



USAID Fraud Awareness, Detection and Reporting Training Program



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Instructor

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USAID Fraud Awareness, Detection and Reporting Training Program

USAID IS GLOBALLY ENGAGED



*Spending less than one-half of 1 percent of the federal budget, USAID works in over **100** countries to: promote broadly shared economic prosperity; strengthen democracy and good governance; improve global health, food security, environmental sustainability and education; help societies prevent and recover from conflicts; and provide humanitarian assistance in the wake of natural and man-made disasters*



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Over 50 Years of Progress
“Our problems are man-made,
therefore they can be solved by man,”
said President John F. Kennedy, who
created USAID in 1961 to help carry out
his vision for foreign assistance.
Over fifty years later, USAID continues
To save lives and advance opportunity
around the world. (1961-2013)



Pakistan



Brazil



Ecuador



Peru



Mongolia



Liberia



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WHO WE ARE

The United States has a long history of Extending a helping hand to people overseas struggling to make a better life. It is a history that both reflects the American people's compassion and support of human dignity as well as advances U.S. foreign policy interests.



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WHAT WE DO

- Agriculture and Food Security
- Democracy, Human Rights and Governance
- Economic Growth and Trade
- Education
- Environment and Global Climate Change
- Frontiers in Development
- Gender Equality and Women's Empowerment
- Global Health
- Science, Technology and Innovation



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WHERE WE ARE



- 87 - missions around the world
- 1703 Projects
- 1% of the federal budget
- 3,500 - partnerships



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Fraud Awareness, Detection, and Reporting Training Program

Course Introduction

Training Goals

Course Outline

Course Schedule



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COURSE OBJECTIVE

Provide USAID Financial Management Employees with an operational framework to become more sensitive to probabilities of instances of fraudulent activities and transactions under the purview and auspices of USAID



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Training Goals

- AWARENESS OF FRAUD, WHO COMMITS FRAUD AND WHY
- IDENTIFY COMMON INDICATORS OF FRAUD
- IDENTIFY FRAUD SCHEMES COMMONLY USED TO DEFRAUD USAID AND THE WARNING SIGNS
- DESCRIBE THE FRAUD REMEDIES AVAILABLE TO ADDRESS CRIMINAL, CIVIL, AND ADMINISTRATIVE FRAUD IMPACTING USAID
- UNDERSTANDING CRIMINAL PROCEEDINGS & RELEVANT US LAWS
- DISCUSS CRIMINAL AND CIVIL STATUTES USED IN PROSECUTING FRAUD
- DISCUSS ACTUAL INVESTIGATIONS AND PROSECUTIONS OF USAID CASES WORLDWIDE
- ENHANCE KNOWLEDGE OF FRAUD AND DETECTION TECHNIQUES BY ANALYZING OIG CASE STUDIES
- HOW TO REPORT FRAUD & MAKE REFERRALS TO INVESTIGATORS



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Course Outline

- **THREE MODULES OF TRAINING**
- MODULE ONE – FRAUD AWARENESS
- MODULE TWO – FRAUD DETECTION
- MODULE THREE – FRAUD REPORTING
- SUMMARY OF TRAINING



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Course Schedule

- **Module One - Fraud Awareness**
 - What is Fraud?
 - Who Commits Fraud and Why?
 - Fraud Indicators
 - Fraud Schemes
 - Warning Signs of Fraud
- **Module Two - Fraud Detection**
 - Fraud Remedies (Criminal, Civil & Administrative)
 - Criminal Proceedings
 - Criminal & Civil Fraud Statutes
 - Program Remedies & Administrative Actions
 - USAID OIG Criminal & Civil Cases Resulting in Prosecutions
 - USAID OIG Case Study Exercise (Criminal, Civil & Administrative)
- **Module Three – Fraud Reporting**
 - USAID & Inspector General Reporting Requirements & Procedures
 - Whistleblower Reporting to the Office of Special Counsel
 - No Fear Act
 - Course Evaluation Completion



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MODULE ONE FRAUD AWARENESS

What is Fraud?

Fraud Defined:

- an intentional misrepresentation of material existing fact
- made by one person to another with knowledge of its falsity
- for the purpose of inducing the other person to act,
- and upon which the other person relies with resulting injury or damage.

Fraud may also be made by an omission or purposeful failure to state material facts, which nondisclosure makes other statements misleading.



