

Office of Inspector General Communications with Benita Turner

Glenna Davis: Hello and welcome everyone to the working with the HHS Office of Inspector General with Benita Turner webcast. It is now my pleasure to turn the floor over to Tanesha Canzater. Tanesha, the floor is yours.

Tanesha Canzater: Thanks, Glenna. Welcome everyone, thanks for joining us. Thanks, Benita. Thanks again. Welcome to a discussion with Benita Turner on working with the Office of Inspector General, particularly around audits and investigations. Again, my name is Tanesha Canzater, and part of my work here at the Office of Head Start is managing issues around and focusing in on Office of Inspector General audits and investigations and working and partnering with Benita Turner on those issues. I'm going to open ... I'm not going to delay this any longer, I'm going to turn it over to our Associate Deputy Director Shawna Pinckney for opening remarks. Shawna, thank you.

Shawna Pinckney: Thank you, Tanesha. Hello Head Start, thank you so much for joining us this afternoon. We are here to spend some time with the Office of the Inspector General. The OIG plays a really important function, which is to prevent and detect fraud, waste, abuse, misconduct, mismanagement, and mismanagement in the government and to promote economy, efficiency, and effectiveness in our agency's operations and our programs. At the Office of Head Start, we really value our partnership with the Office of the Inspector General as well as we value their recommendations in terms of what they propose to enhance the efficiency and the success of our Head Start operations and our Head Start programs. I am delighted to introduce to you Benita Turner, who is presenting to us today about engaging with the OIG, the Office of the Inspector General on audits and investigations.

Now, let me share just a little bit with you about Benita. Benita is the Director of Enterprise Risk Management within the Administration for Children and Families Office of Administrations, Office of Transformation, Business, and Management. That is quite a mouthful. Benita has worked with the Department of Health and Human Services in several capacities for over 24 years. The last 17 of those years have been solely at the Administration for Children and Families. Along with her team, Benita primarily operates the risk management and oversight area of work, again, within ACF. One of the team's key responsibilities is ACF's compliance and the implementation of the requirements and recommendations outlined in OMB Circular A-123 that's titled, Management's Responsibility for Enterprise Risk Management and Internal Control.

Benita's team also serves as ACF's liaison to the Office of the Inspector General for which they're responsible for coordinating with the OIG's Office of Investigations and other law enforcement bodies on ACF engagements related to fraud and criminal activity as well as the OIG's audit services on all audit engagements. Just a little bit about our guest today, Benita, welcome and the floor is yours.

Benita Turner: Thank you, Shawna, and thank you Tanesha. Hopefully, I'm not a stranger to most of you. I've done a couple of, or a few, presentations to the Office of Head Start in the past, and I am always excited to share and engage with you guys on understanding working with the HHS Office of Inspector General as well as in other areas. Just a little bit about how I plan to move through the presentation, I'm more of a fireside chat kind of person. I want this to be engaging. I don't mind questions; I believe the questions will be through the chat or through the Q&A. I don't mind interim questions. I will not stick word for word to the slides because I'm going to go where the conversation leads and where your questions as they come up may lead.

Starting with ... Just giving you a little bit of background about the liaison position. Originally back in 2013, the acting deputy assistant secretary at that time sent out a memo designating the Office of Legislative Affairs and Budget, commonly known as OLAB here at ACF as well as the Office of Administration, as the two primary liaisons for working with the HHS Office of Inspector General. That was born out of ... Back in 2013 and prior, we did not have a whole lot of audits and investigations at ACF. As I'm sure most of you know, most of those activities focused on the Centers for Medicare and Medicaid Services related to Medicare and Medicaid. However, in 2014 the OIG received a huge increase in their funding for what they call discretionary activities.

Their mandatory activities relate to CMS and their discretionary activities related to all of the other optives. Well, once they started digging, they realized, hey, wait a minute. ACF is not this little, tiny optive that we thought they were. The bulk of their discretionary funding now goes towards looking at ACF programs and operations, which is why those of you who have been here for a long time may have seen an uptick in the engagements we have with the HHS Office of Inspector General. Because of that, we weren't accustomed to dealing with the OIG, and they did not quite recognize that we weren't as responsive to their inquiries, again, because there was never any training or engagement established. That's what happened in 2013, and then recently in 2024, in June of 2024, the immediate office of the assistant secretary at ACF looked at the process again. Previously, you may have worked with OLAB on programmatic audits.

My team has always handled investigations, law enforcement matters, excuse me [Clears throat], but OLAB handled audits of ACF operations, and we handled the audits of ACF funding recipients. However, they determined that was a little confusing and may not have been the most effective approach. All audits now come under the purview of my area.

What's the role of the liaison? Primarily to interact with the Office of Inspector General, to cooperate with them to make sure that we're responding to all their inquiries expeditiously, to ensure that the communication is consistent with ACF policy, timing, making them aware of there are times when at ACF we are extremely busy. So not only working to ensure that we respond to the OIG expeditiously but also making sure that the OIG is understanding of some of our priorities here.

