that the OIG is to be an independent and objective unit, that the Inspector General is to report to and be under the general supervision only of the Secretary or, to the extent such authority is delegated, the Deputy Secretary, and that the Inspector General may be removed from office only by the President.

.02 The Act further provides that neither the Secretary nor the Deputy Secretary shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation or from issuing any subpoena during the course of any audit or investigation. This proscription shall apply to all officers and employees of the Department.

.03 The Inspector General will have a Deputy Inspector General, who will serve as his or her principal assistant, performing such functions as the Inspector General shall assign or delegate; and shall perform the functions and duties of the Inspector General pursuant to 5 U.S.C. 3345 during the absence or disability of the Inspector General, or during a vacancy in the position of Inspector General.

.04 In addition to the Deputy Inspector General, the Inspector General will be assisted in carrying out his or her responsibilities by:

- a. The Assistant Inspector General for Auditing;
- b. The Assistant Inspector General for Investigations;
- c. The Assistant Inspector General for Inspections and Program Evaluations;

- d. The Assistant Inspector General for Systems Evaluation;
- e. The Assistant Inspector General for Administration;
- f. The Counsel to the Inspector General; and
- g. Such other subordinate officials and employees as the Inspector General may appoint for the purpose of carrying out assigned authorities and functions.

SECTION 3. AUTHORITIES AND FUNCTIONS.

- .01 The Inspector General has the authorities, duties, responsibilities, and functions established by the Act, as amended.
- .02 The Inspector General shall have for the OIG the same administrative authorities, apart from those established by the Act, as are delegated to Secretarial Officers and heads of operating units in Department Administrative Orders and other Departmental rules.
- .03 In response to requests from the Inspector General, the Secretary may from time to time transfer to the Inspector General such further functions, powers, or duties as the Secretary may determine are appropriate to the functions of the OIG and consistent with the purposes of the Act, provided that such functions, powers or duties do not constitute program operating responsibilities.
- .04 The Inspector General may delegate his or her authority to any official or employee of the OIG, and may authorize redelegation by any such official or employee, subject to such conditions as the Inspector General may prescribe.

SECTION 4. DEPARTMENTAL POLICIES.

- .01 The officers and employees of the Department shall cooperate fully with the officials and employees of the OIG and shall provide such information, assistance, and support as is needed for the OIG to properly carry out the provisions of the Act.
- .02 The Inspector General will comply with the substantive and procedural rules that are applicable to Departmental organizations and personnel, unless compliance with any particular rule or requirement would prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit, investigation, program evaluation or inspection or issuing any subpoena during the course of any such work, or would otherwise impair or interfere with the Inspector General's ability to fulfill his or her responsibilities under the Act. In the event of any serious conflict or dispute, the matter may be taken to the Secretary or Deputy Secretary.

SECTION 5. EFFECT ON OTHER ORDERS.

This Order supersedes Department Organizational Order 10-13, dated May 22, 1980, as amended.

Signed by: Secretary of Commerce

Appendix B – Sample Documents and Forms

Sample Referral with Response Required

Date

MEMORANDUM FOR: Official
Office
Operating Unit

FROM: (b) (6)
Acting Director
Special Investigations and Complaint Analysis

SUBJECT: Inspector General Action Referral No. PPC-CI-12-XXXX-H
Re: Case Title

The Office of Inspector General has received the attached information and is referring it to your office for action. Please conduct an inquiry into the complaint and submit a formal response to us detailing your results, including any administrative action your office may have taken and why. We will review your response and follow up on this matter as appropriate. We may also provide the complainant(s) a copy of your response, or the information contained therein, for their review and or comments (subject to applicable privacy restrictions).

To ensure objectivity, transparency and accountability for the referred complaint, it is imperative that your office's inquiry into this matter be conducted by impartial parties only; in other words, by personnel who are independent of, and removed from, those individuals and matters which are the subject of the complaint. We further expect that your inquiry will be methodologically sound and will thoroughly address each issue identified in the complaint.

Please provide us your formal response, together with any investigative report and or supporting documents, within 60 calendar days of the date of this letter. If your office's inquiry cannot be completed in the allotted time period, you may request a 60 day extension in writing prior to the date on which your response is due. Additional waiver requests must be submitted to the Assistant Inspector General for Investigations and will be reviewed on a case-by-case basis.

We thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me at (b) (6).

Attachment

U.S. Department of Commerce – Office of Inspector General
FOR OFFICIAL USE ONLY
(Public availability to be determined under 5 U.S.C. 552)

Sample Referral with No Response Required

Date

MEMORANDUM FOR: Official
Office
Operating Unit

FROM: (b) (6)
Acting Director
Special Investigations and Complaint Analysis

SUBJECT: Inspector General Referral No. PPC-CI-12-XXXX-N
Re: Case Title

We are referring the attached information to you for review and appropriate action. While we do not require a response to this referral, in the interest of ensuring objectivity, transparency, and accountability, we recommend that any inquiry you carry out regarding this matter be conducted by impartial parties only; that is, by personnel who are independent of, and removed from, those individuals and matters which are the subject of the complaint. Any such inquiry should also be methodologically sound and should thoroughly address each issue identified in the complaint.

We thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me at (b) (6)

Attachment

U.S. Department of Commerce – Office of Inspector General
FOR OFFICIAL USE ONLY
(Public availability to be determined under 5 U.S.C. 552)

Sample Letter to Complainant



UNITED STATES DEPARTMENT OF COMMERCE
Office of Inspector General
Washington, DC 20230

(Date)

(Full Name and Address)

Dear (Name):

The Office of the Inspector General (OIG) has received your correspondence and reviewed the information you provided. We have assigned complaint number: . After careful consideration, we decided upon the following course of action:

- ☐ Open an investigation into the allegation(s) you raised. An investigator will be contacting you to obtain further information and clarify your allegation(s).
- ☐ Refer your allegation(s) to management officials of the affected DOC component. [Note: If confidentiality was not already waived include the following text: "In order to address your allegations fully, we are requesting to provide your identity and contact information to those management officials. Please see the attached Confidentiality Waiver giving us permission to provide that information."]
- ☐ Refer your allegation(s) to an agency outside of DOC. Your allegation(s) was referred to . A representative of that agency MAY be contacting you for further information.

If you have any questions, please contact us again.

Sincerely,

(Director of Complaint Analysis)

Sample OIG Sufficiency Review Checklist

SUFFICIENCY REVIEW CHECKLIST FOR REFERRAL RETURNS

CASE NUMBER:

REVIEWER:

RESPONSE FORMAT:

A response letter/ correspondence from the DOC Component	
Report of Investigation (ROI)	
Other attachment(s)	

IMPARTIALITY:

Was the investigation/review conducted by a responsible official outside the subject's chain of command? Please identify.	
---	--

THOROUGHNESS:

Were interviews conducted?	
Was the complainant contacted, if his/ her identity is known?	
Were pertinent records reviewed?	
Were all complaint issues/allegations addressed?	
If yes, were the allegations [substantiated/ unsubstantiated/ some substantiated, some unsubstantiated]:	

SUMMARY OF COMPLAINT:

--

RESULTING ACTIONS OR RECOMMENDATIONS (IF ANY):

--

REMARKS/ADDITIONAL PERTINENT INFORMATION:

(Please note below if ROI and/ or attachments were not included in response; if the investigating official was not outside the subject's chain of command; which, if any, allegations were not addressed; if you do not agree with the bureau's actions/ recommendations, etc.)

Sample Independence Declaration**DECLARATION OF INDEPENDENCE**

Assignment Title: _____

Assignment Number: _____

I hereby certify that I am aware that in all matters related to this administrative inquiry, I must be free, both in fact and appearance, for the duration of this administrative inquiry, from all personal and external impairments arising from my interaction with any organizations, programs, and individuals involved in this inquiry.

I understand that if any such impairments exist, or arise, they can affect my impartiality in performing the administrative inquiry and reporting the results, and I must therefore withdraw from performing the inquiry.

I hereby certify that to the best of my knowledge and belief, I am free from any such impairments to independence and that if any impairment should arise during this inquiry, I will cease performing the inquiry and immediately bring the matter to the attention of my supervisor.