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Constituting Fraud

To constitute fraud, a misrepresentation or omission must also relate to an 'existing fact', not a promise to do something in the future, unless the person who made the promise did so without any present intent to perform it or with a positive intent not to perform it

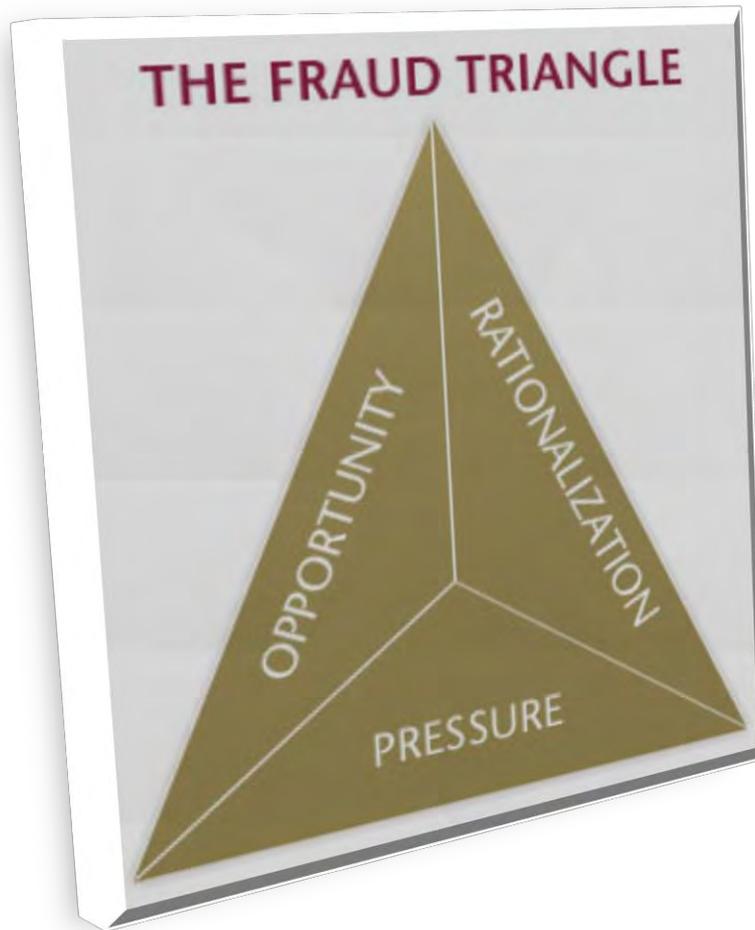
Promises to do something in the future or a mere expression of opinion cannot be the basis of a claim of fraud unless the person stating the opinion has exclusive or superior knowledge of existing facts which are inconsistent with such opinion.

The false statement or omission must be material, meaning that it was significant to the decision to be made



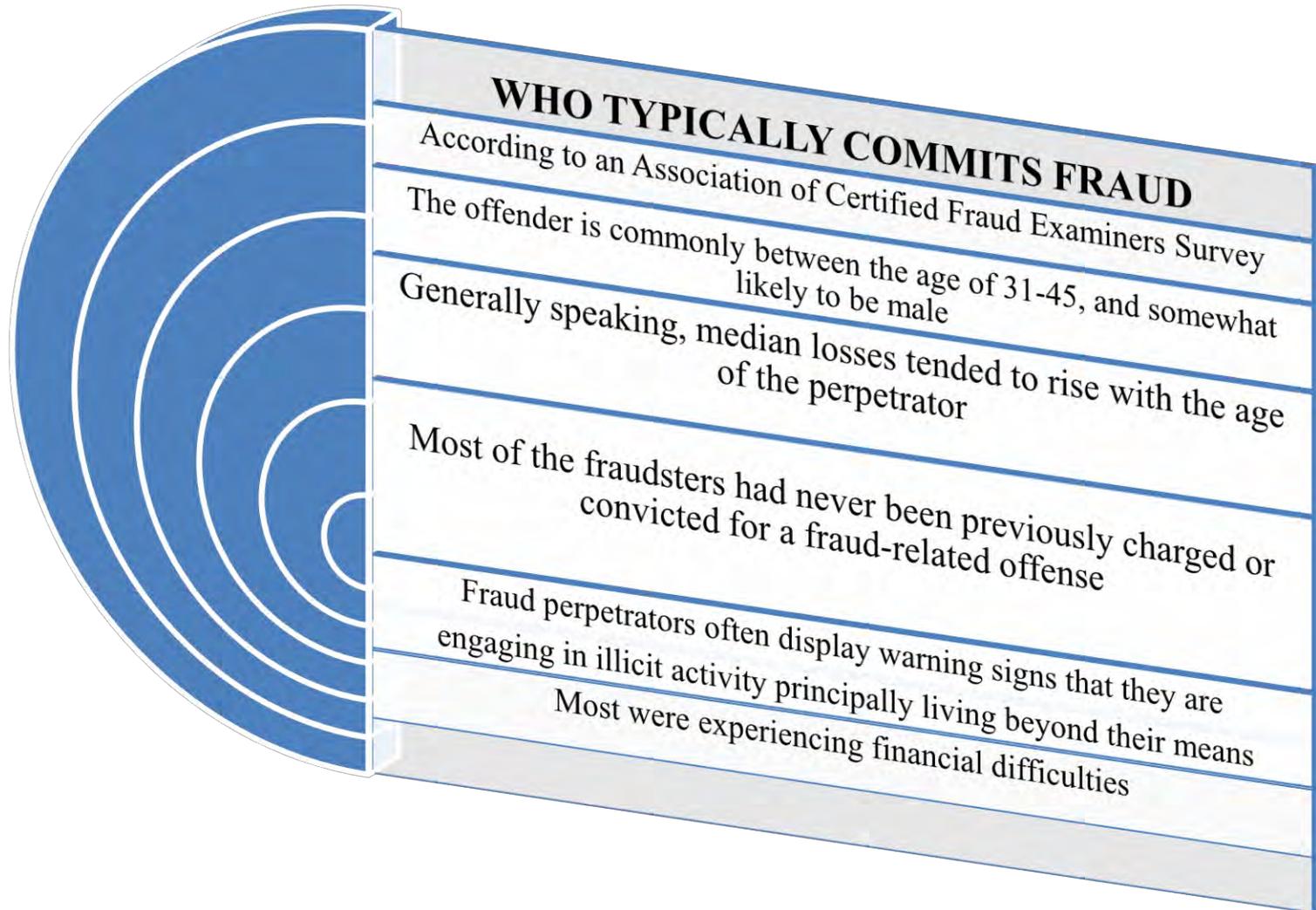
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Who Commits Fraud & Why?





