U.S. Department of Transportation
Office of the Secretary of Transportation

ORDER

DOT 8000.1C

7-20-89

Subject: OFFICE OF INSPECTOR GENERAL AUDIT AND INVESTIGATION REPORT FINDINGS, RECOMMENDATIONS, AND FOLLOWUP ACTION

1. PURPOSE. This Order describes the policy and procedures concerning the determination of management decisions on Inspector General audit findings and recommendations and the requirement for reporting of final action on management decisions to take corrective action. It also describes the policy for handling reports of investigation.

2. CANCELLATION. DOT 8000.1B, Office of Inspector General Audit and Investigation Report Findings, Recommendations, and Followup Action, dated October 30, 1984.

3. REFERENCES.

   a. Inspector General Act of 1978 (Public Law 96-452).

   b. Inspector General Act Amendments of 1988 (Public Law 100-504).

   c. Program Fraud Civil Remedies Act of 1986.

   d. Office of Management and Budget Circular A-50 (Revised), Audit Followup, dated September 29, 1982.

   e. Title 49, Code of Federal Regulations, Part 31, Program Fraud Civil Remedies.

   f. DOT 2700.14A, Credit Management and Debt Collection, dated August 19, 1986.

4. SCOPE. These policies and procedures are applicable throughout the Department. Department of Transportation (DOT) Operating Administrations or Secretarial Offices should implement this Order within 90 days and provide a copy of the implementing instructions to the Office of Inspector General. If DOT Operating Administrations or Secretarial Offices choose to supplement this Order or issue additional procedures not in conflict with this Order, they may do so. Copies of such additional procedures should be sent to the Assistant Inspector General for Policy, Planning, and Resources (JP-1) and the Office of Management Planning (M-20).

DISTRIBUTION: All Secretatial Offices
All Operating Administrations

OPI: Office of Inspector General

CHAPTER I

AUDITS

1. APPLICABILITY. This chapter applies to all audit findings and recommendations contained in draft and final audit reports issued by or processed through the Office of Inspector General (OIG). Audits include external audits of contracts or grants and internal audits of Department of Transportation (DOT) programs.

2. AUTHORITY. This Order implements the provisions contained in the Inspector General Act of 1978 (Public Law (P.L.) 96-452), the Inspector General Act Amendments of 1988 (P.L. 100-504), and Office of Management and Budget Circular A-50, Revised.

3. DEFINITIONS CONTAINED IN P.L. 100-504.

   a. Questioned Cost. A cost that is questioned by the OIG because of:

      (1) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

      (2) a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable; or

      (3) a finding that, at the time of the audit, such cost is not supported by adequate documentation. These are called unsupported costs.

   b. Disallowed Cost. A questioned cost that management, in a management decision, has sustained or agreed should not be charged to the Government.

   c. Recommendation That Funds be Put to Better Use. A recommendation by the OIG that funds could be used more efficiently if management took actions to implement and complete the recommendation, including:

      (1) reductions in outlays;

      (2) deobligation of funds from programs or operations;

      (3) withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds;

      (4) costs not incurred by implementing recommended improvements related to the operations of the agency, a contractor, or grantee;

(5) avoidance of unnecessary expenditures noted in preaward reviews of contract or grant agreements; or

(6) any other savings which are specifically identified.

d. Management Decision. The evaluation by management officials of the findings and recommendations included in an audit report and the issuance of a final decision by management concerning its response to such findings and recommendations, including actions concluded to be necessary.

e. Final Action.

(1) The completion of all actions that management has concluded, in its management decision, are necessary with respect to the findings and recommendations included in an audit report.

(2) In the event that management concludes no action is necessary, final action occurs when a management decision has been made. (See paragraphs 5. and 8.b. below.)

4. POLICY. To improve the effectiveness and efficiency of Departmental operations, each DOT Operating Administration or Secretarial Office shall establish a system to assure prompt responses to audit reports and implementation of audit recommendations. These systems shall provide for a complete record of actions taken on audit recommendations and must be capable of reporting in a timely and uniform manner in order to meet information and reporting requirements. In DOT, a final decision should be rendered within six months after the final report issuance date. Corrective actions in regard to management decisions must be completed and a report rendered on the completed action as quickly as possible.