Printed Name _____

Title and Grade _____

Signature _____

Date _____

Appendix C – Employee Rights and Protections

Commerce employees have rights and protections concerning investigations. Depending on the specific circumstances, these may include:

- **Privacy Act:** The Privacy Act of 1974 prohibits the disclosure of covered records about an individual without written consent, unless the disclosure is pursuant to statutory exceptions.
- **Confidentiality:** The IG Act prohibits the OIG from disclosing the identity of an employee who makes a complaint or provides information to the OIG without that employee's consent, unless the Inspector General determines such disclosure is un-avoidable during the course of the investigation.
- **Whistleblower Protection:** Federal law provides protections for federal employees who engage in "whistleblowing," that is, making a disclosure to the Inspector General or certain other officials evidencing illegal or other improper government activities. The protections apply to most federal executive branch employees and generally become applicable when a personnel action is taken because of a protected disclosure made by a covered employee. The IG Act also provides additional protection, by prohibiting any reprisal against a Department employee for making a complaint to the OIG.
- **Union representative:** Consistent with current prevailing law, employees who are bargaining unit members may be permitted to have union representation during interviews.
- **Attorney representation:** Department of Commerce attorneys may not represent an employee during an interview as they represent the agency only and may not act on behalf of an employee. An employee may retain a private attorney at personal expense for representation during an interview.
- **Fifth Amendment:** Department officers and employees may assert their Fifth Amendment right to refuse to answer questions on the grounds that the answers might be used against them in a criminal proceeding. An employee who asserts his or her Fifth Amendment right against self-incrimination may not be disciplined solely for remaining silent. However, an employee's silence may be considered, in taking disciplinary action, for its evidentiary value as warranted by the facts surrounding the case.

Appendix D – FAQs about OIG Investigations

This set of Frequently Asked Questions (FAQs) is intended to provide Department of Commerce employees and managers with helpful information regarding the nature and scope of OIG investigative activities, as well as their obligations and rights in connection with OIG investigations. In the interest of transparency, these FAQs (which are also posted on OIG's public website) are provided to promote greater understanding of OIG's processes.

What is an OIG investigation?

A: Generally, an investigation is carried out to resolve specific allegations, complaints, or information concerning possible violations of law, regulation, or policy. In contrast, an OIG audit or evaluation is conducted to examine organizational program performance or financial management matters, typically of a systemic nature. Employees should be wary of media reports which tend to characterize any OIG activity as an investigation, even if the activity is an audit or evaluation.

The results of OIG investigations may be used for administrative action by the Department and its bureaus, as well as for criminal and civil action by the U.S. Department of Justice (DOJ). OIG does not have programmatic authority to conduct regulatory investigations.

What matters does OIG investigate and how do they originate?

A: OIG investigates a variety of matters, including allegations of fraud involving Commerce Department grants and contracts; anticompetitive practices (e.g., antitrust violations); improprieties in the administration of Department programs and operations; and serious allegations of employee misconduct. Along with the U.S. Office of Special Counsel (OSC), OIG also investigates alleged reprisal against whistleblowers.

OIG initiates investigations based on information received from a variety of sources, including: OIG's fraud, waste and abuse hotline; Departmental, GAO, and DOJ referrals; Congressional requests; and referrals from OSC regarding whistleblower disclosures. While anonymous complaints are accepted, they often present the greatest difficulty to investigate as there is not a person for OIG to contact for allegation particulars.

Who conducts OIG investigations?

A: OIG is staffed with trained, credentialed, and sworn special agents (criminal investigators who are federal law enforcement officers), as well as administrative investigators.

What is an employee's obligation during an OIG investigation?

A: Employees of the Department are required to cooperate fully with any OIG investigation, as prescribed by Departmental directives DAO 207-10, Section 6, and DOO 10-13, Section 4. Cooperation includes being fully candid and forthcoming when interviewed and providing any requested records in the employee's possession or to which he/she has access. DAO 207-10,

Section 2, makes clear that the Inspector General Act authorizes OIG to "have access to all records, reports, audits, reviews, documents, papers, recommendations and other material available to the Department that relate to Department programs and operations." OIG is authorized to access electronic records and data systems such as computers.

Employees are obligated to provide the best, most accurate and complete information. To prevent even the appearance that they are withholding pertinent information, employees should avoid narrowly construing interview questions or record requests, and promptly provide requested records. Even when only a general question or issue is posed, the employee should still respond with specific information they recognize as being potentially relevant.

What are an employee's rights in connection with an OIG investigation?