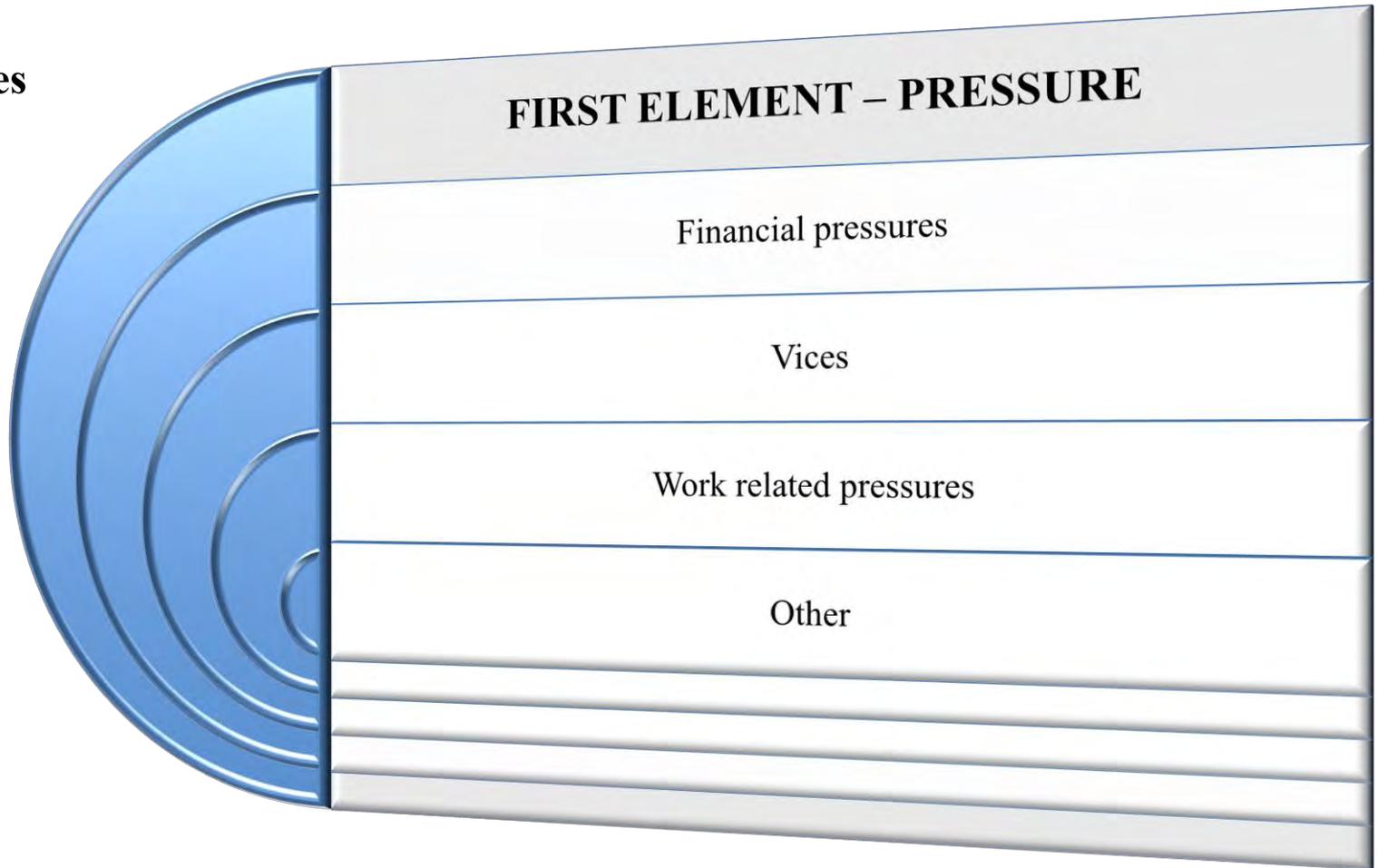
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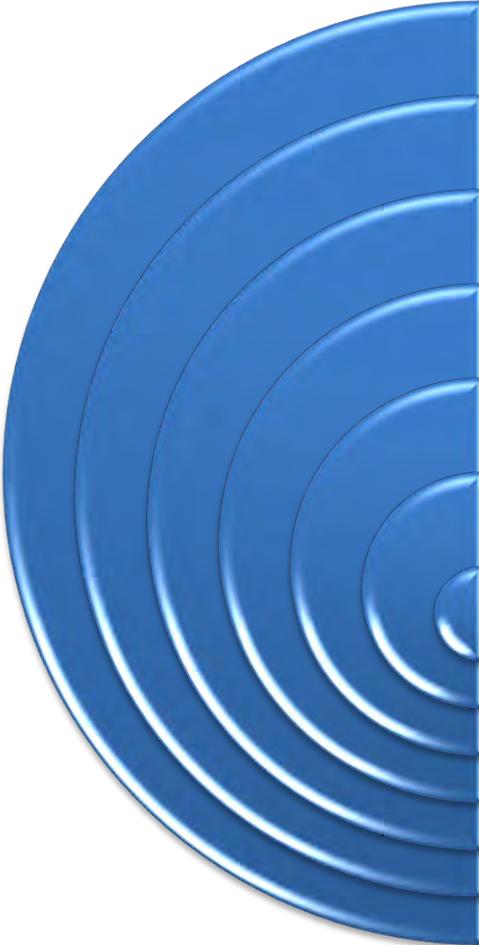
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Motives