5. PROCESSING MANAGEMENT DECISIONS. The processing of management decisions involves reaching agreement between management and the OIG on audit recommendations. If an initial management decision at the auditee level fails to satisfactorily accept and implement an OIG recommendation, the matter may be referred by the OIG to higher levels of management, the Assistant Secretary for Administration as the Departmental Followup Official (DFO), or the Secretary, as appropriate. The Secretary, Deputy Secretary, and the DFO (see paragraph 8.a. below) are the only persons in the Department who are authorized to make final management decisions for the Department in accordance with P.L. 100-504 in cases where there is disagreement between management and the OIG.

6. RESPONSIBILITIES OF THE OFFICE OF INSPECTOR GENERAL.

a. Issuance of Draft Reports. The OIG shall formally issue a draft report for each internal audit containing findings and recommendations. The draft report is used to confirm the facts presented, foster understanding of the findings and recommendations, and alert management to material weaknesses in underlying systems of internal control. The draft report provides management with an opportunity to comment on the

OIG recommendations contained in the report and outline a plan for implementing corrective actions on the recommendations. The OIG shall ensure that sufficient supporting criteria is included in the audit report to permit management an opportunity to evaluate whether identifiable monetary benefits associated with the audit recommendations are, in fact, realizable. The response to the draft report is required within 60 days and shall be included in the final report. The management response to a draft audit report will be reviewed by the OIG and will be considered when preparing the final report. If a response is not received in a timely manner, the final report may be issued by the OIG with a statement that a response to the draft was requested but not received.

b. Issuance of Final Reports. The OIG shall indicate in the final report for each audit, or in the report transmittal memorandum of audits performed by other than OIG auditors, which recommendations still require a management decision. For those recommendations where a management decision has been made, the final report will contain the agreed-upon action and timeframe for implementation. If management has not made a decision to accept the recommendations or a more detailed response is needed, a formal response shall be requested in the report and will be due within 60 days of issuance of the final report. Reports not responded to within 60 days shall be referred to the DFO for appropriate action. The OIG will notify the DOT Operating Administration or Secretarial Office of any decision not to issue a final report when a draft has been previously issued.

c. Reviewing Responses to Final Reports. The OIG shall review management's responses to recommendations on final reports and will work with management at the report addressee or agency head level to resolve any differences or nonconcurrences. The OIG should complete action on management's response during a 30-day period following receipt of the response. Any remaining disagreements shall be referred to the DFO for resolution.

d. Maintaining Audit Followup Data. The OIG shall maintain a data base of recommendations on all audit reports until final action has been taken. The data base will:

(1) List each recommendation.

(2) Track each recommendation until final action is completed.

(3) Record both the target completion date, in accordance with the management decision, and the actual completion date of corrective actions.

(4) The amount of costs questioned or estimated dollar benefits associated with each recommendation and the amount agreed to in the management decision. Actual recoveries of costs or funds be put to better use will be recorded based on information contained in final action reports.

e. Sharing Audit Followup Data. For control purposes, the OIG will provide the DFO and modal followup officials a monthly status report. The report shall list all audit reports with recommendations requiring management decision and/or final action.

f. Semiannual Reporting of Audit Results. Pursuant to P.L. 100-504, the OIG shall, on a semiannual basis, report to the Secretary and Congress the results of audit activity during the period, including the decision status of audit reports issued, a listing by subject matter of each audit report issued during the period including dollars questioned or funds be put to better use, and a summary of significant reports. The semiannual report will include:

(1) Statistical tables showing the total number of audit reports and the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs), for audit reports:

(a) for which no management decision had been made by the commencement of the reporting period;

(b) which were issued during the reporting period;

(c) for which a management decision was made during the reporting period, including:

1 the dollar value of disallowed costs, and

2 the dollar value of costs not disallowed; and

(d) for which no management decision has been made by the end of the reporting period.