Another role of the liaison is to make sure that senior leadership is aware of any emerging issues. We don't want ACF to be blindsided by information that may come up in the news. I'll give an example: Even though investigations usually are close hold, this particular investigation has been all over the news – the Mississippi TANF fraud. Because of interactions with the OIG, senior leadership was not caught unaware when the information about the alleged fraud in Mississippi and the TANF program hit the news. So that is another one of the important roles of the OIG liaison. Just in summary as it indicates on the slide, we serve as an entry point for OIG inquiries, we manage the ongoing relationship with the OIG, we ensure all communications are responsive and consistent with ACF policy, strategy, and activities, and we keep ACF leadership abreast of potential issues.

Within the Office of Head Start, my primary point of contact, Head Start has established a liaison for working with me in engaging with the OIG, and that makes it easier, and that's Tanesha, so that she's the entry point. I start with her, and she will share the information with the appropriate points of contact within the Office of Head Start. There are times, however, the OIG has broad authority to request any and all information. They do not have to follow our liaison policy; they can go directly to whomever they want. They can also dictate we want this a closer hold; we don't want to engage. They may limit the people who are involved, especially with an investigation.

Audits are more free flowing, but with investigations, sometimes they can be even more restrictive in how that information is shared and who they reach out to. The IG Act of 1978 is what gives the OIG their broad authority. They have direct and unrestricted access to all agency records and information, and that actually extends down to our funding recipients, any beneficiaries, any sub-recipients. If there's a flow of dollars from HHS, I don't care how deep down the line that flow goes, then the HHS OIG has authority and unrestricted access to any of those records and information.

I'm going to start with ... I think most people are interested in the investigation side, but I'm going to start with the audit side so that we have more time to discuss the investigation side. When the OIG conducts an audit, one of the first things we receive is an audit start notice, and that's commonly referred to as an ASN. Now, I will tell you a little bit of background because people often ask, "What prompts an audit?" Audits can be prompted from ... The OIG Office of Investigations may have been investigating something or reviewing something, and it didn't quite give rise to criminal or fraudulent activity. But they may have seen enough there where they may pull in the Office of Audit Services and that also works vice versa.

In the past, particularly with Head Start, we would reach out to the OIG and ask them to conduct audits of some of our funding recipients. However, in recent years, as everybody's purse strings have tightened, the OIG has not been as available to conduct audits that we have requested. But they primarily conduct audits based on some kind of information that

they may have received. Sometimes they must conduct audits ... They're legislatively mandated.

For example, with the COVID supplemental funding. As part of the legislation for the supplemental funding, they required the OIG to go out and conduct audits of how that COVID funding was being spent, if they were adhering to the requirements of the COVID funding. Same thing with Hurricane Sandy, which those of you who were around back then may remember. Primarily with disasters and supplemental funding, often the OIG will go out and conduct audits in those cases. Occasionally, they may conduct an audit based on information that they saw in the news. Audits can initiate from various sources.

Once the OIG reaches out to us, sometimes they'll reach out to us before they do the audit start notice, just to do some preliminary work to get some background information on a program or a funding recipient to determine if they're going to move forward with the audit. We're going to go as if they're moving forward with the audit. We receive the audit start notice, and then we will disseminate that information to the program office as well as to the Office of Grants Management. We strongly encourage collaboration, and not to say that programs don't do that, but we just want to be someone that strongly encourages collaboration between the program office and the Office of Grants Management, and I think that is something that is not an issue within the Office of Head Start.

What the liaison will do, we'll coordinate the entrance conference, and during the entrance conference is when the OIG will discuss the scope of the audit. They'll also designate any key points of contact on their end as well as ACF's end, and we will go in and set up a folder in Kiteworks. I have access to Kiteworks; I can go in ... And Kiteworks is the OIG Secure portal. I will tell you, if you look at an audit start notice, it always has at the bottom that you should always send the information via Kiteworks. OIG is notorious for not following their own policy, but I strongly encourage, even if someone reaches out to you from the OIG asking for documentation via email, let's do it through Kiteworks. Because even though they're not following their own policy, if something happens, we'd get dinged for not following their policy, but they don't get dinged for not following their own policy.

At the beginning of each audit engagement, I will set up a folder in Kiteworks. If we ever have to upload anything, I can give the appropriate individuals at ACF access to that folder so that they can upload any required information. Those links are always time sensitive so it won't last for the duration of the engagement. They're usually may be 10 days to two weeks. But if you need to upload again, you can just let me know, I can send you another link. Likewise with members of my team, if it's an investigation matter, Ashley Clark who is on the team may also send you that information, and on the audit side, it's Don Graham. During the course of the audit, when the OIG requests information, they will channel it through the liaison. Again, the reason we channel it through the liaison is because oftentimes that information may be asked repeatedly. It may be asked in a subsequent audit a year or two down the line. That same information may be requested by the Office of Investigations. By having it in a central place and because we are the liaison working with

both sides, it reduces the pull on the program officers or on OGM to have to repeatedly provide the same documentation. It also helps us to keep it in a central place; it helps us to verify that the OIG received it. In addition to the benefits and the requirements of the OIG liaison that I mentioned earlier, it also helps us to manage our time and effort in communicating with the OIG.