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FINANCIAL PRESSURES

Greed

Living beyond one's means

High bills or personal debt

Poor credit

Unexpected financial needs



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VICE

Closely related to financial pressures are “vices” – addictions such as gambling, drugs, and alcohol

Vices are the worst kind of pressure and can influence even the most honorable employees

We know of female employees who embezzled because their children were on drugs and they could not stand to see them in withdrawal pains. We also know of “successful” managers who, in addition to embezzling, burglarized homes and engaged in other types of theft to support their drug habits.



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WORK RELATED PRESSURES

Whereas financial pressures and vices motivate most frauds some people commit fraud to get even with their employer.

Factors include:

Not enough recognition for job performance

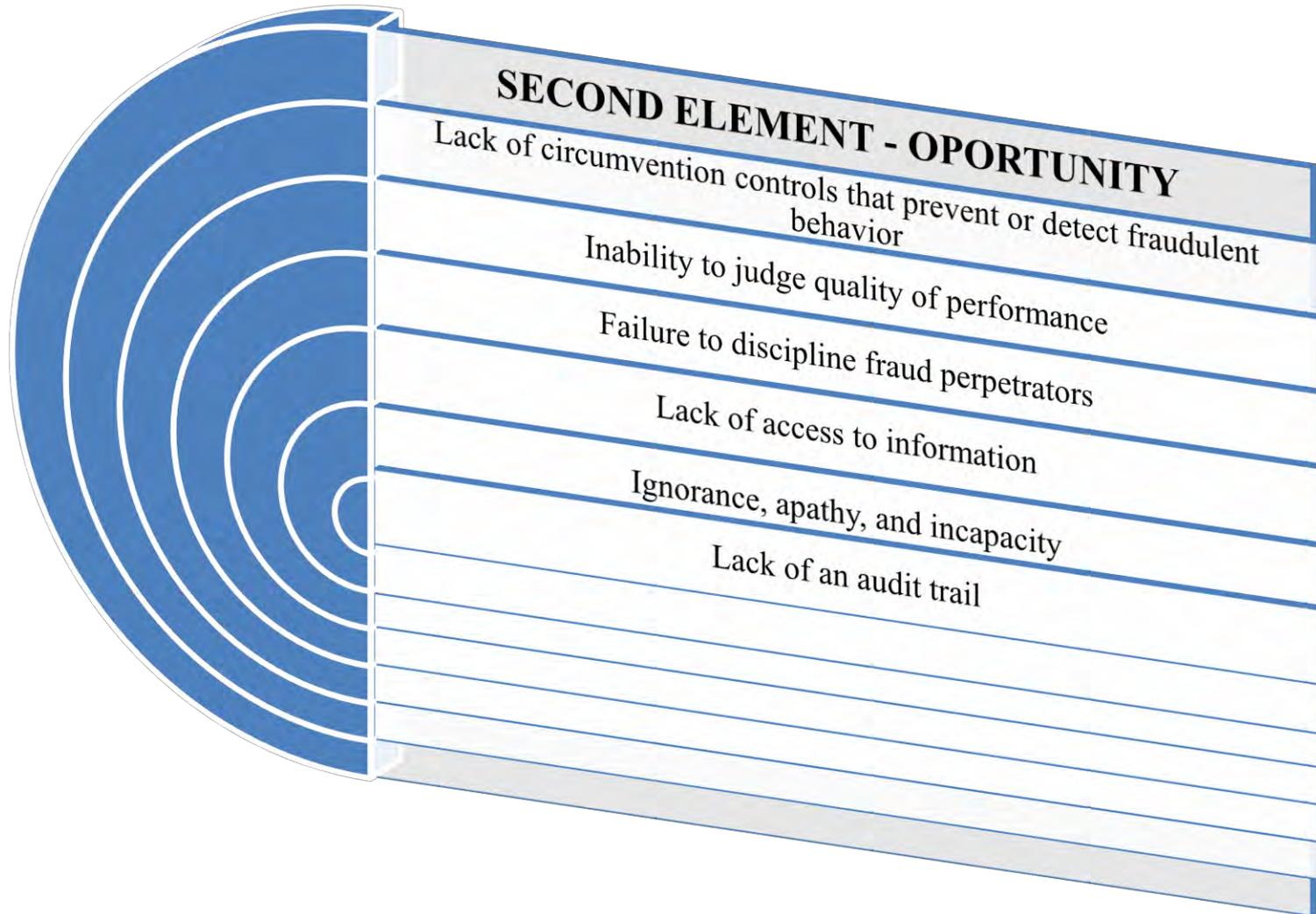
Dissatisfaction with the job

Fear of loosing one's job due to poor performance

Being overlooked for promotion



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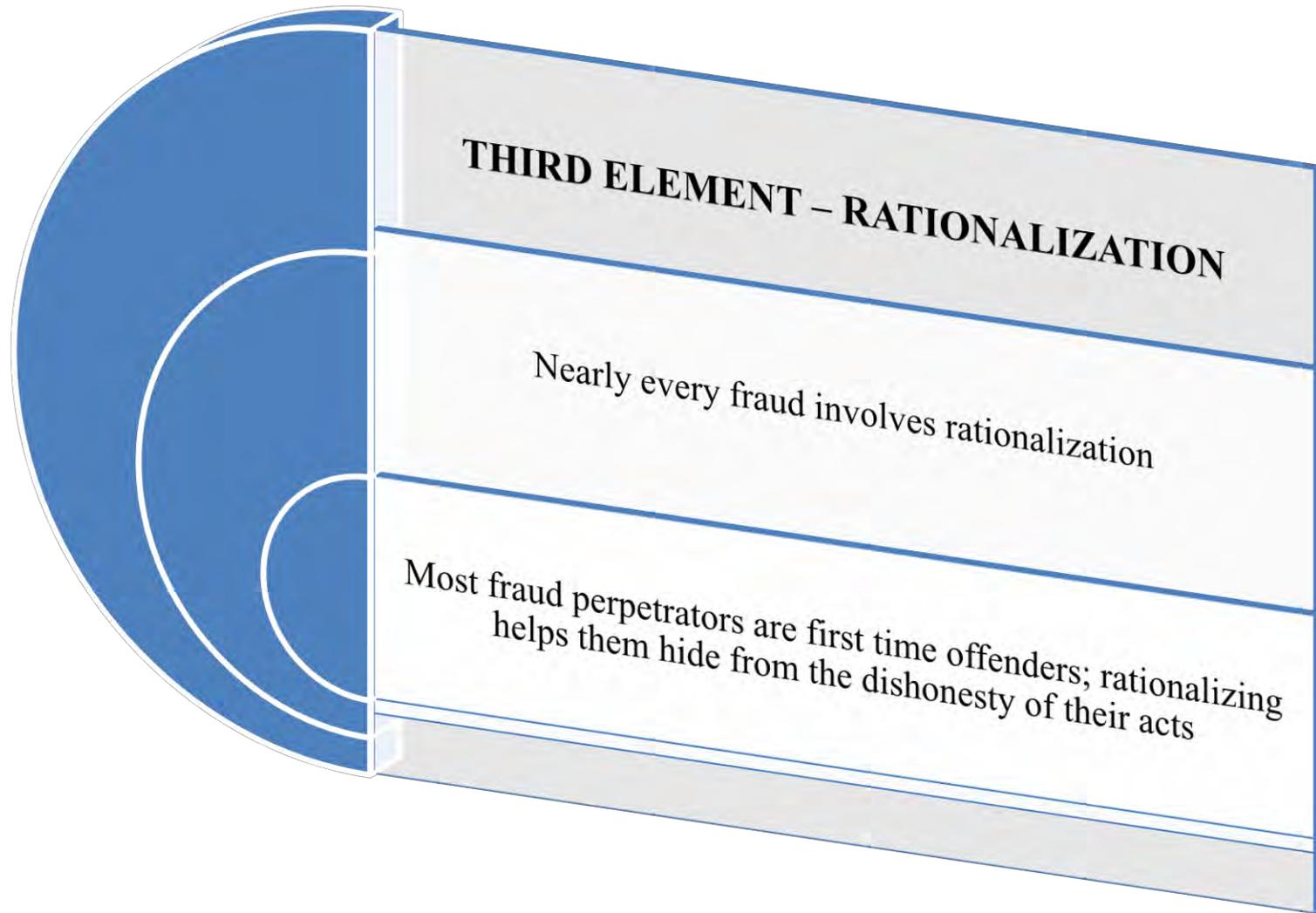
OPPORTUNITY

The control environment, the accounting system, and many variations work together to eliminate or reduce the opportunity for employees and others to commit fraud

A good control environment establishes an atmosphere in which proper behavior is modeled and labeled, honest employees are hired, and all employees understand their job responsibilities.



