

## THE OFFICE OF INSPECTOR GENERAL

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### I. Purpose

This directive established Department of Homeland Security (DHS) policy regarding the Office of Inspector General (OIG). Any prior Management Directive and any instruction or agreement of any kind issued by or entered into by any DHS official or Component that is inconsistent in any respect with this directive is hereby superseded to the extent it is inconsistent with this directive.

### II. Scope

This directive applies to all DHS organizational elements (OEs), including all employees, contractors, and grantees.

### III. Authorities

- A. The Inspector General Act of 1978, as amended
- B. The Homeland Security Act of 2002, as amended, codified in Title 6, US Code

### IV. Definitions

- A. **OE Offices** – As used in this Management Directive, the term OE offices include all Organizational Elements offices of internal affairs, inspections, audits or Professional Responsibility. This term also includes the DHS Office of Security.
- B. **DHS Organizational Element** – As used in this directive, the term DHS Organizational Element (OE) shall have the meaning given to the term DHS Organizational Element in DHS MD 0010.1, Management Directives System and DHS Announcements. This includes Elements such as the Bureau of Customs and Border Protection, the United States Coast Guard, the Federal Emergency Management Agency, etc. It also includes entities that report to DHS Organizational Elements, such as National Laboratories.

## V. Responsibilities

A. **The Heads of DHS Organizational Elements** shall:

1. Promptly advise the OIG of allegations of misconduct in accordance with the procedures described in Appendix A, and when they become aware of any audit, inspection or investigative work being performed or contemplated within their offices by or on behalf of an OIG from outside DHS, the General Accounting Office, or any other law enforcement authority, unless restricted by law;
2. Ensure that, upon request, OIG personnel are provided with adequate and appropriate office space, equipment, computer support services, temporary clerical support and other services to effectively accomplish their mission;
3. Provide prompt access for auditors, inspectors, investigators, and other personnel authorized by the OIG to any files, records, reports, or other information that may be requested either orally or in writing;
4. Assure the widest possible dissemination of this directive within their OEs. They may issue further instructions as necessary to implement this policy. Any such further instructions shall not conflict with this MD and shall be provided to the OIG immediately upon issuance;
5. Assist in arranging private interviews by auditors, inspectors, investigators, and other officers authorized by the OIG with staff members and other appropriate persons;
6. Advise the OIG when providing classified or sensitive information to the OIG to ensure proper handling.

B. **DHS employees** shall report suspicions of violations of law or regulation to the DHS Office of Inspector General or the appropriate OE offices, and will likewise:

1. Cooperate fully by disclosing complete and accurate information pertaining to matters under investigation or review;
2. Inform the investigating entity of any other areas or activities they believe require special attention;
3. Not conceal information or obstruct audits, inspections, investigations, or other official inquiries;

4. Be subject to criminal prosecution and disciplinary action, up to and including removal, for knowingly and willfully furnishing false or misleading information to investigating officials; and

5. Be subject to disciplinary action for refusing to provide documents or information or to answer questions posed by investigating officials or to provide a signed sworn statement if requested by the OIG, unless questioned as the subject of an investigation that can lead to criminal prosecution.

## **VI. Policy and Procedures**

A. The OIG, while organizationally a Component of the DHS, operates independent of the DHS and all offices within it. The OIG reports to the Secretary. Under circumstances specified by statute, the Secretary, upon written notification to the OIG which then must be transmitted to Congress, can circumscribe the OIG's access to certain types of sensitive information and exercise of audit, investigative, or other authority. The DHS Inspector General is the head of the OIG.

The OIG is authorized, among other things, to:

1. Administer oaths;
2. Initiate, conduct, supervise and coordinate audits, investigations, inspections and other reviews relating to the programs and operations of the DHS;
3. Inform the Secretary, Deputy Secretary, and the Congress fully and currently about any problems and deficiencies relating to the administration of any DHS program or operation and the need for, and progress of, corrective action;
4. Review and comment on existing and proposed legislation and regulations relating to DHS programs, operations, and personnel;
5. Distribute final audit and inspection reports to appropriate authorizing and oversight committees of the Congress, to all headquarters and field officials responsible for taking corrective action on matters covered by the reports and to Secretarial officers, office heads, and other officials who have an official interest in the subject matter of the report;

6. Receive and investigate complaints or information from employees, contractors, and other individuals concerning the possible existence of criminal or other misconduct constituting a violation of law, rules, or regulations, a cause for suspension or debarment, mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety, and report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law;

7. Protect the identity of any complainant or anyone who provides information to the OIG, unless the OIG determines that disclosure of the identity during the course of the investigation is unavoidable.