As the OIG requests documentation, one thing I want to stress: The time to be responsive and tell your story to the OIG is when they ask for the information. The OIG is our partners, and I'm striving to get people to understand the OIG works with us and alongside of us. They are not here to be a "gotcha." I know it may seem like that because an audit is to identify areas that require improvement and strengthening. Just by the nature of an audit, it may come across as a "gotcha" because most of what you're going to see in an audit report ... They may give a line or a paragraph that says OHS is primarily operating the program as intended. But then comes the however, and we react to the however, but just understanding the purpose of the audit is to identify areas where we may need to strengthen our processes or strengthen our controls. It is to our benefit to be as responsive and forthcoming to the OIG. Oftentimes what happens, people see the draft report, and when they see how the draft report is written, now they want to start telling the story or justifying things. Unfortunately, at that point, it's mostly too late.

I have only seen one instance where a draft report was changed once the OIG issued the draft report. We have an opportunity to provide our responses, and our responses are published with the final report. But as I'm sure most of you know, when that OIG report gets published, people are going to be focusing on what the OIG said, and our responses in the back are just going to be viewed as our responses. Sometimes they can come across as being defensive, but the first thing they're going to see is what the OIG says. That's why it's to our benefit to be as forthcoming and share all of the information instead of closing ranks and circling the wagons.

Again, when we receive the draft report, unlike with the OIG Office of Evaluation and Inspections, there is no preliminary draft report, and we have 30 days to respond to the draft report. In our response, we can concur or not concur with the OIG's recommendations. Sometimes we have a tendency to respond to the findings, but we want to respond to the recommendation. We don't want to respond in a way where we're over-promising – respond only to the recommendation.

If the recommendation says something, for example, Head Start needs to strengthen their controls around recipient documentation. If we agree with that, we should say we concur with the OIG's recommendation; we will strengthen our controls around recipient documentation. If there are some activities that we have already put in place during the course of the audit, we can state those. If there's something that we're going to do that we know we can do, we know for certain we can do that, we can state that. But remember, whatever you put in that recommendation, that is what you're going to be held to. I have seen instances where we have over-promised and over-committed when we didn't have to.

But unfortunately, once we say we're going to do it, then they're not going to close that recommendation until we do what we said we were going to do. When promising what you are going to do, be a little vague, respond but be vague unless you know for sure this is something you can do or that you have already done.

Once the audit report is published and issued, and we receive the final report, it then moves into the resolution stage. During that resolution stage, we have 180 days to resolve the audit. Resolving the audit means we're addressing the OIG's recommendations; we have taken action towards clearing those recommendations. During the recommendation and resolution process, we may engage with internal and external stakeholders, and by that, I mean internal to ACF, external we may have to reach out to ... If it's an audit of a funding recipient, reach out and work with the funding recipient. We want to take real corrective action, and then we also have to issue the audit determination letter to the funding recipient.

Once we issue that audit determination letter to the funding recipient, we also issue a final management decision to the OIG. And that final management decision ... For example, if there was in the audit report, the recommendation was that we recover \$1,000 from the grantee, and we sustained that \$100. Sometimes we don't sustain the amount that the OIG recommends. Now keep in mind, for OIG it is a little bit different ... Well, not a little bit, it's a lot different than single audits. Single audits, we have much more flexibility in what we sustain and what we do not sustain. With the OIG, we don't have that same flexibility. If we don't sustain an amount that the OIG recommended, and we can't provide sufficient evidence and proof that that amount should not be sustained, then the OIG may not accept that audit as being closed.

For example, there's an audit that's out there now where the OIG – I'm just going to make up numbers for sake of example – where the OIG may have recommended \$100 recovery or disallowance, and we only sustained \$50. If the OIG disagrees with us, that \$50 discrepancy will prevent the audit from being closed. What happens, any audits that are not closed within 180 days gets reported on the semi-annual report to Congress. As you know, when something gets reported to Congress, sometimes you may get a staffer or you have some Congress person who now wants to use that, well, "Why didn't they sustain it?" Now we've opened ourselves up to more scrutiny and more audits. My recommendation is if we don't have a valid reason for not sustaining the full amount because sometimes, and I'm not speaking just for Head Start, I'm speaking for programs in general. There's another program in which there's a huge disallowance, and the program is reluctant to take that huge disallowance because of the impact that it may have on the funding recipient and their ability to provide more services.