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MODULE ONE INTRODUCTION TO FRAUD INDICATORS OFFICE INSPECTOR GENERAL HANDBOOK

- Fraud indicators are best described as clues or hints that a closer look should be made at an area or activity.
- Generally there are two approaches that the person intent on committing fraud will consider, choosing one over the other depending on skill, experience, inclination and the level of internal controls.
- Activities may be either completely ***covert or hidden*** from view, or they may be conducted in the open, completely obvious to all, but disguised to appear as if they are part of the normal operations.
- When the former is detected, it may be much easier to determine what is actually going on, while the latter, if well done, may be much more difficult to detect and decipher.
- One more element is worth noting in regard to potential indicators of fraudulent activity.
- The manager, auditor, or investigator must know the industry, the system, or the field and must establish what are accepted practices. It is hard to spot an aberration when you don't know the norm.



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INTRODUCTION TO FRAUD INDICATORS (CONT.)

- It is difficult, if not almost impossible, to detect a well designed fraud if you do not know what you are looking for.
- Bear in mind that a fraud indicator may or may not be significant, depending on what it is, what other indicators are present and the context of the organization's transactions.
- Although poor management decisions or negligence may give rise to possible indications of fraud, the difference between fraud and negligence is a fine line called intent.
- All that fraud indicators can do is to point the way for further detailed inquiry.
- Managers, auditors, and investigators can use the attached lists to assist in the monitoring of activities or the review of records.



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FRAUD IN GOVERNMENT CONTRACTS

- The contract award process has been designed to efficiently ensure the delivery of goods and services.
- This section will discuss factors which may indicate the presence of or enhanced potential for fraud at various stages in the contract award process.
- The indicators included are not intended, each taken alone, to establish the existence of fraud.
- Rather, the presence of any of these indicators should cause employees to be alert to the possibility of impropriety and to take appropriate actions to ensure the integrity of the process.
- The motives and methods for fraud in the contract award process are varied.
- Fraud may be perpetrated to obtain a contract in order to create the opportunity to later engage in such activities as *theft or embezzlement, product substitution, cost mischarging, fast pay or progress payment fraud*.
- In some instances, fraud may be perpetrated to obtain a contract at a higher price or with better terms than would have occurred in an award untainted by fraud.
- A company may attempt to obtain a contract through fraud because the business is needed to continue operations when private sector activity is low.



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FRAUD IN THE IDENTIFICATION OF THE NEED FOR GOODS OR SERVICES

The potential for fraud is created when the need assessment is not adequately or accurately developed. A Government agency which, with or without collusion, continually changes its mind about what it wants, will make it possible for a contractor to substantially increase the contract price. With respect to fraud in defining requirements and stock levels, fraud indicators include:

1. Requiring excessively high stock levels and inventories in order to justify continuing purchasing activity from certain contractors.
2. Declaring items which are serviceable as excess or selling them as surplus while continuing to purchase similar items.
3. Purchasing items, services, or research projects in response to aggressive marketing efforts (and possible favors, bribes or gratuities) by contractors rather than in response to valid requirements.
4. Improperly defining needs in ways that can be met only by specific contractors.
5. Estimates are not prepared or are prepared after solicitations are requested.
6. Failing to develop "second-sources" for items, spare parts, and services being continually purchased from a single source



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FRAUD IN THE IDENTIFICATION OF THE NEED FOR GOODS OR SERVICES

Case Example:

Investigation Leads To \$1 Million Recovery from USAID Contractor

- Pursuant to an OIG investigation, a U.S. based contractor was issued a Bill for Collection in the amount of \$1,046,253.00 for failing to obtain a Contracting Officer's approval prior to leasing non-U.S. made vehicles on a long-term basis as required by the terms and conditions of the contract.
- In addition, **the contractor entered into non-competitive long-term contracts on an exclusive basis to lease the vehicles.** (No second source)
- The lack of an approved source origin waiver, a cursory review of the local market, and the failure to compete a large procurement; is a violation of the guiding principles of the Federal Acquisition Regulations (FAR) manual, which seeks to promote competition to the maximum extent possible.



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FRAUD IN THE DEVELOPMENT OF STATEMENTS OF WORK & SPECIFICATIONS

Bid specifications and statements of work are intended to provide both potential bidders and the selecting officials with a firm basis for making and accepting bids.