(2) Statistical tables showing the total number of audit reports and the dollar value of recommendations that funds be put to better use by management, for audit reports:

(a) for which no management decision had been made by the commencement of the reporting period;

(b) which were issued during the reporting period;

(c) for which a management decision was made during the reporting period, including:

1 the dollar value of recommendations that were agreed to by management, and

2 the dollar value of recommendations that were not agreed to by management; and

(d) for which no management decision has been made by the end of the reporting period.

(3) A summary of each audit report issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report;

(4) A description and explanation of the reasons for any significant revised management decision made during the reporting period; and

(5) Information concerning any significant management decision with which the Inspector General is in disagreement.

g. OIG Review of Final Action Reports. The OIG will promptly review final action reports submitted by management. If the final action is considered consistent with the management decision, a final action date will be entered into the followup system and the report closed out. If the final action is not consistent, significant differences will be forwarded to the DFO for a determination of acceptable final action.

7. RESPONSIBILITIES OF MANAGEMENT.

a. Establishment of Audit Followup Controls. Primary responsibility for responding to and implementing audit recommendations rests with the management official to whom the report is addressed. The Assistant Secretary for Administration (for the Office of the Secretary) and the Heads of Operating Administrations shall establish procedural controls to assure timely responses to audit reports and completion of agreed-to action as quickly as possible. Failure to take final action within one year will result in the required reporting in the Secretary's report to Congress (see paragraph 8.d. below).

b. Designation of Modal Followup Official. The Heads of DOT Operating Administrations shall designate a high level official to act as the Modal Followup Official (MFO). This official shall have appropriate authority and responsibility to establish a followup system to ensure that timely management decisions are made and that final actions are taken on management decisions. This responsibility shall include the maintenance of accurate followup records and the assurance that accounting controls are maintained for audit disallowances. Generally, the MFO shall be at an Associate Administrator or comparable level.

c. Responding to OIG Draft Reports. DOT Operating Administrations management officials shall respond to OIG draft reports within 60 days (30 days for management advisory memoranda) by setting forth their agreement or disagreement with the audit findings, recommendations, and monetary amounts including costs questioned and estimate of funds be put to better use; and the estimated target dates for completion of final actions on recommendations with which they agree.

d. Responding to OIG Final Reports. For those audit recommendations where a management decision was not obtained by the time the final report was issued or a more detailed response was needed, and those contained in external report transmittal memoranda, management officials shall inform the OIG within a maximum time limit of 60 days as to the management decision they propose. (For contract preaward audit reports, see paragraph 7.f. below.) The response to the OIG shall include the information contained in paragraph 7.c. on recommendations with which they agree. If a DOT Operating Administration or Secretarial Office disagrees with the audit recommendations or only partially agrees, the OIG shall be given an explanation of the reasons.

e. Preparing Final Action Reports. When management decisions are made, followup officials shall maintain a record of action taken on each decision. Final actions shall be documented in a report. The report shall contain the audit report number, the report title, a description of the recommendations involved, the management decision, and the date final action was completed. The report shall show the amount of disallowed cost recovered, and funds be put to better use. Except for contract preaward audits, an OIG monthly status report may be used as a final action report if it is annotated to include all the required data, and is signed, and dated by the followup official. The report will be sent to the OIG, attention JP-10, with a copy to the DFO, attention M-20. The OIG will review the final action taken and if consistent with the management decision, enter a final action date in the followup system and close out the report. If the final action is not consistent with the management decision, the OIG will note significant differences and forward the matter to the DFO for a determination of acceptable final action.

f. Final Action Reports on Contract Preaward Audits. In regard to preaward audits of contracts, the OIG will be notified within 60 days following contract award of the actions taken on the report recommendations. This notification, the final action report, will include a copy of the price negotiation memorandum prepared in accordance with the Federal Acquisition Regulation for the contractor awarded the contract. In addition, the final action report should show the amount of contract cost reduction attributable to the audit report recommendations and notations should also be made of the preaward audits furnished on unsuccessful bidders so that these reports can be closed out. The final action report shall be sent to the OIG, attention JP-10, with a copy to the DFO, attention M-20.

g. Provide Data for Secretary's Report to Congress. DOT Operating Administrations or Secretarial Offices should respond promptly to information requests from the DFO for information necessary for inclusion in the Secretary's Report to Congress (see paragraph 8.c. below).

h. Collection of Disallowed Costs. Accounting and collection controls shall be established for any amounts due the Government as a result of audit. These procedures shall be in accordance with DOT 2700.14A, Credit Management and Debt Collection. Audit disallowance receivables will be recorded when the management decision is made concerning disallowed costs. This may be a best estimate.