Some of those arguments for it can be justified. However, if the OIG disagrees that gets reported to Congress and in this particular program because of that, now the OIG is conducting more audits of this program, and these continuous audits of the program are exposing more and more problems. One of the recommendations I make is unless you

have a really strong case for not sustaining the amount, sustain it because the grantee always has the option to appeal. When they appeal that decision, that goes to the DAB, the Disallowance Review Board, I think, I'm not sure what that acronym means. It's something along those lines. They will make an objective decision as to whether the grantee needs to repay that amount. But at least, we have done our due diligence in resolving the finding and sending it forth within 180 days. The OIG will be bound by the decision of the DAB even if they aren't bound by the decision of ACF.

Now, sometimes people will point to, in some of the guidance, like OMB A-50 where the OIG can't tell ACF what to do. However, what they can do is report any disagreements to Congress. While in actuality, they can't tell us what to do, if we don't do what they ask or we don't come to some kind of resolution with them, then it gets reported to Congress. Then that's when you have all of these other things that can come from not coming to some kind of agreement with the Office of Inspector General. When we have these exit conferences, this is the time to discuss some of these things. During the course of the engagement, this is the time to discuss those things. The time to have these real conversations is not after the audit report is issued. With that being said, that's the conclusion of the presentation with respect to OIG audits. I'm going to pause for a minute and see if there are any questions related to engaging with the HHS Office of Inspector General with respect to audits.

Tanisha: We don't have any in the chat, Benita, but if anyone has any questions, please, you can either raise your hand or you can put them in the chat.

Benita: Hopefully, I haven't put everyone to sleep. Hopefully, you're finding this engaging. I'm going to move forward but if something comes to mind after the fact, feel free to jump in. Honestly, I don't mind. I want this to be of benefit to you.

Tanisha: We're getting responses, Benita, everyone's sending a thumbs-up emoji, so no one's asleep out there. They're up [Laughter].

Benita: Well, thank you. I think the next session is the one that seems to have most folks' interest and where we tend to have the most questions, and that's the OIG investigation engagement. OIG investigations are related to allegations of fraud, waste, and abuse. It is different from an audit. Audits tend to look at internal controls, processes, procedures, things that may not have been done in accordance with requirements or guidance. With an audit, when they're looking at an audit, it's not necessarily an intent to defraud or an intent to be misleading. Whereas with investigations, there's usually that element of intent. Now, I will say sometimes, as you all know, you can commit a crime unintentionally, but for the most part, that's what investigations are looking for. I see something in the Q&A. I see a red dot with a one. Do you want me to pause? Is there a question there?

Tanisha: You do, we do have a question. Someone asked, what do you – and this is going back to when you talked about disallowance when we were talking about audits – what do

you mean to a disallowance? I think they're probably asking what is a disallowance or what do you mean to a disallowance?

Benita: For example, if the OIG goes out and does an audit of a funding recipient, and they determine that that funding recipient spent money outside of what is required. For example, I know sometimes when a Head Start grantee, funding recipient, I'll use those terms interchangeably. Say they want to buy, I hate to keep using this example, but it's a real-world example. Say they want to buy a car, or a van, and they submit a request ... The process is that they submit a request to ACF before they buy the van and get approval, prior approval, for the expenditure. They may have gotten that prior approval that says, OK, you can spend \$3,000 on this van, and this van is supposed to be used – now I'm making up a scenario – this van is supposed to be used to transport children from their Head Start Center to, I don't know, school or something. I don't know, I'm making up things. But the recipient, instead of buying one van for \$3,000, they buy a van that costs \$6,000, but they didn't get prior approval for the increase in the cost. The OIG may disallow the additional \$3,000 because they did not get prior approval.

Now, sometimes what may happen is Head Start may issue what's called a retroactive waiver allowing the extra cost associated with the van. But because the grantee spent the funds before they received that approval, it still was not in accordance with the policies and procedures even though we issued the retroactive waiver. The OIG may issue a disallowance for \$3,000. Or similarly, let's say they only spent the \$3,000 as they were supposed to, but they didn't use the van for the purposes that they said they were going to use the van. Say, I don't know, the director of the center was using the van to get back and forth to work. They may disallow that \$3,000 because the van was not used for the purposes intended.

Things like that happen most frequently when there are supplemental funds. Supplemental funds may have specific restrictions and uses, and if those funds are not used for those specific intended uses as outlined in the allowability in the supplemental funding, then the OIG may disallow that. That means the funding recipient has to repay those funds to the federal government.

I see more Q&A and chat, and I see something in the chat. I mean, I can't see what's in the chat, but I can see that there's something in the chat.

Tanisha: No, there's not a question. Glenna was posting something.

Benita: Hopefully, that answered the question, but if more clarity is needed, feel free to put another question out there. Happy to explain as much as possible. I'll move back to the investigations. One of the biggest things is, "What initiates an investigation?" Investigations can be initiated in multiple ways. One way is we may hear something from a funding recipient where an employee of a funding recipient has some concerns about some activity that is happening at that location. They may reach out to someone at ACF and say, "Hey, I

have these concerns. I think the director of our program is misappropriating funds or some other area of concern, or they're enrolling children who are not eligible. They're bypassing the eligibility in a way that's not allowed." We may get referrals from individuals. There also may be an audit that has been conducted. During the course of an audit, someone notices some red flags of fraud. They may refer that to the HHS OIG. Someone from the public may reach out through the OIG hotline directly and make an inquiry of the OIG. There are multiple ways that the OIG receives information that may initiate an investigation.

