



**INSPECTOR GENERAL**  
**DEPARTMENT OF DEFENSE**  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22350-1500

August 29, 2016

## **INSPECTOR GENERAL INSTRUCTION 7050.9**

### **USE OF DoD INSPECTOR GENERAL ADMINISTRATIVE SUBPOENAS IN SUPPORT OF AUDITS, EVALUATIONS, AND INVESTIGATIONS**

#### **FOREWORD**

This Instruction establishes the DoD Office of Inspector General policy for requesting and processing requests for Inspector General administrative subpoenas.

This Instruction will expire 10 years from its issuance date.

The office of primary responsibility for this Instruction is the Office of Deputy Inspector General for Policy and Oversight. This Instruction is effective immediately.

FOR THE INSPECTOR GENERAL:

  
Steven A. Stebbins  
Chief of Staff

3 Appendices

**A. Purpose.** This Instruction establishes policy for utilizing DoD Inspector General (IG) administrative subpoenas as authorized by references (a) through (f).

**B. Cancellation.** This Instruction cancels IG Instruction 7050.9, *Use of Department of Defense Inspector General Administrative Subpoenas in Support of Audits, Evaluations, and Investigations*, April 14, 2011.

**C. Summary of Changes.** This updated Instruction refrains from tasking DoD Components and removes the standard operating procedures (SOP) explaining how the Investigative Policy and Oversight (IPO) Division processes IG subpoenas. IPO will internally manage the SOP. This update also includes administrative changes.

**D. Applicability.** This Instruction applies to the Office of Inspector General (OIG).

**E. References.** (See Appendix A.)

**F. Acronyms and Abbreviations.** (See Appendix B.)

**G. Background.**

1. IAW Section 6(a)(4) of reference (a), the IG may subpoena information, including documents and testimony, in performance of the OIG's assigned functions.

2. Reference (c) added Section 8(i)(1) through 8(i)(3) to reference (a) authorizing the IG to subpoena the attendance and testimony of witnesses, as necessary, in the performance of OIG functions.

**H. Policy.** All IG subpoenas, documentary and testimonial, addressed in this Instruction are administrative.

1. An IG subpoena will only be issued for audits, evaluations, and investigations within the IG's statutory authority. The information sought must be reasonably relevant to the IG audit, evaluation, or investigation and not be unreasonably broad or burdensome.

2. Requests for IG subpoenas supporting DoD criminal investigations not related to DoD fraud will be considered when such requests satisfy criteria under the "DoD Nexus Test" and the "Particular Crimes Test" described in reference (d).

3. The process for requesting testimonial IG subpoenas will be the same general process utilized to request an IG subpoena seeking documentary evidence. (See paragraph J. for more information on the Subpoena Program.)

**I. Responsibilities.**

1. The **IG** will personally approve and sign testimonial IG subpoenas.
2. The **Principal Deputy Inspector General**, the **Chief of Staff**, or the appropriate delegated authority, as identified in reference (f), will approve and sign documentary IG subpoenas, which are known as *Subpoena Duces Tecum*.
3. The **Deputy Inspector General for Policy and Oversight**, or appropriate delegated authority, will approve and sign IG subpoenas seeking Basic Subscriber Information.
4. The **Office of General Counsel (OGC)** will:
  - a. Review all IG subpoena requests, other than requests seeking Basic Subscriber Information associated with electronic communications services, such as Internet service providers and cellular phone service, to ensure legal sufficiency and enforceability.
  - b. Prepare, as necessary, all judicial enforcement of IG subpoena requests for the IG's or the appropriate delegated authority's signature, and coordinate all such enforcement efforts with the Department of Justice on behalf of the OIG.
  - c. Provide the Attorney General with the notice required by Section 8(i)(3) of reference (a) for testimonial IG subpoena issuances.
5. The **Director, Policy and Programs, for IPO**, or appropriate delegated authority, will send IG subpoenas, requiring legal sufficiency review, to the OGC.
6. The **IPO Subpoena Program Manager** will:
  - a. Review IG subpoena requests for investigative sufficiency.
  - b. Ensure signed IG subpoenas are distributed to the requesting DoD Component.
  - c. Review and process all IG subpoenas.
7. The **Office of the Assistant Inspector General for IPO** will:
  - a. Establish guidelines for requesting and processing IG subpoenas and post the procedures on the OIG Internet website. (See paragraph J. for more information on the Subpoena Program.)
  - b. Ensure completion of all necessary legal and investigative sufficiency reviews.

**J. Subpoena Program.** Individuals can find IG subpoena request guidelines:

1. On the OIG Internet website: <http://www.dodig.mil/programs/subpoena/index.html>.
2. If unable to access the Subpoena Program website, users should go to the OIG Internet homepage:
  - a. Select the “What We Do” tab, select “Programs.”
  - b. Then select the “Subpoena Program” under the “Legal” heading.

**APPENDIX A  
REFERENCES**

- a. United States Code, Title 5, Appendix, *Inspector General Act of 1978*, as amended
- b. DoD Directive 5106.01, *Inspector General of the Department of Defense (IG DoD)*, April 20, 2012, as amended August 19, 2014
- c. Public Law 111-84, Section 1042, *National Defense Authorization Act for Fiscal Year 2010*, October 28, 2009
- d. DoD IG Memorandum, *Use of DoD IG Subpoenas in Support of Non-Fraud Related Investigations*, June 16, 2009 (available on IPO Intranet webpage)
- e. DoD Instruction 7050.05, *Coordination of Remedies for Fraud and Corruption Related to Procurement Activities*, May 12, 2014
- f. DoD IG Memorandum, *Delegation of Authority to Sign DoD Inspector General Subpoenas*, October 11, 2012 (available on IPO Intranet webpage)

**APPENDIX B  
ACRONYMNS AND ABBREVIATIONS**

IG	Inspector General
IPO	Investigative Policy and Oversight
OGC	Office of General Counsel
OIG	Office of Inspector General
SOP	standard operating procedures