8. RESPONSIBILITIES OF THE DEPARTMENTAL FOLLOWUP OFFICIAL.

a. Designation of the Departmental Followup Official. The Assistant Secretary for Administration has been designated by the Secretary as the Departmental Followup Official in accordance with Office of Management and Budget Circular A-50 (Revised).

b. Resolving Audit Disagreements. The DFO is the highest management level, with the exception of the Deputy Secretary or Secretary, for effecting a management decision when the OIG and DOT Operating Administrations or Secretarial Offices disagree on audit recommendations. Every effort will be made to provide the DFO 90 days to resolve audit disagreements.

c. Final Action on Audit Recommendations. Pursuant to P.L. 100-504, the DFO shall, on a semiannual basis, prepare the report which the Secretary sends to Congress on the results of final action taken concerning management decisions. The DFO shall provide the information prescribed in Section 106(b) of P.L. 100-504. The DFO shall coordinate with the OIG and the DOT Operating Administrators to ensure that the information in the report is accurate. The first report shall be furnished for the semiannual period ending March 31, 1990, and shall be entitled "Report on Final Action."

d. Format for Report on Final Action. The semiannual report on final action will contain the following information:

(1) Comments the Secretary considers appropriate.

(2) Statistical tables showing the total number of audit reports and the dollar value of disallowed costs, for audit reports:

(a) for which final action had not been taken by the commencement of the reporting period;

(b) on which management decisions were made during the reporting period;

(c) for which final action was taken during the reporting period, including:

1 the dollar value of disallowed costs that were recovered by management through collection, offset, property in lieu of cash, or otherwise; and

2 the dollar value of disallowed costs that were written off by management.

(d) for which no final action has been taken by the end of the reporting period.

(3) Statistical tables showing the total number of audit reports and the dollar value of recommendations that funds be put to better use by management agreed to in a management decision, for audit reports:

(a) for which final action had not been taken by the commencement of the reporting period;

(b) on which management decisions were made during the reporting period;

(c) for which final action was taken during the reporting period, including:

1 the dollar value of recommendations that were actually completed; and

2 the dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed; and

(d) for which no final action has been taken by the end of the reporting period.

(4) A statement with respect to audit reports on which management decisions have been made but final action has not been taken, other than audit reports on which a management decision was made within the preceding year, containing:

(a) a list of such audit reports and the date each such report was issued;

(b) the dollar value of disallowed costs for each report;

(c) the dollar value of recommendations that funds be put to better use agreed to by management for each report; and

(d) an explanation of the reasons final action has not been taken with respect to each such audit report, except that such statement may exclude such audit reports that are under formal administrative or judicial appeal or upon which management has agreed to pursue a legislative solution, but shall identify the number of reports in each category so excluded.

CHAPTER II

INVESTIGATIONS

1. PURPOSE. This chapter contains DOT policy and procedures for the review of Office of Inspector General (OIG) Reports of Investigation and the reporting and review of corrective actions taken as a result of the investigation.

2. BACKGROUND.

   a. In accordance with section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.), the Inspector General (IG) must keep the Secretary and Congress fully and currently informed concerning significant problems, abuses, or deficiencies relating to the administration of programs and operations administered or financed by DOT; recommend corrective action concerning such problems, abuses, or deficiencies; and report on the progress made in implementing such corrective action.

   b. Further, the IG must, pursuant to section 4(d) of the Act, report expeditiously to the Attorney General of the United States whenever the IG has reasonable grounds to believe there has been a violation of Federal criminal law. The Department of Justice (DOJ) will decide whether civil or criminal actions should be instituted or declined and will inform the IG of that decision.

   c. OIG Reports of Investigation are prepared for use in criminal, military, civil, administrative, or management proceedings.