Most of the things come through the OIG hotline. Now, the OIG hotline receives thousands, tens of thousands, sometimes hundreds of thousands of submissions annually. They are required to evaluate each one. Now, evaluate doesn't mean conduct an investigation. It means just that they'll review the referral to see if it has any merit. When they do that, sometimes something may have merit, but they don't conduct an investigation because just like all of us, they have limited resources, limited staff, limited bandwidth. What they'll do is they'll send something to ACF, and it's usually through the hotline referral process. They'll send something to us and say, "We received this through our hotline. We evaluated it, but we declined to open an investigation." Now, sometimes they will give more detailed information where they will say, "Although we declined to open an investigation, we think there may be something there, so we want ACF to follow up with us and let us know what action they took with respect to this particular referral."

In other words, they're putting the ball in our court, but they want us to respond back to them because it was significant enough that they want to make sure we took some sort of action, but not significant enough or due to limitations and resources, something that they could handle directly. Sometimes they'll also tell us no further action is needed, or no further reporting, no follow-up reporting is needed to them. However, we still want to make sure we take action. We may see enough there where it may not be fraud, but it may be something where we want to keep our eye on this particular funding recipient. Just because the OIG doesn't take up an investigation doesn't mean that there isn't something there that's a red flag for fraud or maybe just something that we want to monitor with that grantee. I see [Inaudible] in the chat.

Tanisha: Benita, yes, we do have a question. Actually, we had another follow-up question, but I want to ask this one from Angel Barrios. Angel's asking or saying this, or he ... That is quite concerning that the OIG hotline receives over 140,000 submissions in this way. Can you please provide some strategies and safety guards that Head Start programs should have in place to prevent any potential issues?

Benita: Do you mean to prevent any potential issues of fraud or potential ... ?

Tanisha: Angel, you can come off ... Can attendees come off mute to ask their questions so they can provide some context? I don't know if we've muted them.

Benita: What I'll do is I'll answer the question to the best of my ability.

Tanisha: You're muted.

Benita: If I don't respond to what you intended with your question, you can follow-up question. Then I'm also more than happy ... After this presentation, you can reach out to me, and we can have a dialogue. I'm fine with that. But if you're talking about guardrails for fraud, to prevent fraud, the best guardrails we have are our internal controls. Our policies and procedures and adhering to those policies and procedures. If a funding recipient is required to request advanced approval for certain expenditures, hold them to that. The issuance of retroactive waivers should be an exception, not a rule. Grantees talk and sometimes exceptions can become a rule.

Our monitoring and oversight. When we go out and we look at grantees – and Head Start does a great job with their technical assistance, their training – but sometimes we really need to really hold people accountable for the things that they do that are outside of the established policies, procedures, requirements, and internal controls. Those are the best guardrails that we have is accountability. When we go out and we do reviews, when they submit their – I think Head Start uses the SF-425 – the reports that they submit, hold them accountable for submitting those things.

Another good thing is the single audit reports and the OIG reports, but especially single audit reports because they tend to be more recipient specific. Read through those, look and see ... Are there any areas that they're finding the recipient is not adhering to the policies and procedures that we have in place. And then work with those recipients to make sure they have a clear understanding. Sometimes it's just a lack of understanding. Again, Head Start is really good about the training and technical assistance that you offer. I would just keep doing those, and adhering ... We need to hold ourselves accountable for adhering.

It's like a parent-child relationship. You may tell your child you can't use your electronic devices after six o'clock, and if you use your electronic device after six o'clock, I'm going to take it away and you're going to lose privileges for it for a week. But then seven o'clock comes along, you see them using their electronic device, and you're like, well, OK, you can keep on using it. You say, but this is one time, and then the next day they're doing it again and we let them get away with it again. Then finally, one day someone else comes in and says, "Hey, I thought you couldn't use it after seven." You take the electronic advice device away and you say, "Well, you can't have it for a week." But then a day later you turn around and give it to them.

The punishment or the guardrails ... I don't like the word punishment. The guardrails, the protections. There's a reason why you told them they can't use the electronic device after six, you're not just making up policies and procedures for no reason. You're making it up because you don't want them to use it after six because they need to do their homework, or they need to get the proper amount of sleep. If you're looking at these devices too late, it

interrupts your sleep. I'm just repeating what they say, this isn't my opinion. I'm just saying. There are reasons that these guardrails are in place, and if you don't adhere to them yourself, then they start becoming meaningless, and then you start having issues. The child starts failing in school because they're not turning in their homework, but there was a guardrail in place to try to help them allot the amount of time needed to do their homework. I hope that was a halfway decent analogy to explain guardrails, and I hope that answered your question, but if not, feel free to put more in. And I see 10 more, 11.

Tanisha: Thanks, Benita.

