



FDIC DIRECTIVE 12000.01

Cooperation with the Office of Inspector

General

Approval Authority: Jelena McWilliams, Chairperson

Originating Division/Office: Office of Inspector General

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PURPOSE

This revised Directive provides the policy and obligation for cooperating with the Office of Inspector General (OIG) as it conducts its audits, evaluations, investigations, and other activities.

SCOPE

This Directive applies to all FDIC Divisions/Offices.

AUTHORITIES

- Inspector General Act of 1978, as amended [Title 5, United States Code (U.S.C.) App.]
- Inspector General Act Amendments of 1988, Public Law 100-504
- Inspector General Reform Act of 2008, Public Law 110-409
- Inspector General Empowerment Act of 2016, Public Law 114-317
- Whistleblower Protection Coordination Act of 2018, Public Law 115-192
- Resolution Trust Corporation Completion Act, Public Law 103-204
- Standards of Ethical Conduct for Employees of the Executive Branch [Title 5, Code of Federal Regulations (CFR), Part 2635]
- Office of Management and Budget (OMB) Circular A-50, Audit Followup

FORMS

[FDIC Form 4010/12, Audit Corrective Action](#)

SUMMARY OF CHANGES

This Directive supersedes 12000.1, Cooperation with the Office of Inspector General, dated October 1, 2013.

REVISION, dated June 15, 2021

This Directive had been revised to:

- Renumber the Directive from 12000.1 to 12000.01;
- Clarify the responsibilities of employees and contractor personnel;
- Incorporate relevant updates to the Inspector General Act (“IG Act”) and the Whistleblower Protection Coordinator Act; and
- Better inform staff of the Office of Inspector General’s role within the FDIC and authority under which it operates.

TABLE OF CONTENTS

PURPOSE	1
SCOPE	1
AUTHORITIES.....	1
FORMS.....	1
SUMMARY OF CHANGES	2
BACKGROUND	4
POLICY.....	5
A. Office of Inspector General Principles.....	5
B. Cooperation with the OIG	6
RESPONSIBILITIES	8
A. OIG.....	8
B. Division/Office Directors.....	8
C. Audit Followup Official	10
D. Employees and Contractor Personnel.....	10
E. Contracting Officer.....	11
APPENDIX – REPORTING.....	12
GLOSSARY OF TERMS	13
GLOSSARY OF ACRONYMS.....	14

BACKGROUND

The Inspector General Act of 1978 (IG Act), as amended, establishes within the FDIC an independent OIG, which is mandated to prevent and detect fraud and abuse in FDIC programs and operations; and to promote economy and efficiency, and effectiveness at the agency. The Inspector General (IG) is appointed by the President, operates under the general supervision of the Chairperson and reports to Congress consistent with the provisions of the IG Act.

The OIG serves the American people by driving change and making a difference by prompting and encouraging improvements and efficiencies at the agency; helping to preserve the integrity of the agency and the banking system; and protecting depositors and financial consumers. The OIG carries out these principles through its investigations, audits, evaluations, and other activities.

POLICY

A. Office of Inspector General Principles

Under the authority of the IG Act, the OIG:

1. Conducts, supervises, and coordinates audits and investigations relating to programs and operations of the FDIC;
2. Reviews existing and proposed legislation and regulations relating to programs and operations of the FDIC and makes recommendations concerning the impact of such regulations on economy and efficiency in the administration of programs and operations, and the prevention and detection of fraud and abuse in such programs and operations;
3. Recommends policies for and conducts, supervises, or coordinates other activities of the FDIC for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, Corporate programs and operations;
4. Recommends policies for and conducts, supervises, or coordinates relationships between the FDIC and other federal, state and local governmental agencies, and non-governmental entities regarding:
 - a. Promoting economy and efficiency in the administration of programs and operations, or preventing and detecting fraud and abuse in Corporate programs and operations; and
 - b. Identifying and prosecuting participants in such fraud or abuse.
5. Keeps the Chairperson and Congress fully and currently informed concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of FDIC programs and operations, and recommends corrective action concerning such problems, abuses, and deficiencies, and reports on the progress made in implementing such corrective action;
6. Reports immediately to the Chairperson, for transmittal to Congress, particularly serious or flagrant problems, abuses, or deficiencies in the administration of FDIC programs and operations;
7. Receives and, as the OIG deems necessary, investigates complaints or information from employees, contractor personnel, and other individuals concerning the possible existence of activity constituting a violation of law, rules, or regulations; mismanagement; gross waste of funds; abuse of authority; or a substantial and specific danger to the public health and safety;

8. Operates under its own budget authority; selects, appoints, and employs its own officers and employees as necessary to carry out its authority under the IG Act; and obtains legal advice from counsel who reports directly to the IG; and
9. Performs its audits, evaluations, reviews, investigations, and other work and operations in accordance with applicable professional standards, including Generally Accepted Government Auditing Standards, the Attorney General Guidelines for Offices of Inspector General with Statutory Law Enforcement Authority, Quality Standards for Inspection and Evaluation, and Quality Standards for Investigations.

