

## CHAPTER 5. INVESTIGATION ACTIVITIES

## SECTION 1. NATURE AND OBJECTIVES OF INVESTIGATIONS

5-1 ORGANIZATIONAL ROLE. The investigation efforts of the OIG are designed to promote the integrity of Departmental programs and personnel. As such, the Office of Investigation is responsible for detecting and investigating indications or allegations of irregularities, or violations of Departmental regulations or Federal criminal statutes dealing with the Department.

## 5-2 MAJOR CATEGORIES OF INVESTIGATION.

- A. Criminal Matters. Under the provisions of Title 28, U.S. Code, Sections 533 and 535, the Department of Justice (Federal Bureau of Investigation) investigates criminal matters unless otherwise directed by Congress or unless the Attorney General of the United States has specifically authorized the investigation by another agency. Pursuant to the Inspector General Act of 1978, Public Law 95-452, which created Offices of Inspector General with statutory, authority to conduct investigations relating to HUD programs, and the Memorandum of Understanding signed on January 15, 1982, between the Federal Bureau of Investigation and the Office of Inspector General, the OIG will investigate all criminal matters arising from or pertaining to HUD programs, functions and personnel except matters relating to bribery or attempted bribery, significant allegations of corruption which culpably involve a HUD employee, and organized crime. The OIG has the responsibility for liaison and coordination on all criminal matters with the U.S. Department of Justice.

Investigations of violations of labor standards and prevailing wage rates as they pertain to HUD are the primary responsibility of the office of Personnel and Training, Labor Relations Branch. By agreement with the Attorney General, however, the OIG has primary jurisdiction to investigate the submission of false wage payroll forms in an attempt to circumvent the Davis-Bacon Act (Title 14, U.S. Code, Section 276a-276a-5). Additionally, the OIG will conduct all investigations deemed necessary to enable the Department to impose administrative remedies for such violations. Also, where the Department of Justice undertakes prosecution in connection with a criminal violation, the OIG provides support services including developing additional investigative information on request and making staff available as witnesses for the government.

- B. Violations of Interstate Land Sales Full Disclosure Act. The OIG, under the Interstate Land Sales Full Disclosure Act, Title XIV of Public Law 90-488, conducts criminal investigations of violations of the Act as referred by the Office of the Assistant Secretary for Housing.

- C. Violations of the Standards of Conduct. The OIG investigates allegations against employees for unethical or other conduct prejudicial to the government (see 24 CFR Part O).
- D. Personnel Security Program. The Office of Investigation monitors the personnel investigations conducted by the Office of Personnel Management, evaluates investigation data received, and determines the security, reliability and integrity of HUD employees and prospective employees in accordance with the requirements of Executive Order 10450, "Security Requirements for Government Employment."

5-3 LIAISON WITH THE FEDERAL BUREAU OF INVESTIGATION AND USE OF FBI INFORMATION. Reports and other communications received from the FBI, or the contents of these documents, may be disseminated only to persons who need the information in their official capacity. Advance permission must be obtained from the Assistant Inspector General for Investigation (AIGI) before an FBI report or other document is copied, reproduced, paraphrased, quoted, or extracted from. No FBI document may be used as a part of, an exhibit to, or be referred to in any Departmental report, file, or other record which may have a distribution broader than that outlined in this paragraph. FBI documents shall not be made available to the individuals investigated or their representatives.

Reports or other communications received from the FBI or the contents of such documents may not be disseminated outside the Department unless advance permission is obtained by the OIG from the FBI.

## SECTION 2. REQUESTING INVESTIGATION

- 5-4 REFERRALS TO THE OIG BY HEADQUARTERS PERSONNEL.
- A. Referral to Assistant Secretaries. All Headquarters staff shall report promptly all information or allegations indicating a possible irregularity or violation of law or regulation to the appropriate Assistant Secretary or other official who reports to the Secretary. Subordinate officials shall in no case delay or withhold transmittal of such information.

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- B. Referral to the Office of Investigation.
  - 1. Promptly upon receipt of such information, the Assistant secretaries and other recipients shall transmit the referral and all attachments directly to the Assistant Inspector General for Investigation, who shall advise the referring official of the action to be taken.

2. Any Headquarters employee should report to the Office of Investigation any matter wherein it is believed an investigation should be conducted. This shall be done, however, only if the employee feels he/she should not report the matter directly to his/her superiors.

5-5 REFERRALS TO THE OIG BY HEAD PERSONNEL. All Field staff shall report promptly to the appropriate Regional Administrator or Office Manager all information or allegations indicating a possible irregularity or violation of law or regulation. Subordinate officials shall in no case delay or withhold transmittal of such information.

Any Field employee should report to the Headquarters Office of Investigation or the appropriate Regional Inspector General for Investigation (RIGI) any matter wherein it is believed an investigation should be conducted. This shall be done, however, only if the employee feels he/she should not report the matter directly to his/her superiors.

- A. Referrals by Field Officials. Promptly upon receipt of such information, Regional Administrators or Office Managers, and, if so authorized by Regional Administrators, Deputy Regional Administrators, shall transmit the matter directly to the RIGI.
- B. Action on Referrals to the RIGI. Promptly upon receipt of a referral, the RIGI shall advise the Regional Administrator and other Field officials concerned of any action to be taken, and shall send a copy of this advice to the Assistant Inspector General for Investigation.
- C. Referrals of Theft or Bribery. Regional Administrators and Office Managers will report directly and promptly (by telephone) to the RIGI complaints or allegations relating to the following: (1) thefts of government property by any person; and (2) bribery or attempted bribery of any Departmental employee, or the solicitation and/or acceptance of a bribe by any Departmental employee. The RIGI will coordinate these complaints with the FBI.