Benita: There's 11 more things in the chat. Anything else you want me to answer?

Tanisha: There was another question, and I think we needed some context behind it. There was a question from Carmen Vielle, but this is backing up a bit on the audit side. Is there a threshold, for example, the price went up by \$300 due to inflation and I think that was when you were talking about the disallowance when she asked that question.

Benita: Yes, so if the price went up, they just have to ask – and apologies if I'm not using the terminology they use – they just ask for a budget modification. If the price went up by \$300 ... If you originally asked for \$500 and inflation, the price went up to \$800. You just ask for a budget modification, and that way it's approved in advance.

Tanisha: I think that was the end of the questions for now. Thanks, Benita.

Benita: I'll go back to the OIG investigation engagement stages. The first thing that happens regardless of how the OIG receives whatever it is that sparks an investigation, the first thing they'll do is evaluate it. Is there a basis to investigate? Sometimes I know people get really frustrated because they will submit something to the OIG, or they'll submit something to me to send to the OIG, and the OIG doesn't take up an investigation or it may take a long time. Well, the first thing that the OIG is ... They're going to evaluate it. Some things that we may think are fraud or indicators of fraud don't rise to the level of criminal activity or rise to the level of fraud. But after the OIG does their initial evaluation, and they determine, yes, there's enough here that warrants an investigation, they'll initiate an investigation. Now at the point, if it's something we refer to the OIG, we should not then investigate it ourselves. If we received any kind of communication for someone where they think there's a red flag of fraud, that is not our expertise at Head Start, at ACF, or any of the other programs. We should refer it to the OIG and let them do what it is that's in their lane, their expertise.

We can continue to engage with the recipient on a business-as-usual basis, however we would engage with them if there were not an investigation or an allegation of fraud. Because sometimes what happens in our desire to be helpful or to look at it ourselves first, we alert a grantee that someone has reported potential fraud or that there may be an investigation in process. I've seen this happen multiple times, that when the subject of the investigation, be it an individual or a funding recipient, gets wind of it, they start destroying

documentation. Then the OIG goes in to look and that documentation is gone which makes it much harder for them to prove the fraud or to prosecute a case.

Or it may be a case where the OIG was already conducting an investigation, but someone within ACF, thinking they were being helpful, then reached out to the funding recipient and started asking questions and requesting information. Again, the funding recipient figured it out; they started shredding documents. Or we've had cases where an employee of a funding recipient reported something that they thought might be fraudulent to ACF, and then ACF reached out to the person that was being reported upon, and then they took retaliatory action and fired the person who made the allegation, which is a whole separate process. That's whistleblower, and we had the presentation on whistleblower and whistleblower retaliation back in July that everybody mandatorily had to take.

I'm hoping everybody has taken it and if not, reach out to me separately and I can send you the link to do that. So that sometimes it can cause whistleblower retaliation. Everybody has a right if there is something that they suspect and they reasonably suspect that something may be wrong, it may not be, they may have had limited information, but if they reasonably suspected and they reported, they should not be penalized for making such a report. Tanesha, you came on camera, so I'm [Inaudible]

Tanesha: Yes, because ...

Benita: That means you have a question.

Tanesha: I have a question. Yes. I understand when there's an issue that comes up and we refer it for fraud, but there are other things that can also be going on that we as an office believe is going on. It could not have anything to do with fraud, but other things that are concerning to us. When we refer a matter to OIG or refer it to you and say, "Hey Benita, we think this is an issue for fraud." That's our way of understanding; we're acting on that. But should we then just sit back, knowing that we have a suspicion that there are these other things going on, we don't deal with that at all. We just wait until we hear from the OIG about the fraud.

Benita: Correct. You send, if there's any other matters that are of concern, you can update the original ... And that happens all the time. I have program offices where they'll refer something to the OIG, and then they'll get further communication or further areas of concern, and they'll send it to me. And I'll just keep sending that additional information to the OIG because, again, you don't want to inadvertently alert the subject of a potential investigation to an investigation because then people may take action, destroy evidence, change documentation – all sorts of things can happen. Now that's not to say you can't proceed with normal course of business, and that's a very different thing than looking into allegations or suspicions.

Tanisha: Now, when you say normal course, is that like our grant ... Like we need to do a targeted review or that is our normal course of business if we believe that there's an issue, we would then do a ... And it wouldn't be announced. It would just be a targeted review on a certain issue.

Benita: That's not a normal course of business.

Tanisha: That's not what you consider ... OK.

Benita: Right. You're doing the targeted review because you have a suspicion of fraud. That's not normal course of business. Normal course of business means what your engagement with the grantee funding recipient were there not any suspicions or areas of concern related to possible fraud.

Tanisha: It doesn't have to be fraud, though, it could be any other areas of concern, not necessarily fraud, but it could be anything other, things that we're concerned about because we've already referred the fraud to you. We've already referred that.

Benita: That makes it challenging because the fact that you have suspicions of fraud, it's now going to be difficult to separate other areas of concern because other areas of concern are often the result ...

