

PART 2012 - AUDITS AND INVESTIGATIONS

SUBPART C - State and National Office Processing and Handling of Investigation Reports

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PART 2012 - AUDITS AND INVESTIGATIONS

SUBPART C - State and National Office Processing and Handling of
Investigation Reports

§ 2012.101 General.

This Instruction provides procedures and requirements to use in the processing and handling of Office of Inspector General (OIG) Investigation Reports.

- (a) OIG forwards Investigation Reports to the:
 - (1) National Office, Director, Financial Management Division (FMD), Attention: Rural Development Liaison Officer; and/or
 - (2) State Director in their respective states.
- (b) The Rural Development Liaison Officer (Director, FMD) forwards each report involving either program operations or administrative management to the appropriate Authorized Requesting Official as defined in RD Instruction 2012-B.
- (c) For reports involving Rural Development employees, the Rural Development Liaison Officer (Director, FMD) forwards the report to the Assistant Administrator for Human Resources (AAHR).
- (d) Refer to § 2012.64 of RD Instruction 2012-B for processing and handling of Whistleblower (Hotline) Complaints.

§ 2012.102 Processing investigations.

Rural Development officials in the State Office, National Office (includes the Centralized Servicing Center (CSC)) and Office of the Deputy Chief Financial Officer (ODCFO), who receives information about fiscal or other offenses defined in § 2012.55 of RD Instruction 2012-B concerning their own employees will:

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(a) Submit a request for investigation:

(1) In the states, to the appropriate OIG office listed in Exhibit B of RD Instruction 2012-A. A copy of all requests for OIG investigations will be forwarded to the Rural Development Liaison Officer (Director, FMD), 1400 Independence Avenue, SW., Mail Stop 0707, Washington, DC 20250-0707;

(2) In the National Office (Includes CSC) and ODCFO, to the Rural Development Liaison Officer (Director, FMD); or

(b) Submit an Administrative Report to the National Office, Attention: AAHR, Headquarters Operations Branch (HOB), 1400 Independence Ave, SW., Mail Stop 0730, Washington, DC 20250-0730.

§ 2012.103 Contracted investigations.

In order to serve as a deterrent to conversion of Rural Development security property, State Directors should utilize contract investigations as necessary to protect the interests of the Government when OIG has declined to investigate due to the monetary amount of the conversion or for other reasons. Copies of contracted investigations will be sent to appropriate OIG office for review and referral for consideration of legal or administrative action.

§ 2012.104 Administrative Reports.

(a) Fiscal problem cases. If a fiscal problem is the result of misconduct by an employee (see § 2012.55(a) and (b) of RD Instruction 2012-B), the appropriate Authorized Requesting Official will decide if an investigation by OIG is needed or if the case will be handled internally. For fiscal problems caused by an employee's actions, the appropriate Authorized Requesting Official will:

(1) Notify the National Office, AAHR, HOB.

(2) Prepare a memorandum (and two copies) recommending corrective action, (if sufficient facts are available), including details of the problem and recommendations on the fiscal and disciplinary aspects. If there are any questions, contact the appropriate OIG office (see Exhibit B of RD Instruction 2012-A):

§ 2012.104(a)(2) (Con.)

(i) Send the original to the National Office, Attention: AAHR, HOB.

(ii) Mail a copy of the memorandum to Rural Development, ODCFO, Direct Loan and Grant Branch, Mail Stop FC: 340, P.O. Box 200011, St. Louis, Missouri 63120-0011:

(A) Is only required to process non-cash credits and to establish the employee accounts receivable if an accounts receivable is a result of unauthorized assistance, other than direct Single Family Housing (SFH) programs serviced by CSC; and

(B) Must include the following details of the borrower(s) affected in order to process the non-cash credits to those accounts:

- (1) Borrower(s) name,
- (2) Identification number,
- (3) Loan number, and
- (4) Amount of transaction.

(C) If an accounts receivable is for an employee, the ODCFO will also need the repayment agreement terms as determined by the court or authorized official. The repayment terms should include:

- (1) Amount of repayment,
- (2) Repayment period,
- (3) Payment frequency, and
- (4) Interest rate etc.

(iii) Keep one copy in the appropriate office (e.g., State Office). The subject must include "Administrative Report, for Official Use Only" and the employee's name.

