

PART 2012 - AUDITS AND INVESTIGATIONS

SUBPART C - State Office Processing and Handling of Investigation Reports

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PART 2012 - AUDITS AND INVESTIGATIONS

SUBPART C - State Office Processing and Handling of Investigation Reports

§2012.101 General.

This Instruction gives the procedure for State Offices to use in processing and handling investigation reports. Refer to §2012.64 of RD Instruction 2012-B for processing and handling of whistleblower complaints.

§2012.102 Office of Inspector General (OIG) Reports.

The OIG investigates:

- (a) Travel voucher fraud;
- (b) Criminal violations;
- (c) Fiscal problems involving two or more acts or accounts;
- (d) Fraudulent acts by borrowers; and
- (e) Mortgage disposal cases referred by the State Director with the advice of the Office of the General Counsel (OGC). State, District, and County officials use RD Instruction 1962-A in handling these cases.

§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 OIG for review and referral for consideration of legal or administrative action.

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§2012.104 Administrative Reports.

(a) Fiscal problem cases. If a fiscal problem (see §2012.57 of RD Instruction 2012-B) is the result of misconduct by an employee, the State Director will decide if an investigation by OIG is needed or if he/she will handle the case. For fiscal problems caused by an employee's actions, the State Director will:

(1) Notify the National Office, Employee Relations Branch (ERB).

(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 Assistant Regional Inspector General for Investigations (ARIG-I);

(i) Send the original to the National Office, Attention: ERB, Ag Code 0731;

(ii) Send one copy to the Finance Office, Attention: Accounts Settlement Unit, St. Louis, Missouri;

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

(b) Minor misconduct cases. For an investigation that does not involve a fiscal problem, the State Director will prepare a memorandum and one copy with all details. (See Department Personnel Manual, Chapter 751, Subchapter 3, "Agency Investigations of Employee Misconduct.")

(1) In cases where disciplinary action is not within the authority of the State Director (see RD Instruction 2045-GG), send the original to the National Office, Attention: ERB, with recommendations for disciplinary action, and place one copy in the individual employee file maintained by the Supervisor in the State Office.

§2012.104 (b) (Con.)

(2) In cases where disciplinary action is within the authority of the State Director (see RD Instruction 2045-GG), place the original memorandum in the individual employee file maintained by the Supervisor in the State Office. After the State Director takes disciplinary action, send a copy of the memorandum, and other documents required by RD Instruction 2045-GG, to the Assistant Administrator for Human Resources, Attention: ERB.

(c) Proof. The memorandum must use the same proof as the OIG Report:

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

(2) Identification of the Personnel Conduct Investigator (PCI), the sources of information, written or documentary evidence, statements or oral testimony, and the regulation violated.

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

§2012.105 Action on reports.

The State Director will have the OIG Reports examined, and use these guidelines.

(a) Fiscal problem cases. Reports on fiscal cases can involve claims or liability against employees, or misconduct or violations for which disciplinary action is necessary. OIG Reports can involve violations of criminal law for which there are specific penalties, and administrative problems for which the State Director must take corrective action.

(b) Disciplinary and criminal action. After the examination of the report, the State Director will adhere to the following requirements:

(1) For a preliminary report (all investigation not completed), the State Director makes a decision in the interest of the Government to take administrative action, i.e., detail to another location until the completion of the investigation, indefinite suspension, or approved leave. Options should be discussed with the ERB.

RD Instruction 2012-C
§2012.105 (b) (Con.)

(2) The State Director cannot take or propose disciplinary or adverse action until receipt of the completed investigation report or upon advice of the ERB.

(3) Within 30 days of a final report, the State Director sends to the National Office, Attention: ERB, recommended action and any information or mitigating circumstances. (The State Director can contact OGC before making recommendations.) The State Director sends recommendations for disciplinary actions to the ERB. After taking or proposing disciplinary action, the State Director sends required documents listed in RD Instruction 2045-GG to the Assistant Administrator for Human Resources, Attention: ERB.

(4) The State Director will not take any disciplinary action which can have an effect on legal action. Contact the ERB if there are any questions.

(c) Minor misconduct cases. See §2012.104 (b) for the State Director's action regarding minor misconduct cases listed in §2012.55 (b) of RD Instruction 2012-B.

(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, 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 Director, Planning and Analysis Staff (PAS) of actions taken.

§2012.105 (d) (Con.)

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

(iii) Notifies OIG and the Director, PAS of actions taken.

(e) Correspondence. 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). On correspondence to the Finance Office regarding fiscal liability matters, mark the envelope "For Official Use Only - Finance Office," Attention: Accounts Settlement Unit." On correspondence to the Finance Office regarding disciplinary matters, mark the envelope "For Official Use Only - Finance Office, Attention: Personnel Operations."

§2012.106 Collection of established charges.

(a) If there is a debt in a fiscal problem case, after closing of the criminal aspect, the State Director 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 State Director and furnished to National Finance Center.

§2012.107 Finance Office processing of recommendations.

Upon receipt of recommendations from the State Director (see §2012.104 of this Instruction), the Finance Office will:

(a) Process a noncash credit to the borrower's account in accordance with the information received from the State Director.

RD Instruction 2012-C
§2012.107 (Con.)

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

(c) Provide an annual report of employee accounts to the National Office. The status of these accounts can be monitored via the field office terminal system.

§2012.108 Office of the General Counsel.

In disposal of mortgaged property cases, report copies are sent by the ARIG-I directly to the field office of the OGC. Use OGC procedures to send these cases to the U.S. Attorney's Office.

§2012.109 Closure of cases. Refer to §2012.58 of RD Instruction 2012-B for closure of investigation. Upon notification from the National Office that a case is closed without disciplinary action, the State Director tells the employee of the decision. A copy of the notice will be put in the employee's personnel file and a copy sent to the National Office, Attention: ERB.

§§2012.110 - 2012.150 [Reserved]

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