B. Cooperation with the OIG

It is the policy of the FDIC that there is full cooperation with the work of the OIG and prompt reporting to the OIG of fraud, waste, abuse, or criminal violations related to FDIC programs or operations. In order to perform its important work to promote economy, efficiency, and effectiveness of FDIC programs and operations, and to prevent and detect fraud, waste, and abuse, the OIG needs information from the FDIC.

Upon its request, the OIG is provided full and timely access to all records and other materials available to the agency.¹ There must be prompt and complete responses to OIG requests for information. This means information is provided within requested timeframes and requests are interpreted broadly to include responsive information, unless the OIG expressly and specifically limits its request. Failure to provide information, providing false information, or obstruction may result in disciplinary action, criminal or civil penalties. Additionally, the FDIC will not initiate any reprisal action against any employee, or contractor personnel, for making a complaint or providing information to the OIG, where the complainant has a reasonable belief that a violation of law, rule, or regulation, gross mismanagement, gross waste of funds or abuse of authority has occurred. The OIG must receive unrestricted access to personnel who the OIG determines may have pertinent information.

Additionally, the Standards of Ethical Conduct require all federal employees to “disclose waste, fraud, and corruption to appropriate authorities.” (5 CFR § 2635.101(a)(11)) Accordingly, all employees and contractor personnel must provide full cooperation to OIG staff or OIG contractors, with respect to any OIG audit, evaluation, review, investigation, or other inquiry.

¹ The IG Act authorizes the OIG “to have timely access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials available to the [FDIC] which relate to [its] programs and operations,” and the FDIC is required to provide such access notwithstanding any other provision of law, except where a law enacted by Congress expressly limits the right of access of the OIG. (5 U.S.C. App. § 6(a))

All FDIC employees are required, as part of their official duties, to report actual or suspected wrongdoing to the OIG, cooperate with the OIG in the performance of its statutory duties, and ensure the OIG's access to records, facilities, and personnel. Accordingly, FDIC employees may use a reasonable amount of work time to fulfill these responsibilities, without excessively interfering with the employee's primary job responsibilities.

No FDIC official, including the Chairperson, may prevent or prohibit the IG from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena. The relationship between the OIG and the FDIC is one of mutual respect and professionalism. Maintaining such a relationship advances the goal of preserving the integrity and improving the effectiveness of FDIC operations and programs.

RESPONSIBILITIES

A. OIG:

1. Evaluates allegations received from employees and contractor personnel and may investigate complaints and information concerning a violation of law, rules, or regulations; mismanagement; gross waste of funds; abuse of authority; or a substantial and specific danger to public health and safety;
2. Protects the identity of employees, including whistleblowers, who provide complaints or information to the OIG, unless the OIG determines such disclosure is unavoidable during the course of an investigation;
3. Protects the identity of contractor personnel who provide complaints or information to the OIG. Contractor personnel can request confidentiality and be assured their identities not be disclosed, except as required by law;
4. Makes referrals to the Attorney General (Department of Justice) whenever there are reasonable grounds to believe a violation of federal criminal law has occurred;
5. Makes referrals to FDIC management officials for administrative action;
6. Follows up on report recommendations to determine whether management's proposed corrective action is responsive to the recommendation and whether the recommendation can be closed;
7. Maintains a Whistleblower Protection Coordinator Program (see FDIC Directive 2400.02, Whistleblower Protection Rights); and
8. Maintains the OIG Hotline as a mechanism for employees and contractor personnel to report potential wrongdoing related to FDIC programs and operations.

B. Division/Office Directors:

1. Ensure unrestricted access for the OIG:
 - a. Communicate to all employees, through dissemination of this Directive and through incorporation into training programs, the requirement that employees provide complete, prompt, and unrestricted access to representatives of the OIG to records, facilities, information systems, employees, and contractors. If necessary, direct employees to comply with OIG requests, and take appropriate action against employees who do not comply with management direction.

- b. Advise the OIG when requested information contains privacy-protected materials, attorney-client or deliberative (pre-decisional and draft) communications, or any other sensitive or privileged information, or material from agencies outside the FDIC. The fact that requested information may be protected by a privilege is not a basis for withholding the information from the OIG. The production of materials to the OIG does not waive the ability to assert privileges or other protections in any forum.
 - c. Report information security incidents as required by FDIC Directive 1360.12, Reporting Information Security Incidents.
 - d. Ensure employees are aware of their responsibilities under this Directive.
2. Manage OIG recommendations:
- a. Resolution of OIG Report Recommendations:
 - 1) Review draft reports and attend exit meetings with the OIG to discuss the findings and report conclusions, including recommendations provided in the report, management's planned corrective actions, and any concerns related to factual information presented in the report.
 - 2) Provide written responses to Formal Draft reports in a timely manner. The written response indicates whether management agrees with each recommendation and the planned corrective action and anticipated date of completion.
 - 3) Work with the OIG where recommendations remain unresolved and resolve disagreements within six months of the report date.
 - b. Disposition and Closure of Report Recommendations:
 - 1) Monitor planned corrective action dates.
 - 2) Keep the OIG informed of changes to corrective action dates and, when requested, reasons for any extensions.
 - 3) Promptly and thoroughly advise the OIG of actions taken to address each recommendation and respond timely to OIG inquiries related to Corrective Action Closure packages. FDIC Form 4010/12, Audit Corrective Action, is used to document corrective actions.
 - 4) Update estimated planned corrective action dates when the OIG determines Corrective Action Closure is not complete to close a recommendation and

additional corrective actions to close the recommendations cannot be provided within 14 days.

