

**Assessment of
Law Enforcement Powers Implementation
(Law Enforcement Authority Pursuant to Section 6(e) of the IG Act)**

Review Step	N/A	<u>REVIEW STEP 1</u> Does Policy/ Procedure Exist?		<u>REVIEW STEP 2</u> Practice Consistent with Policy/ Procedure?		Reviewed Agency Policy/Manual Reference	AG Guideline Reference and Page Number	Comments
		Yes	No	Yes	No			

PURPOSE. Appendix B-1 is used to review OIG’s who derive their law enforcement powers from Section 6(e) of the IG Act. The questions are based primarily on the requirements set forth in the Attorney General’s Guidelines for: (I) Offices of Inspector General with Statutory Law Enforcement Authority, (II) Domestic FBI Operations, and (III) Use of Confidential Informants. The purpose of this appendix is to assist in making a determination whether adequate internal safeguards and management procedures exist and are effectively implemented. The review team is encouraged to read the full text of the Attorney General requirements, as listed in the “AG Guidance Reference” column. The OIG being reviewed will complete the “Reviewed Agency Policy/Manual Reference” column and provide this appendix to the review team prior to the onsite review. The reviewed agency will select “N/A” when a section is not applicable to the reviewed agency. The review team should complete the Review Step 1 column prior to conducting the onsite to compare the agency policy with the Attorney General requirements. The review team should complete the Review Step 2 column while onsite and after the onsite review is conducted as necessary. Answers to certain questions below may not be readily available or apparent. In these instances, the peer review team should assess whether there is clear, specific and articulable information in the case file to suggest the standard was violated. The “Comments” field may be used by the reviewed or reviewing agency for miscellaneous notes or explanations (denote who made entry).

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I. COMPLIANCE WITH THE ATTORNEY GENERAL GUIDELINES FOR OFFICES OF INSPECTOR GENERAL WITH STATUTORY LAW ENFORCEMENT AUTHORITY (12/8/2003) (see Appendix F of this guide).

A. LAW ENFORCEMENT TRAINING AND QUALIFICATIONS

1. Have all individuals exercising law enforcement powers hired since the last Peer Review (or since the OIG obtained statutory LE authority if not previously peer reviewed) completed the basic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section IV(A) Page 2	
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Criminal Investigator Training Program at the Federal Law Enforcement Training Center (FLETC) or a comparable course of instruction? (For example: Certification of training may be through documentation in the individual's file, HR records, training center records or certificate.								
2. Does the OIG provide the required periodic refresher training to its investigators covering the following areas: Trial process, Federal criminal and civil legal updates, interviewing techniques and policy, law of arrest, search, and seizure, physical conditioning/defensive tactics.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section IV(A) Page 2	
B. FIREARMS TRAINING AND QUALIFICATIONS								
3. Have eligible individuals received initial and quarterly firearms training and requalification with their issued weapon(s)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section IV(B) Page 3	
4. Has the OIG received training on and adopted the Department of Justice (DOJ) deadly force policy?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section IV(C) Page 3	
5. Did the OIG follow the AG guidelines in determining the individuals authorized to carry a firearm off-duty?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section V Page 3-4	
6. Is the OIG reporting all significant and credible allegations of abuse of authority (and disposition of matter) for eligible individuals receiving law enforcement powers under Section 6(e) (1) of the IG Act?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section XI Page 10	

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C. USE OF SPECIALIZED INVESTIGATIVE PROCEDURES AND TECHNIQUES

7. Did the OIG consult with the FBI, an appropriate U.S. Attorney’s Office (or DOJ Criminal Division litigating component), and/or other appropriate agency (such as the CIGIE Undercover Review Committee), as required for the following:								
a. Court-Ordered Electronic Surveillance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section VIII (A) Page 5-6	
b. Undercover Investigative Operations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section VIII (B) Page 6-7	
c. Especially Sensitive Targets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section VIII (C) Page 7-8	
d. Consensual Monitoring in Certain Situations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section VIII (D) Page 8-9	

D. NOTIFICATION AND CONSULTATION REQUIREMENTS

8. Does the OIG promptly (within 30 calendar days) notify the FBI in areas of concurrent jurisdiction in all matters involving fraud against the Federal Government when there is reasonable grounds to believe there has been a violation of federal criminal law and the OIG initiated a criminal investigation in accordance with its policy?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section VII (A) Pages 4 & 5	
9. Does the OIG policy require consultation with a Federal prosecutor at an early stage of criminal investigations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section VII (B);	