(b) Minor employee misconduct cases. For an investigation that does not involve a fiscal problem, the appropriate Authorized Requesting Official will prepare a memorandum and one copy with all details.

(1) In cases where disciplinary action is not within the authority of the appropriate Authorized Requesting Official (see RD Instruction 2045-GG),

(i) Send the original to the National Office, Attention: AAHR, HOB with recommendations for disciplinary action, and

(ii) Place one copy in the individual employee file maintained by AAHR, HOB.

(2) In cases where disciplinary action is within the authority of the appropriate Authorized Requesting Official, (see RD Instruction 2045-GG),

(i) Place the original memorandum in the individual employee file maintained by AAHR, HOB.

(ii) After the appropriate Authorized Requesting Official takes disciplinary action, send a copy of the memorandum, and other documents required by RD Instruction 2045-GG, to the AAHR, HOB.

(c) Proof. The memorandum referenced in paragraphs (a)(2) and (b) of this section must contain proof similar to that contained in an OIG Investigation Report:

(1) An explanation of the problem as to who, what, where, when, how, and why.

(2) Identification of the Personnel Conduct Investigator (PCI), the sources of information, and the regulation violated.

(3) Written or documentary evidence.

(4) Written statements or oral testimony.

(5) An explanation from the employee(s) involved and any mitigating facts or circumstances.

§ 2012.105 Handling employee investigations.

(a) Determining employee noncompliance. After the OIG Investigation Report is received, the AAHR, HOB, will discuss the report with the responsible official (e.g., State Director, Deputy Administrator, etc.) to:

(1) Determine the extent of noncompliance with policy and procedure, and

(2) Obtain recommendations for actions.

(b) Follow-up action. The AAHR, HOB, will follow-up on actions taken by the appropriate Authorized Requesting Official.

(1) For cases not under its authority, the AAHR, HOB, prepares recommendations for personnel action by an appropriate Authorized Requesting Official or the Director of Personnel of the Department.

(2) In criminal cases, the AAHR, HOB, will notify the Office of the General Counsel (OGC) and the OIG of the actions approved. The AAHR, HOB, will notify the appropriate Authorized Requesting Official of the action to take on matters not within their authority.

(c) Closing. To close an OIG Investigation Report, the AAHR, HOB, must notify OIG and the Rural Development Liaison Officer (Director, FMD) in writing that all administrative actions have been taken against the employee or an explanation as to why administrative action is inappropriate.

§ 2012.106 Action on reports.

The authorized requesting official will have the OIG Investigation Reports examined, and use these guidelines.

(a) Fiscal problem cases. Reports on fiscal cases can involve:

(1) Claims or liability against employees,

(2) Misconduct or violations for which disciplinary action is necessary,

(3) Violations of criminal law for which there are specific penalties, and/or

(4) Administrative problems for which the appropriate Authorized Requesting Official must take corrective action.

(b) Disciplinary and criminal action. After the examination of the report, the appropriate Authorized Requesting Official will adhere to the following requirements:

(1) For a preliminary report (the investigation is not completed), the appropriate Authorized Requesting Official will:

(i) Discuss options with the AAHR, HOB,

(ii) Make a decision in the interest of the Government to take administrative action (e.g., detail to another location until the completion of the investigation, indefinite suspension, or approved leave).

(2) Cannot take or propose disciplinary or adverse action until receipt of the completed Investigation Report or upon advice of the AAHR, HOB.

(3) Forwards the recommended action and any information or mitigating circumstances, within 30 working days of the final report, to the National Office, Attention: AAHR, HOB. May contact OGC before making recommendations.

(4) After taking or proposing disciplinary action, sends required documents listed in RD Instruction 2045-GG to the AAHR, Attention: HOB.

(5) Will not take any disciplinary action which can have an effect on legal action. Contact the AAHR, HOB, if there are any questions.

(c) Minor misconduct cases. See § 2012.104(b) of this Instruction for the appropriate Authorized Requesting Official's action regarding minor misconduct cases listed in § 2012.55(b) of RD Instruction 2012-B.

§ 2012.106 (Con.)

(d) Other cases.

(1) For cases showing probable unlawful disposition by borrowers or others (except United States Department of Agriculture (USDA) or Rural Development personnel) of mortgaged property to persons, firms, or corporations; RD Instruction 1962-A will be used in handling these cases. The State Director:

(i) Examines reports with the representative of OGC to find probable financial liability of third party converters, criminal liability of such persons, or of Rural Development borrowers, or administrative problems caused by borrowers or others, except USDA or Rural Development personnel;

(ii) Makes administrative recommendations to the representative of OGC about the financial and criminal liability of these persons; and

(iii) Notifies OIG and the Rural Development Liaison Officer (Director, FMD) of actions taken.

