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# OIG INVESTIGATIONS AND YOU

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This pamphlet outlines your legal rights and obligations as a Federal employee during an Office of Inspector General (OIG) investigation and explains the OIG's authority to conduct investigations. In the course of an investigation, many factors affect your rights and you are encouraged to ask questions at any time. The information presented here is merely advisory and does not create any rights, privileges or benefits, either substantive or procedural, enforceable in any administrative, civil or criminal matter; nor does it limit any rights, privileges, or benefits that the Federal government may assert in such matters.

Under the authority of the Inspector General Act of 1978 (IG Act), as amended, OIGs conduct audits and investigations related to agency programs and operations. A primary purpose of these activities is to detect and deter fraud, waste, abuse, or mismanagement in the government.

Investigations by the OIG may be conducted by special agents (investigators) who are duly authorized Federal law enforcement officers or by other administrative investigators who specialize in noncriminal matters. OIG investigators are authorized by the Act to have full access to any records, reports, or other materials necessary to investigate allegations of fraud or abuse concerning their respective agency's programs and operations. They also are authorized to take statements under oath

**What types of investigations does the OIG conduct?** Investigators conduct three types of OIG investigations: criminal, civil, and administrative. In many instances, an allegation may involve multiple types of investigations (i.e., criminal/civil or criminal/administrative). In such instances, the OIG may investigate such allegations separately or as part of one case.

**What are OIG responsibilities to you as an employee?** In carrying out the OIG's investigative mission, our responsibility to you and to the agency is to conduct all investigations in a fair, thorough, and objective manner. With the authority to detect and investigate wrongdoing and to seek prosecution or administrative remedies, also comes the duty to respect the rights of those under investigation.

OIG investigators conduct interviews with subjects, witnesses, and complainants in criminal, civil, and administrative investigations. In performing these duties, OIG investigators may do any or all of the following: obtain statements under oath, gather evidence, serve subpoenas, review agency documents relevant to a matter under investigation, and, under special authorities, make arrests. They also routinely assist prosecutors in preparing criminal and civil cases. In addition, OIG investigators can appear as witnesses before grand juries, in trials, and in administrative proceedings. They may seek investigative assistance from other Federal, state, and local law enforcement agencies and conduct joint investigations.

Interviews will be conducted in a professional manner, with respect for your dignity, whether you are a subject, witness, or complainant.

If you are the subject of an OIG investigation, the investigator will inform you at the appropriate time of your rights under law and/or agency policy, as well as the meaning of waiving those rights. You are entitled to have a copy of any signed waiver of your rights and any written statement that you provide.

**What are your responsibilities to report wrongdoing?** As a Federal employee, you hold a position of public trust. Therefore, you have an obligation not only to maintain your own personal integrity but also to ensure that the government is not being defrauded by individuals who violate rules or act in improper/illegal ways. Most Federal employees and program participants perform their duties with honesty and integrity. Unfortunately, some do not. You are expected to report information that you believe indicates instances of fraud, waste, abuse, and/or corruption.

**What type of cooperation do you provide?** Federal employees are required to cooperate in investigations, including those conducted by an OIG, or risk administrative sanction for failing to cooperate. This requirement is mandated by the regulations of many agencies and by case law, based on the recognition that your cooperation is essential to the success and fairness of internal agency investigations. Employees should respond to questions truthfully under oath when required, whether orally or in writing, and must provide documents and other materials concerning matters of official interest. However, an employee is not required to respond to such official inquiries if answers or testimony could subject the employee to criminal prosecution. Other examples of cooperation include:

- Promptly reporting information concerning possible violations of laws, regulations, or incidents of waste or mismanagement.
- Providing complete, truthful, and accurate information to OIG investigators.
- Timely supplying documents and materials within your control.
- Furnishing signed statements under oath when requested, absent a lawfully invoked privilege, such as the privilege against self-incrimination.
- Not making false allegations.

Although not a statutory or regulatory requirement, you are encouraged not to discuss investigative information with others. In some circumstances, discussing information with others could compromise or hinder an investigation or, when coordinated with others, may constitute an obstruction of justice.

**How do you report allegations of fraud, waste, abuse, mismanagement, and/or corruption to the OIG?** If you have information that you believe indicates instances of fraud, waste, abuse, mismanagement, and/or corruption, you may call the OIG Hotline at (800) 452-8210. You are not required to identify yourself. You may also report directly in person, call, write, or send an email message to the Assistant Inspector General for Investigations.

**If you report wrongdoing, how is your identity protected?** As a Federal employee, you are entitled to confidentiality. If you bring complaints or information concerning violations of laws, rules, or regulations, confidentiality will be granted unless disclosure is unavoidable.

**Do you have protection against retaliation resulting from your reporting of wrongdoing?** Federal law prohibits retaliation against you for providing information to the OIG. If you believe that you have experienced retaliation because of cooperating with an investigator, you should report your allegations to the OIG or to the Office of Special Counsel at (202) 653-7122.

**What are your rights if interviewed during an investigation?** Consistent with Federal law and regulation, when interviewed you should be advised whether you are the subject of an investigation if it is known at the outset of the interview. In many cases, you will be interviewed simply as a witness based on your knowledge, expertise, or experience with a particular program or set of facts. If you are a manager of a program, you have a duty to provide information on that program and may be disciplined for not providing it. In other cases, your participation may be more discretionary, such as when the OIG is asking about a matter outside the scope of your job responsibilities. Even here, as a Federal employee, you have a duty to cooperate and assist in the investigation to the best of your

ability. Your obligation to cooperate is superseded only by your rights under the Fifth Amendment of the U.S. Constitution that prohibits requiring a person to incriminate himself or herself.

If you are interviewed as the subject of an investigation, the investigators have the duty to inform you of the nature of the inquiry being conducted. You should also be told, if known, whether the investigation could lead to criminal, civil, or administrative action. You should also be advised of applicable Federal constitutional or other rights. Federal case law requires that you be advised of your right to counsel when you have been arrested or involuntarily detained.

In all circumstances, you have the right to furnish a voluntary statement free from any promises, threats, pressure, or coercion of any kind or, if you feel your statement would incriminate you, to make no statement at all.

However, if the Justice Department has declined prosecution or you have been granted immunity from prosecution, thus removing the danger of self-incrimination, you may be subject to administrative action, including losing your job, if you refuse to cooperate.

**What happens after an investigation is completed?** At the conclusion of an OIG investigation, an investigator may prepare a report which states the allegations and facts collected. Reports that pertain to criminal and civil allegations are often referred to Federal, state, and/or local prosecutors if supported by evidence. Reports that pertain to administrative matters may be referred to agency management.

**Will your supervisor or other management be advised if you are the subject of an investigation?**

In most cases, investigators are not obligated to notify management of an ongoing investigation. However, in some instances, they may advise supervisors or higher level managers of the general nature of the allegation and the name of the individual under review. This is especially true when the investigation may disrupt normal office operations or when a manager will be consulted as part of the investigation. In cases where management is contacted, once the investigation is completed, the OIG may, if appropriate, inform these officials of the results.