C. Audit Followup Official:

Consistent with OMB Circular A-50, Audit Followup, ensures:

1. Systems of audit followup, resolution, and corrective action are documented and in place;
2. Timely management responses are made to all audit reports;
3. Disagreements between management and the auditor with respect to audit findings and recommendations are resolved;
4. Corrective actions are taken by management; and
5. Required semi-annual reports are sent to the Chairperson.

D. Employees and Contractor Personnel:

1. Report Wrongdoing
 - a. Promptly report to the OIG all instances of actual or suspected fraud, waste, abuse, misconduct or mismanagement perpetrated in connection with the programs and operations of the FDIC.
 - b. Disclose and provide to the OIG information, documents, or other evidence that may indicate that fraud, waste, abuse, mismanagement, or any other wrongdoing has occurred or may occur.
2. Comply with Requests
 - a. Provide authorized representatives of the OIG complete, prompt, and unrestricted access to all files, documents, premises, and employees, including access to all FDIC and Receivership, contractor, and subcontractor personnel, facilities, equipment, hard copy and electronic records, information systems, and other sources of information available to any part of the FDIC when requested during the course of the OIG's official duties.
 - b. Provide complete and accurate information, including a signed sworn statement, to duly authorized representatives of the OIG when required to do so during an inquiry related to official matters; do not conceal information or obstruct audits, evaluations, investigations, or other official OIG matters. The Fifth Amendment to the U.S.

Constitution may be invoked with respect to self-incrimination when matters of a criminal nature are involved. Under such circumstances, the individual will not be required to respond.

- c. Immediately discuss with the OIG requester any reason for not promptly complying with the OIG request. If there are legal concerns with the request, consult with the Legal Division to help resolve the matter expeditiously with the OIG.

3. Maintain Confidentiality

- a. Keep confidential the requests made in an OIG investigation for records, files, and information unless otherwise authorized by the OIG, except to the extent disclosure is necessary to seek representation by an attorney or a union representative, or is otherwise necessary for the performance of official duties.
- b. Refrain from commenting on or discussing ongoing OIG investigations with anyone (either within or outside the FDIC) other than the OIG staff who are conducting the investigation, unless authorized by the OIG or otherwise necessary for the performance of official duties.
- c. Keep confidential any OIG records that have been provided to non-OIG components of the FDIC and refer requests for OIG records or information to the OIG General Counsel.

E. Contracting Officer:

Ensure FDIC contract awards contain clauses:

1. Cooperating with and granting timely access to the OIG regarding contractor personnel, information, documents, and records (including electronic records) related to FDIC programs and operations; and
2. Requiring contractors and contractor personnel to report fraud or abuse related to FDIC programs and operations to the OIG.

APPENDIX – REPORTING

Detailed information regarding the OIG Hotline (including the Whistleblower Protection Coordinator Program) is available at: www.fdicoin.gov/oig-hotline.

The OIG Hotline may be reached by telephone, email, or U.S. Mail. Those submitting complaints by email cannot be assured anonymity due to the non-secure nature of electronic mail systems. Those seeking to remain anonymous should contact the OIG Hotline by telephone or U.S. Mail.

- 24-hour, toll free, nationwide telephone (1-800-964-FDIC)
- Email: oighotline@fdicoig.gov
- U.S. Mail: FDIC Office of Inspector General Hotline
3501 Fairfax Drive
Room VS-D-9069
Arlington, VA 22226

FDIC employees, contractors, and contractor personnel may also submit complaints or referrals to the appropriate OIG component division.

GLOSSARY OF TERMS

Contractor: A corporation, partnership, joint-venture, or other third party entity that enters into a contract with FDIC to provide goods or services, including subcontractor.

Contractor Personnel: All employees of a contractor/subcontractor who perform under an FDIC contract, including key and non-key personnel.

Formal Draft: A report of audit or evaluation results that is issued to responsible FDIC officials for the purpose of reviewing the report and providing formal written comments to the OIG.

Resolution: Means that the OIG has determined that management's planned corrective actions address the intent of the OIG's recommendation.

Unrestricted Access: Means that managers and staff are not to impose burdensome administrative requirements or screening procedures that would impede OIG access.

Whistleblower Protection Coordinator Program: To educate employees who have made, or are contemplating making, protected disclosures about the prohibitions, rights, and remedies against retaliation for protected disclosures, including how to seek review of retaliation claims, the timeliness of such cases, and potential relief.

GLOSSARY OF ACRONYMS

IG: Inspector General

OIG: Office of Inspector General