   d. The Assistant Inspector General for Investigations will maintain a followup system to ensure that appropriate and timely actions are taken by DOT management officials or other action authorities in response to OIG investigation reports.

   e. Corrective action taken by management officials or other action authorities as a result of an investigation may consist of disciplinary actions; adverse actions against Departmental employees; military actions; debarments or suspensions of DOT direct Federal contractors; unacceptability of Federal-aid contractors; or a change in rules, regulations, or operating procedures consistent with existing laws, rules, or regulations.

   f. The Program Fraud Civil Remedies Act (PFCRA) and the implementing DOT regulation, Title 49, CFR, Part 31, established an administrative remedy against anyone who makes a false claim or false written statement to DOT or a State or local public entity, Federal contractor or grantee organization which receives money, property, or services from DOT. PFCRA prescribes a penalty of up to $5,000 per false claim or written statement and, with respect to false claims, an assessment

of up to double the amount falsely claimed. A false claim or a group of related claims in excess of $150,000 may not be pursued under PFCRA.

3. GENERAL POLICY.

a. Investigations will be initiated when appropriate. The results of the investigation shall be reported expeditiously to the designated DOT Operating Administration or field liaison officer for corrective actions or for informational purposes.

b. In those cases where some form of corrective action becomes necessary, the action taken must be timely, have a constructive effect, be based on cause, and be consistent with laws and regulations governing such actions. The OIG must be promptly advised of the results.

c. Failure to discipline employees or take corrective action on grantees and contractors who have acted corruptly or unlawfully, or failure to take other forms of corrective action when warranted, will be documented and reported to higher-level management.

d. The OIG will determine if OIG Reports of Investigation or related memoranda have been reviewed and properly acted upon by agency officials and maintain a record of resolution action taken.

e. The OIG may refer disputed corrective actions other than those involving personnel actions, to the next higher level of operating management directly concerned.

f. Before taking adverse personnel actions based on an OIG Report of Investigation or memoranda, agency officials should ensure that those actions have been coordinated with appropriate personnel and/or labor relations officials.

4. CRIMINAL ENFORCEMENT ACTIONS. Normally, OIG investigative reports concerning frauds against the Government are issued to the DOJ or other agencies for a prosecutive determination or used in connection with grand jury proceedings. Following indictment, prosecution, or a declination of prosecution, the OIG may then propose additional corrective actions within DOT.

5. DOT ACTIONS WHILE REPORTS ARE PENDING IN THE DEPARTMENT OF JUSTICE. An OIG Report of Investigation or memorandum may be furnished to DOT Operating Administrations or Secretarial Offices so that immediate necessary steps can be taken to protect the integrity of a DOT program or operation in the interest of safety or public welfare while the matter is pending a prosecutive decision. Under such circumstances, employees and DOT officials shall refrain from making any comment or taking any actions which might prejudice the Government's interest in a pending criminal or civil case. DOT officials who must take action on the OIG reports shall coordinate such matters with the cognizant OIG office to avoid any possible compromise of an ongoing investigation or legal proceeding. Under no circumstances should a compromise payment or offer of a settlement be made with a potential defendant without discussion with the OIG and DOJ

approval. These provisions do not supersede the responsibility of the DOT Board of Contract Appeals in carrying out the provisions of the Contract Disputes Act of 1978 (P.L. 95-563).

6. DOT PROCEDURES FOLLOWING DECLINATIONS OF PROSECUTION.

a. DOJ or other prosecutive agencies may decline to prosecute a case referred to them by the IG for a variety of reasons but mainly because:

(1) No substantial Federal or State interest would be served by prosecution.

(2) The case lacks jury appeal.

(3) There exist adequate, more appropriate Departmental administrative remedies, such as PFCRA proceedings, suspension, removal from service, restitution by the employee, debarment, etc., in lieu of prosecution.

b. Following a declination of prosecution or civil action by the DOJ or other agencies, the OIG will usually continue the investigation for administrative purposes and report the results to the Operating Administration or Secretarial Office upon completion (see paragraph 8 for corrective actions).

c. If the Assistant Inspector General for Investigations, designated by the IG as the Department's investigating official, determines that an action under PFCRA is warranted, he shall submit a report of the investigation to the Departmental reviewing official. If adequate evidence is found, a Notice of Intent is sent to DOJ seeking final authority to issue a complaint and proceed under PFCRA.