- A well written contract will have specifications, standards and statements of work which make it clear what the Government is entitled to.
- Sloppy or carelessly written specifications make it easy for a contractor to overcharge or for it to deliver less than expected.

Fraud indicators include:

1. Defining statements of work and specifications to fit the products or capabilities of a single contractor. Specifications are made so restrictive that they effectively exclude competing firms.
2. Advance or selective release by Government employees of information concerning requirements and pending purchases only to preferred contractors.
3. Using statements of work, specifications, or sole source justifications developed by or in consultation with a preferred contractor (institutional conflict of interest).
4. Allowing firms participating in project design to obtain those same contracts or to be subcontractors to the winning contractors.
5. Release of information by firms participating in project design to contractors competing for the prime contract.



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FRAUD IN THE DEVELOPMENT OF STATEMENTS OF WORK & SPECIFICATIONS

6. Designing "pre-qualification" standards or specifications to exclude otherwise qualified contractors or their products.
7. Splitting up requirements so contractors each get a "fair share" and can rotate bids.
8. Splitting up requirements to get under small purchase requirements or to avoid prescribed levels of review or approval, e.g., to keep each within the contracting authority of a particular person or activity.
9. Bid specifications or the statement of work are not consistent with the items included in the general requirements.
10. Specifications that are so vague that reasonable comparisons of estimates would be difficult.
11. Specifications that are not consistent with past similar type procurements.
12. Specifications that do not include (specific) work site locations.



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FRAUD IN THE DEVELOPMENT OF STATEMENTS OF WORK & SPECIFICATIONS

Case Example:

Two Employees of USAID Contractors Suspended for Sharing Sensitive Information Inappropriately.

- An investigation was initiated into allegations that an employee of a USAID contractor illegally obtained and shared confidential information with his friend from the existing security contractor during the rebidding of a contract for the Kabul Power Plant.
- The investigation confirmed that, during the bidding process, one of the employees who worked for a project under **Louis Berger Group/Black & Veatch and participated in the selection committee gave confidential procurement information from the incumbent firm to a friend who worked for a security company bidding for the upcoming contract.**
- The information gave an unfair and illegal advantage to the firm competing for the security contract. As a result of the investigation



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FRAUD IN PRE-SOLICITATION PHASE

Fraud indicators include:

1. Unnecessary sole source justifications.
2. Falsified statements to justify sole source of negotiated procurement.
3. Justifications for sole source or negotiated procurement signed by officials without authority or the deliberate bypassing required levels of review.
4. Placing any restrictions in the solicitation documents, which would tend to restrict competition.
5. Providing any advance information to contractors or their representatives on a preferential basis by technical or contracting personnel.



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FRAUD IN PRE-SOLICITATION PHASE

Case Example:

Investigations Leads to First US Extradition from Estonia

- In November 2007, an Estonian citizen was indicted in the Middle District of North Carolina (MDNC) on charges of wire fraud, money laundering and bribery pursuant to an OIG investigation.
- The individual worked on a \$239 million USAID governance contract in Iraq from May 2003 through October 2003 during which time he, among other offenses, **unlawfully directed two subcontract agreements to a Dubai firm.**
- Over \$7 million was then paid to this firm.
- The Dubai firm then provided the contractor with hundreds of thousands of dollars in goods and services, including significant improvements to his North Carolina home and funds for the purchase and furnishing of two condominiums in Miami.



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FRAUD IN SOLICITATION PHASE

Fraud indicators include:

1. Restricting procurements to exclude or hamper any qualified contractor.
2. Limiting the time for submission of bids so that only those with advance information have adequate time to prepare bids or proposals.
3. Revealing any information about procurement to one contractor, which is not revealed to all (from either technical or contracting personnel).
4. Conducting bidders' conference in a way, which invites bid rigging or price fixing or permits improper communications between contractors.



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5. Failure to assure that a sufficient number of potential competitors is aware of the solicitation.
6. The bid solicitation is vague as to the time, place, or other requirements for submitting acceptable bids.
7. Little or no control over the number and destination of bid packages sent to interested bidders.
8. Improper communication with contractors at trade or professional meetings or improper social contact with contractor representatives.
9. Government personnel or their families acquiring stock or a financial interest in a contractor or subcontractor.



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10. Government personnel discussing possible employment with a contractor or subcontractor for themselves or a family member.
11. Special assistance to any contractor in preparing his bid or proposal.
12. "Referring" a contractor to a specific subcontractor, expert, or source of supply. (Express or imply that if you use the referred business you will be more likely to get the contract.)
13. Failure to amend solicitation to include necessary changes or clarifications. (Telling one contractor of changes that can be made after award.)