A: Employees may assert their Fifth Amendment right to refuse to provide information on the grounds that the information might be used against them in a criminal proceeding. An OIG investigation can only result in a criminal proceeding if DOJ accepts it for criminal prosecution. For a case that has been declined for potential criminal prosecution by DOJ, or did not require referral to DOJ, OIG investigators will provide the employee with a written advisement to such effect and the employee must then fully cooperate with OIG. This effectively grants immunity against criminal prosecution based on the employee's statements concerning the matter(s) covered by the advisement, unless the statements are found to be untruthful.

Can an employee discuss, with others, an OIG investigation?

A: Following an interview, it is inappropriate for an employee to discuss the nature of the questions or the content of the interview with other witnesses or any party having potential involvement in the investigation. Similarly, while employees may inform their management that they were contacted by OIG, it is not appropriate for management to question them specifically about questions asked or the content of interviews. Such actions, by employees or their management, could compromise the investigation. Management has a greater responsibility to avoid any action that would create a chilling effect on employee cooperation with OIG's investigation. OIG commonly requests that employees not discuss OIG interviews with their coworkers, subordinates, or supervisors. Thus, an employee's obligation to cooperate with the OIG's investigation extends beyond the time during which the employee is interviewed.

Can an employee decline to be interviewed?

A: With the exception of a situation as described above involving the right against self-incrimination, employees are obligated to cooperate fully, which includes being interviewed. DAO 207-10 provides that employees "shall furnish sworn oral or subscribed statements upon request." OIG cannot compel anyone to be interviewed; however, management can direct an employee to be interviewed as requested by OIG, and take disciplinary action if the employee declines.

Can a Department attorney represent an employee during an OIG investigation or interview?

A: No. Government attorneys represent the agency only and may not act on behalf of an employee. An employee may retain a private attorney at personal expense for representation during an OIG investigation or interview. Consistent with current prevailing law, employees who are bargaining unit members may be permitted to have union representation present during interviews.

How is an OIG interview memorialized?

A: Under Departmental directives DAO 207-10 and DOO 10-13, OIG investigators have authority to take sworn, written statements (i.e., affidavits). Additionally, pursuant to OIG policy, investigators may audio or video-record interviews. Recording is to the benefit of all parties, as it ensures a definitive record exists of both what was asked and the information provided in response. Pursuant to the above-referenced directives, employee cooperation extends to participating in audio/video-recorded interviews. As noted above, an employee's management can become involved if the employee declines to participate in a recorded interview.

Can employees conduct their own audio/video recording of OIG interviews?

A: No. If interviewees wish to request transcripts of their recorded interviews, OIG has procedures by which such requests may be made and will be processed.

What happens when an investigation is complete?

A: Generally, when an investigation is complete, OIG will produce a report based upon all interviews conducted, records examined and other evidence disclosed. The report will be reviewed within OIG to ensure that it is fact-based, objective, and clear. It will then be provided to appropriate management, accompanied by recommendations as warranted, so that they may consider any appropriate corrective actions based on the results of OIG's investigation. Employees may seek OIG investigative reports by filing Freedom of Information Act (FOIA) requests with OIG.

Will OIG reveal employee identities or the fact that they cooperated?

A: OIG investigators will respect the confidentiality of Department employees as provided by law. Section 7 of the Inspector General Act states that "[t]he Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation." During the course of some investigations, it may be unavoidable that the identities of individuals involved will become known. However, OIG strives to protect the confidentiality of Department employees who provide OIG with information. In addition, employees should be aware that reprisal against any employee for cooperating with OIG is forbidden by the Inspector General Act and DAO 207-10, Section 4. Further, OIG takes whistleblower protection very seriously and, along with the U.S. Office of

Special Counsel, investigates alleged reprisal against employees for making protected disclosures to the OIG.

What professional standards apply to OIG investigations?

A: In addition to the Inspector General Act and the Departmental directives referenced above, OIG investigations are conducted in accordance with the Quality Standards for Investigations issued by the Council of Inspectors General for Integrity and Efficiency (CIGIE), and the Attorney General Guidelines for Offices of Inspectors General with Statutory Law Enforcement Authority. Further, OIG undergoes a CIGIE peer review every three years to assess its compliance with applicable standards.

To whom may questions or issues about OIG's investigative process be addressed?

A: Any questions or issues may be addressed with OIG's Principal Assistant Inspector General for Investigations & Whistleblower Protection, Rick Beitel, at 202.482.2495.