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5-6 INVESTIGATION WITHOUT REFERRAL OR REQUEST. In carrying out the OIG's responsibilities for detecting and investigating irregularities and abuses and for providing a positive mechanism to help maintain the integrity of Departmental activities, the AIGI and the RIGI's are authorized to initiate investigations of cases falling within their respective areas of assigned responsibility without receipt of referrals from other sources or authorities. The AIGI or

the RIGI's may advise the appropriate Primary Organization Head of the action they plan to initiate.

### SECTION 3. PERSONNEL INVESTIGATIONS

5-7 PROCESSING OF COMPLAINTS AGAINST EMPLOYEES. One of the most important assets of the Department is its personnel. Accordingly, complaints against members of the staff must be processed promptly. Protection must be provided against employee violations of HUD Standards of Conduct, regulations, or Federal criminal statutes and at the same time against ill-founded accusations about employees. Although wrongdoing should be uncovered and corrective action taken with respect to any employee who has been found deficient in the discharge of his or her public trust, any maligned employee should be exonerated. Consequently, to help ensure the integrity of HUD operations and confidence of citizens in their government, any allegations of violations by Departmental officers, employees, and temporary employees of the HUD Standards of Conduct (24 CFR Part 0) or of the provisions of Federal criminal statutes are to be promptly reported to the OIG as specified in this section.

#### A. Referral of Complaints.

1. Transmittal to the Office of Investigation. Primary Organization Heads, Regional Administrators and Office Managers will promptly transmit for investigation any complaints regarding personnel that they may receive. The appropriate Headquarters or Field unit of the Office of Investigation should be contacted.
2. Referrals of Complaints of Discrimination in Departmental Employment. Allegations of discrimination, (by HUD employees against HUD employees) involving race, religion, color, sex, age, handicap or national origin are to be referred to the staff of the Assistant Secretary for Fair Housing and Equal Opportunity.
3. Discrimination Against Departmental Contractors. Complaints of discrimination from Departmental contractors against HUD employees, e.g., selection or sanctioning of fee appraisers, are to be referred to the Office of Investigation.

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- #### B. Complaints Involving Other Federal Agencies.
- Complaints against employees of the Department which fall within the cognizance of other Federal agencies will be referred directly and expeditiously to the agencies by the Office of Investigation.

#### SECTION 4. DISTRIBUTION OF REPORTS

5-8 DISTRIBUTION OF INVESTIGATION REPORTS. Distribution of reports of investigation is governed by their contents. Generally, however, reports of investigation are distributed as follows:

- A. Headquarters Cases. Upon completion, these will be transmitted directly by the AIGI to the Primary Organization Head having jurisdiction.
- B. Field Cases. Upon completion, these will be transmitted directly by the RIGI to the Regional Administrator or Office Manager having jurisdiction.

5-9 RESTRICTION ON DISTRIBUTION AND USE OF INVESTIGATION REPORTS.

- A. Marking of Investigation Reports. Investigation reports issued by the OIG will be marked "FOR OFFICIAL USE ONLY."
- B. Review of Investigation Reports.
  - 1. Within the Department. Investigation reports may be reviewed only by persons who need the information in their official capacity. Officials receiving reports for review and consideration shall exercise every precaution to prevent or avoid embarrassment to the subject or any person who furnished information in connection with an investigation.
  - 2. The Subject of an Investigation. A copy of the investigative report may be provided to the subject of an investigation in accordance with applicable Federal law and HUD regulations.
- C. Distribution to the General Accounting Office. The GAO, upon request, will be furnished copies of investigation reports under the following conditions:
  - 1. Release of the report is not prohibited by law or other special circumstance.
  - 2. Copies of investigation reports will not be transmitted to the GAO until Departmental officials have had a reasonable opportunity to receive and examine the reports.

- D. Distribution to Law Enforcement Agencies Outside the Department. Investigation reports, or information contained in the reports, will be made available to other Federal agency Offices of Investigation and local

law enforcement agencies with the concurrence of the IG and as permitted by the Privacy Act, 5 USC 552a.

- E. Safeguarding and Disposition of Investigation Reports. While Departmental officials have investigation reports in their possession, they will be responsible for ensuring that the reports and their contents are adequately safeguarded or maintained in a safe area. When Departmental officials have taken the required action on, and have no further need for, investigation reports, the reports should be returned to the Office of Investigation with the Disposition Report (Form HUD-1416) showing the action taken.

#### 5-10 ACTION ON INVESTIGATION REPORTS.

- A. Administrative Action Initiated. Action officials to whom reports of investigation are sent are responsible for initiating action within 120 days of the date the OIG sends the report to them. Investigations involving HUD employees must have action initiated within 30 days. Administrative action initiated means the first documented action taken by the action official leading to disposition of the case. Statements of intent are not considered actions initiated. Action officials are responsible for advising the OIG, in writing, of the action initiated.
- B. Final Action. Final disposition of investigations requires varying lengths of time. Follow-on actions will be taken by action officials as quickly as possible after initial administrative action in order to permit final disposition of the case within a reasonable time.
  - 1. Disposition Report. When action officials consider that final disposition of an investigation case has been effected, they will forward two copies of the executed Form HUD-1416 to either the AIGI or RIGI indicating the full and complete administrative action taken and recommending that the case be closed.
  - 2. Employee Notice. In cases involving unfavorable allegations made about personnel which were not sustained by the investigative findings, the employees in question shall be notified in writing of the clearance by the action officials concerned. In addition, for members of the American Federation of Government Employees bargaining unit, copies of the notification must be filed by the action officials in appropriate records.