Tanisha: Of some intentional ...

Benita: Of some intentional activities.

Tanisha: OK.

Benita: Normal course of business should be limited to if you have an allegation of fraud pending, hold off on those other things. Normal course of business is if the funding recipient submits a budget modification, if the funding recipient submits their progress reports or financial reports and you review those – the things you would do were there no suspicions. That's the normal course of business. There's nothing out of the ordinary. You're not reacting to anything that is outside of the ordinary.

Now the OIG will usually evaluate within about 30 days. Then they may say, we don't see enough here or we're not going to take this up. ACF can proceed in a manner, which has happened sometimes too, where the OIG didn't take it up. Then ACF for a particular program may have put a grantee on restricted drawdowns. There's other activity we can take if the OIG does not take it up. Also, if the OIG doesn't take it up, whatever, and this is kind of going into this, if it's referred to ... Sometimes the OIG may refer it back to us without conducting an investigation. At that time, I strongly encourage collaboration between the program office and the office of grants management. Now say the OIG has said we're not doing anything, ACF, you proceed with what you deem appropriate for this circumstance.

Say as you're doing more, now that you have the go-ahead to go and look more into this recipient, engage with the recipient, you find other information that is a stronger indicator of fraud. Last summer for some reason, this seemed to have happened quite a bit with several programs where the OIG initially declined it.

The program then went out and did their reviews, did their restricted drawdowns, did whatever additional information they thought was appropriate given the allegations, and they discovered additional information. They then sent that newly discovered information to me, which I then sent back to the OIG and said, "OK, the program office or the office of Grants management, they discovered this additional information, I'm submitting to you to reconsider."

In multiple cases last year with that additional information, the OIG said, "Oh, OK, we now have enough to go on. We're going to open up an investigation." And then once the investigation initiated because ACF had already gone out, maybe put them on restricted drawdown, there was closer collaboration between the OIG and ACF. Before the program would take the next steps, they would reach out to me to say, "Hey, we plan on doing A, B, C. Can you follow up with the OIG and let them know is it OK for us to take these steps?" And sometimes the OIG said "yes" and other times the OIG said "no, we don't want you to do that."

There's an investigation with another program now where it's kind of that close collaboration where they initially didn't take it, they did. Now there's this trying to do this balance between what ACF should and should not engage with – with the funding recipient. In those cases, we may need to collaborate much more closely and tightly with the OIG as we proceed. Any questions? Another thing to understand ... First of all, sometimes another thing that can be frustrating: Investigations can take a very long time. There is a case that is going to prosecution next week; this investigation by the OIG initiated back when we were in the aerospace building, and it is just going to trial next week.

Sometimes, depending on the magnitude or the nature of the allegations, it can literally take years. That can be very frustrating in how we proceed. But understand that our OIG, think of them, I always use this analogy – I got to come up with another one because I know people are probably tired of hearing it, but unfortunately, it still works. Everybody, even if you haven't seen it, you've heard of Law & Order, and you know you've got the detectives, Benson and Stabler, and they go out and they do all this investigation, and sometimes you see them butt heads with the Attorney General. They can't understand why the Attorney General isn't moving forward with the case. The Attorney General says, I just don't have enough information to proceed with the case. Get me some more information.

Our OIG are the detectives; they're the Benson and Stabler. Then they refer that information to the Department of Justice, and the Department of Justice will either decide that they're going to move forward with prosecuting the case. Sometimes the Department of Justice

will enter into a settlement, and sometimes the Department of Justice will close it without prosecution. Those closed without prosecution can be very frustrating for our OIG, which in turn can be frustrating to us because we've waited all this time, and then nothing ever happens. Now we're at the point where we may be taking next steps, but we could be years down the line before we do that. Sometimes funding recipients, and I know this has happened with Head Start, have now gone out of business or declared bankruptcy. But unfortunately, that's life; that happens with cases outside of the federal government with the general public.

Also with OIG investigations, rarely, and I mean rarely, will it result in the issuance of a report. If it does result in the issuance of a report, the likelihood that you will see it is slim. The only times that I've seen them issue a report is when the investigation is of an individual. More often, if it's an investigation of an individual who is a federal government employee, the issuance of that report, it's a SIB, a Special Investigation Branch of the OIG. That report typically only goes to the head of the agency, or depending upon what action is taken against that person, it may go to that person's supervisor. But because that is personal information, you won't see the report. The issuance of a report will be only to a select few individuals.

But for investigations in general, there will be no report. For audits, there will always be an audit report unless, and I have seen one instance of this and a matter of fact, it is the case that is going to trial next week. That case started off as an audit that was being conducted by the Office of Audit Services. Once they got there conducting that audit, they discovered numerous red flags of fraud. They turned it over to the Office of Investigations. For that reason, they never issued an audit report because it turned into a full-blown OIG investigation.