(2) For cases not involving unlawful disposition of mortgaged property, the State Director:

(i) Examines the Investigation Report of cases where no Rural Development employees are involved.

(ii) Provides written recommendations about criminal prosecution, civil litigation, or administrative action to the OGC.

(iii) Notifies OIG and the Rural Development Liaison Officer (Director, FMD) of actions taken.

(e) Correspondence.

(1) On all State Office correspondence to the National Office about cases in this Instruction, mark the envelope "For Official Use Only - Investigation Report" (see § 2030.22(a)(2) of RD Instruction 2030-A).

(2) On correspondence within the National Office mark the envelope "For Official Use Only - Investigation Report."

RD Instruction 2012-C
§ 2012.106(e) (Con.)

(3) On correspondence to the ODCFO regarding fiscal liability matters, mark the envelope "For Official Use Only - Office of the Deputy Chief Financial Officer," Attention: Rural Development, Deputy Chief Financial Officer, Direct Loan and Grant Branch, Mail Stop FC: 340, P.O. Box 200011, St. Louis, Missouri, 63120-0011.

(4) On correspondence to the AAHR regarding disciplinary matters, mark the envelope "For Official Use Only - Office of the Assistant Administrator for Human Resources (AAHR)."

§ 2012.107 Collection of established charges.

(a) If there is a debt in a fiscal problem case, after closing of the criminal aspect, the authorized official will utilize the salary offset procedure (RD Instruction 1951-C), or obtain a voluntary commitment from the employee to pay back the funds.

(b) If collection is not made by the application of withheld funds and remittance by the debtor, Form AD-343, "Payroll Action Request," will be prepared by the authorized official and furnished to National Finance Center.

§ 2012.108 Office of the Deputy Chief Financial Officer processing of recommendations.

Upon receipt of recommendations from the authorized official (see § 2012.104 of this Instruction), the ODCFO will:

(a) Process a non-cash credit to the borrower's account in accordance with the information received from the authorized official.

(b) Establish an employee defalcation account if the authorized official advises that the employee's guilt has been confirmed.

(c) Provide an annual report of employee accounts to the National Office, AAHR.

§ 2012.109 Employee accounts receivable.

Will be established and maintained by the ODCFO, CSC, or USDA National Finance Center (NFC) as follows:

(a) In cases where the loss or theft involves loan or grant program funds, other than direct SFH funds, the ODCFO will take the necessary action to process the non-cash credit and establish the employee accounts receivable.

§ 2012.109 (Con.)

(b) Loss or theft involving direct SFH loan or grant funds should be referred to CSC to process the non-cash credit and establish an employee accounts receivable.

(c) All other fiscal problem cases (e.g., loss or theft of government property or funds other than loan or grant funds), the appropriate Authorized Requesting Official should establish an employee accounts receivable at NFC using the Administrative Billings and Collections system. The address at NFC is USDA, National Finance Center, Attn: Administrative Billings Collections (ABC) Section-Billings Unit, P.O. Box 61765, New Orleans, LA 70161.

(d) Employee accounts receivable that become delinquent are subject to referral to the Treasury Offset Program or Cross-Servicing Program in accordance with the Debt Collection Improvement Act of 1996 and are subject to RD Instruction 1951-C.

§ 2012.110 Office of the General Counsel (OGC).

In disposal of mortgaged property cases, copies of the report are sent by the Regional Inspector General for Investigations directly to the field office of the OGC. Use RD Instruction 1962-A and OGC procedures to send these cases to the U.S. Attorney's Office.

§ 2012.111 Closure of cases without disciplinary action.

Refer to § 2012.58 of RD Instruction 2012-B for closure of investigation. Upon notification from AAHR, HOB that a case is closed without disciplinary action the appropriate Authorized Requesting Official:

- (a) Informs the employee, in writing, of the decision, and
- (b) A copy of the written notification will be:
 - (1) Placed in the employee's personnel file, and
 - (2) Forwarded to the National Office, Attention: AAHR, HOB.

§§ 2012.112 - 2012.150 [Reserved]

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