7. REPORTS OF INVESTIGATION.

a. OIG Reports of Investigation are, as a minimum, designated "For Official Use Only" and are inherently sensitive, as they may contain information obtained in confidence or privacy information, or concern sensitive internal matters. Reports will be prepared to the extent practical to allow for maximum use in administrative actions or proceedings.

b. Highly sensitive or major program investigations will be distributed to appropriate officials at headquarters level. Other reports may be distributed directly to the Regional Director of a DOT Operating Administration or designated field liaison officer for investigations, with a copy of the transmittal letter being sent to the headquarters liaison officer.

c. Investigative reports remain the property of the OIG and access must be limited to those officials who have a need-to-know. The reports must be safeguarded in accordance with procedures on the reverse side of the report cover. The Report of Investigation is not subject to release under the Freedom of Information Act until the OIG has received the final legal and/or administrative closing action. In addition, records of disclosure must be maintained on the reverse side of the report cover.

d. Release of reports to individuals other than those responsible for taking action will not be made without prior coordination with the OIG. These restrictions do not necessarily prohibit disclosure required in the course of adverse action proceedings.

e. Release to the press or media of OIG Reports of Investigation or memoranda, or the information contained therein, will not be made without prior coordination with the OIG. Reports may only be duplicated without prior OIG approval when so required in the course of adverse action proceedings.

f. Reports may be duplicated for authorized use within DOT. The designated liaison official will maintain a record of the number of copies made and their distribution.

8. CORRECTIVE ACTIONS.

a. The OIG office that issues a Report of Investigation is responsible for following to conclusion all matters reported. All possible information will be provided to DOT Operating Administration officials or Secretarial Offices to initiate corrective actions.

b. Appropriate disciplinary action against a DOT employee will be imposed in accordance with established Office of Personnel Management and DOT guidelines or procedures under the Uniform Code of Military Justice. Consideration should be given to the gravity of the offense, frequency of violation, position of the employee and his or her past record, real or potential impact on safety and public welfare, and harm caused to DOT program or operational integrity. In addition, the employing Operating Administration or Secretarial Office shall ensure that restitutions are made or that other forms of collections or recoveries are initiated where appropriate.

c. In those cases where sufficient experience has been developed, the OIG will notify the DOT Operating Administrations or Secretarial Offices of previous corrective actions taken in similar cases.

d. The employee, grantee, or contractor's unethical or unlawful conduct, and not the prosecutor's decision to forego prosecution, constitutes the basis for Operating Administration or Secretarial Office corrective actions.

e. The fact that an employee, grantee, or contractor is indicted or convicted of a crime does not relieve the Operating Administration or Secretarial Office of initiating separate appropriate corrective action.

f. In those instances where DOT contracts or grants are involved, remedial actions shall be taken in accordance with existing laws, rules, and regulations.

9. NOTIFICATION OF ACTIONS TAKEN.

a. The management official to whom the report is addressed is responsible for notifying the OIG of actions taken. This notification will include the date and specific nature of the actions taken, including copies of any documentation which supports the actions taken (e.g., final decision letters, notice to effect payroll deductions, etc.). If no action was taken, notification shall include the reasons why.

b. Normally, DOT elements will be requested to provide the OIG with notice of actions taken within 60 days.

10. CLOSING ACTION. The OIG will consider an investigative matter closed when:

a. Necessary administrative action is completed (such as amount of indebtedness determined and arrangements made for its payment, and personnel or other administrative actions accomplished) and reported to the OIG.

b. Legal action is completed by DOT or the DOJ (including a U.S. Attorney). A final judgment or settlement by the DOJ in a civil case is considered as completion of legal action, even though the amount has not been collected.

c. Action has been taken under the Uniform Code of Military Justice and approved by the appropriate authority.

FOR THE SECRETARY OF TRANSPORTATION:

Melissa J. Allen
For the Assistant Secretary
for Administration