But 99.99% of the time, there will always be a report issued at the end of an audit. 99.9999% of the time, there will not be a report issued at the end of an investigation. There is also a new thing that the OIG is starting with ACF, and I've seen it a couple of times now. It's something that's commonly used with CMS with Medicare and Medicaid fraud, but it's something they're trying out with some of our ACF programs. That is if the Department of Justice declines to prosecute, the OIG does have this authority to do what they call civil monetary penalties. It is a way of sanctioning a grantee and recouping government funds without having to go through the courts. It has been used in a very limited way. I think, I've only seen it done twice, and that's been within the last year and it's still in process. But that is something that they're exploring, the OIG is exploring, as a way around these things that the Department of Justice won't necessarily take up.

At the end of this, I have some frequently asked ... That's the conclusion of the bulk of the part of the presentation on OIG investigations. I have a few frequently asked questions, as I've done these presentations over the years, that come up. I'll go through these really quickly. Maybe they'll answer some of your questions. But Tanesha, feel free to come off and interject and ask any questions that may be out there. But one is what determines if

the OIG OI will investigate a complaint. I kind of alluded to that earlier; it depends on their resources, the supporting information, and the likelihood that the DOJ will prosecute. Another thing that will impact it, if a complaint is made by someone anonymously, that can impact the OIG's ability to investigate. Because if it's anonymous and they need some clarifying information or additional information, they don't have anyone to go back to, to get that additional information. Therefore, their potential investigation is stalled.

Another frequently asked question: If the OIG declines to investigate a complaint, what process should we follow? Again, I alluded to this earlier. We should collaborate, the Program Office and Office of Grants Management, engage with the recipient to obtain information to evaluate the complaint, conduct site visits, additional monitoring and oversight. There may be restricted drawdowns, but again, this is if the OIG declines to investigate a complaint.

Can we ask the OIG to reconsider a previously declined referral? Yes, if we've obtained supplemental information. I mentioned that and that we had quite a few cases that led to reconsideration last year.

Another question: If I'm an ACF employee or contractor, I think I have discovered information that can warrant an investigation, who do I tell? All suspected incidents of criminal activity, fraud, or misconduct should be reported to the HHS OIG. There are several ways you can do that. Everyone has the right to report it directly to the OIG. You are not required to report fraud through me. I want to make that clear. You are not required to report fraud through me. You can report it directly to the HHS OIG hotline. An option is to report it through me. One of the benefits of reporting it through me, as I mentioned earlier, the OIG may get over 140,000 complaints annually. Many of those complaints are not valid, many of those complaints may not even pertain to the HHS OIG. It may pertain to another OIG. Someone may have just happened upon that hotline and thought that's where they should report their complaint. It may not pertain to fraud.

However, there is a specific portal that I have to report suspected cases of fraud. Plus, I also meet with the HHS OIG Office of Investigations regularly to discuss concerns, and I can pick up the phone and call them or shoot them an email. Anything that I send them is going to get more immediate attention. It does not have to go through that 140,000 triage process because they assume if I'm sending it, I've already looked at it and I'm like, yes, I think this is a red flag and I'm sending it forward. Then some people just aren't comfortable doing it. I can do it on your behalf, or you can report it directly yourself via the HHS OIG hotline. I always remind people, if you send it to me directly make sure you encrypt the email because it may likely contain personally identifiable information. The OIG hotline, obviously, you don't have to encrypt anything.

What information should be provided when referring to the OIG OI? As much information as you can to help them evaluate the case. The summary of the issue or concern, notice of award, any financial reports, progress reports, correspondence, anything that may help

them to evaluate the concern and determine if there's a likelihood of fraud and if they will take up an investigation.

Tanesha: Benita.

Benita: Yes.

Tanesha: We have a question from Michelle Boatwright: Was the whistleblower training required for all grant recipients, the one at ACF, the mandatory one?

Benita: It wasn't required for grant recipients, it was required for all ACF, non-bargaining unit employees and contractors and strongly encouraged for bargaining unit employees.

Tanesha: Thank you. I would like to add though, the Office of Head Start offers annual whistleblower training for grant recipients, and it is not mandatory for our grant recipients. Thank you.

Benita: Any other questions or comments? Well, I have concluded my presentation. I hope you found this useful. I try to maintain an open, well, I don't try, I do maintain an open-door policy. If you ever want to reach out to me for any question, I absolutely will respond to your questions. I try to get back to people within 24 hours. Most of the time you send the email, and I'm responding like right away, and you're like, "holy cow." But I do get back to everyone. If I don't get back to you within 24 hours, something might have happened, and your email got lost. Please, feel free to reach back out to me. I will be more than happy ... There's no question as far as I'm concerned, that is a stupid question.

I deal with this on a regular basis, and you don't. If I've covered something and you need me to cover it again, I promise you, I don't mind. I'm not one of those people who pays it lip service, and I don't mean it – I sincerely mean it. I want everyone to be informed and to understand the process for all of our benefit. You can send me an email, you can call me, whatever works best for you to communicate. Thank you for the time and allowing me to share this information with you, and I hope you find it helpful.