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							Section IX - Page 5 & 9	
10. Does the OIG follow DOJ's guidelines for press releases, when required?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section X Page 10	

II. ADHERENCE TO ATTORNEY GENERAL'S GUIDELINES FOR DOMESTIC FBI OPERATIONS (9/29/08) (See Appendices G-1 and G-2 of the peer review guide). Note: The guidelines provide for two types of Predicated Investigations—Preliminary and Full. This guideline defines Predicated Investigations generally as allegations, reports, facts, or circumstances indicative of possible criminal or national security-threatening activity, and supervisory approval must be obtained to initiate these type of investigations.

11. Are there policies and processes in place that address the Guidelines for FBI Domestic Operations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section II Page 4	
12. Do supervisors approve the initiation of investigations when required?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Sections II & (II)(B)(2) Page 18	
13. Is there an approval process for extensions of preliminary investigations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section (B) (4) (a)(ii) Page 21	
14. Are predicated investigations initiated based on an activity constituting a federal crime?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section (II)(B) (3) (4) Page 21	
15. Does the OIG maintain periodic contact with the appropriate Federal prosecutor on matters requiring prosecution?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Sections (VI)(C) (1) Page 36	

III. ADHERENCE TO ATTORNEY GENERAL'S GUIDELINES ON USE OF CONFIDENTIAL INFORMANTS (5/30/2002) (See Appendix H of this guide). Note to reviewed organization: complete the following section only if it is applicable to your organization.

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16. Does the OIG ensure that the initial and periodic suitability determination assessments were conducted?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section II (A) Pages 8-10	
17. Does the OIG's policy establish procedures for registration and documentation of the Confidential Informant?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section II (B) Pages 11-13	
18. Does the OIG's policy establish procedures protecting the true identity of the Confidential Informant from unauthorized release?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section I (F) Pages 5-6	
19. Does the OIG's policy establish procedures when approvals and notifications are required?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section II (D) Pages 13-16 & IV Pages 25-27	
20. Does the OIG's policy establish procedures for prohibited or illegal activity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section III (A) Pages 17-24	
21. Does the OIG's policy establish procedures for Informant payments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section III (B) Pages 17-19	
22. Does the OIG's policy establish the criteria and procedures for the deactivation of Confidential Informants?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AG Section V Pages 27-28	
IV. ADHERENCE TO CIGIE GUIDELINES ON UNDERCOVER OPERATIONS								
23. Did the OIG establish a policy to address undercover operations (as defined by the CIGIE Guidelines)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Guidelines on Undercover Operations	

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24. Does the OIG's policy establish the approval process for Undercover Operations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		(IV) Pages 2-14	
25. Does the OIG's policy establish an application/proposal process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		(IV) (F) Pages 9-10)	
26. Does the OIG's policy establish internal controls regarding funding associated with undercover operations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		(IV)(C) & (VI) (F) Pages 5 – 6, 16)	
27. Does the OIG's policy require reauthorization of Undercover Operations longer than six months, where applicable?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		(IV)(G) Page10	
28. Does the OIG's policy establish authorized and unauthorized activities during Undercover Operations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		(IV)(H) Pages11 – 14	
29. Is coordination maintained with legal counsel throughout the Undercover Operations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		(VI)(C) Page 15	
30. Does the OIG's policy establish a reporting criteria for serious legal, ethical, prosecutorial or OIG policy questions and previous unforeseen sensitive circumstances during Undercover Operations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		(VI)(D) Page 16	
31. Does the OIG submit undercover applications to the CIGIE Undercover Review Committee, when required?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		(IV) (F) Pages 9-10	
32. Does the OIG's policy appropriately distinguish the different approval levels depending on the type of Undercover Operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		(IV) Pages 2-13	
33. Does the OIG's policy address emergency interim authorization procedures?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		(IV) (I) Pages 13-14	
34. Does the OIG's policy address when notification must be made to the FBI?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		(IV) (B) Pages 3-5	

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35. Did the OIG obtain the Undercover Review Committee records upon completion of UC operations, where applicable?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		(VII) Page 17	