Further, the OIG shall:

8. Follow up on report recommendations to ensure that corrective actions have been completed and are effective;

9. Prepare a semiannual report to the Secretary and the Congress, summarizing OIG audit and investigative activities within DHS. Section 5(a) of the Inspector General Act of 1978, as amended, requires this report.

B. Allegations received by the OIG or OE offices shall be retained or referred in accordance with Appendix A of this MD. The only exception to this requirement is that the OIG and the United States Secret Service will adhere to the terms of the Memorandum of Understanding entered into between those two entities on December 8, 2003, and as may be amended from time to time.

C. **Standards**. Audits shall be conducted consistent with the standards issued by the Comptroller General of the United States. Inspections and investigations shall be conducted consistent with the quality standards issued by the President's Council on Integrity and Efficiency (PCIE).

D. **Questions or Concerns**. Any questions or concerns regarding this directive should be addressed to the OIG.

MD 0810.1

The categories of misconduct identified below shall be referred to the OIG. Such referrals shall be transmitted by the OE offices immediately upon receipt of the allegation, and no investigation shall be conducted by the OE offices prior to referral unless failure to do so would pose an imminent threat to human life, health or safety, or result in the irretrievable loss or destruction of critical evidence or witness testimony. In such extraordinary situations, the OIG will be contacted as soon as practical, and all information and evidence collected by the OE office shall then be provided to the OIG as part of the OE referral to the OIG. The OIG will accept and retain all such allegations for investigation subsumed under this exigent circumstance exception.

- All allegations of criminal misconduct against a DHS employee;
- All allegations of misconduct against employees at the GS-15, GM-15 level or higher, or against employees in the OE offices;
- All allegations of serious, noncriminal misconduct against a law enforcement officer. "Serious, noncriminal misconduct" is conduct that, if proved, would constitute perjury or material dishonesty, warrant suspension as discipline for a first offense, or result in loss of law enforcement authority. For purposes of this directive, a "law enforcement officer" is defined as any individual who is authorized to carry a weapon, make arrests, or conduct searches;
- All instances regarding discharge of a firearm that results in death or personal injury or otherwise warrants referral to the Civil Rights Criminal Division of the Department of Justice;
- All allegations of fraud by contractors, grantees or other individuals or entities receiving DHS funds or otherwise engaged in the operation of DHS programs or operations;
- All allegations of visa fraud by DHS employees working in the visa issuance process.

In addition, the OIG will investigate allegations against individuals or entities that do not fit into the categories identified above if the allegations reflect systemic violations, such as abuses of civil rights, civil liberties, or racial and ethnic profiling, serious management problems within the department, or otherwise represent a serious danger to public health and safety.

## APPENDIX A

With regard to categories not specified above, the OE offices will initiate the investigation upon receipt of the allegation, and shall notify within five business days the OIG's Office of Investigations of such allegations. The OIG shall notify the OE offices if the OIG intends to assume control over or become involved in such an investigation, but absent such notification, the OE office shall maintain full responsibility for these investigations.

Any allegations received by the OIG that do not come within the categories specified above, or that the OIG determines not to investigate, will be referred within five business days of receipt of the allegation by the OIG to the appropriate OE office along with any confidentiality protections deemed necessary by the OIG.

The OE offices shall provide monthly reports to the OIG on all open investigations. In addition, upon request, the OE offices shall provide the OIG with a complete copy of the Report of Investigation, including all exhibits, at the completion of the investigation. Similarly, the OIG shall provide the OE offices, upon request, with a complete copy of any Report of Investigation relating to its OE, including all exhibits, at the completion of the investigation. The OIG shall have the right to request more frequent or detailed reports on any investigations and to reassert at any time exclusive authority or other involvement over any matter within its jurisdiction.