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FRAUD IN SOLICITATION PHASE

Fraud indicators include:

1. Improper acceptance of a late bid.
2. Falsification of documents or receipts to get a late bid accepted.
3. Change in a bid after other bidders' prices are known. This is sometimes done by mistakes deliberately "Planted" in a bid.
4. Withdrawal of the low bidder who may become a subcontractor to the higher bidder who gets the contract.
5. Collusion or bid rigging between bidders.
6. Revealing one bidder's price to another.



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7. False certifications by contractor:

- a. Small business certification.
- b. Minority business certification.
- c. Information provided to other agencies to support special status.
- d. Certification of independent price determination.
- e. Manufacturer's certificate of warranty

8. Falsification of information concerning contractor qualifications, financial capability, facilities, ownership of equipment and supplies, qualifications of personnel and successful performance of previous jobs, etc.



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FRAUD IN SOLICITATION PHASE

Case Example:

DAI Employee Previously Convicted of Theft From USAID Program in Afghanistan Debarred.

- In August 2012, USAID debarred a contract employee who had previously been convicted of fraud in connection with a \$114 million program economic development program in Afghanistan. OIG had received the allegation about the employee from DAI, the program implementer. OIG's **investigation revealed that the employee had solicited and received a kickback from the president of a grantee company.**
- The employee has been arrested by Afghan authorities and sentenced to 3 years' imprisonment with a \$10,000 fine



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FRAUD IN THE EVALUATION OF BIDS AND PROPOSALS

Fraud indicators include:

1. Deliberately discarding or "losing" the bid or proposal of an "outsider" who wants to participate. (May be part of a conspiracy between a Government official and a select contractor or group of contractors.)
2. Improperly disqualifying the bid or proposal of a contractor.
3. Accepting non-responsive bids from preferred contractors.
4. Seemingly unnecessary contacts with contractor personnel by persons other than the contracting officer during the solicitation, evaluation, and negotiation processes.
5. Any unauthorized release of information to a contractor or other person.



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FRAUD IN THE EVALUATION OF BIDS AND PROPOSALS (CONT.)

6. Any exercise of favoritism toward a particular contractor during the evaluation process.
7. Using biased evaluation criteria or using biased individuals on the evaluation panel.
8. Documents from competing firms contain similar or identical:
 - a. Company names
 - b. Handwriting/signatures
 - c. Company stationery
 - d. Invoice numbers (in sequence)
 - e. Telephone numbers.
9. An odd company name for a vendor suggests that the firm may not provide the type of service or product being solicited.



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FRAUD IN THE EVALUATION OF BIDS AND PROPOSALS (CONT.)

Case Example:

USAID Issues a \$336,603 Bill for Collection to CHF International for Fraud and Theft in a Livelihoods Project in the Federally Administered Tribal Areas of Pakistan.

- The Pakistan Branch of the Cooperative Housing Foundation (CHF), a prime USAID implementing partner, received a 5-year, \$150 million cooperative agreement for the FATA-Livelihoods Development Program.
- In April 2008, the organization entered into a subcontract with ABT Associates, Inc., to undertake a US \$6 million cash-for-work tree planting program in the FATA to create job opportunities for youth and locally unemployed individuals.
- In turn, ABT sought competitive bids from vendors to supply the tree saplings needed. As a result of allegations made to OIG, CHF conducted an audit of the program.
- The independent auditors determined that, of the 2.2 million trees contracted to be planted, only 1.2 million trees were documented as purchased.
- In addition, three of the five vendors that **ABT selected through the competitive bid process to procure saplings were owned and controlled by the same family.**
- The investigation substantiated that USAID funds were lost as a result of theft, overpayment, fraud and mismanagement by ABT Associates. USAID directed CHF to submit a reimbursement check for \$336,603.



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FRAUD IN THE AWARD OF THE CONTRACT

Fraud indicators include:

1. Award of a contract to a contractor who is not the lowest responsible, responsive bidder.
2. Disqualification of any qualified bidder
3. Allowing a low bidder to withdraw without justification.
4. Failure to forfeit bid bonds when a contractor withdraws improperly.
5. Material changes in the contract shortly after award.
6. Advance information concerning who is going to win a major competition can give advantages to persons trading In the stock of both the winning and losing companies.
7. Awards made to contractors with an apparent history of poor performance.
8. Awards made to the lowest of a very few bidders without re-advertising considerations or without adequate publicity.
9. Awards made that include items other than those contained in bid specifications.
10. Awards made without adequate documentation of all pre-award and post-award actions including all understandings or oral agreements.



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FRAUD IN THE AWARD OF THE CONTRACT

Case Example:

Afghan Staff Member of a USAID Contractor Arrested by Afghan National Police on Bribery and Kickback Charges.

- In October 2011, OIG received a mandatory self-disclosure of fraud from Development Alternatives, Inc. (DAI). DAI is implementing the \$114 million Afghanistan Small and Medium- Sized Enterprise Development Activity (ASMED) contract, which provides technical and financial development assistance to small- and medium- sized organizations in Afghanistan.
- DAI reported that one of its local procurement employees solicited and received a kickback from an ASMED grantee.
- The investigation proved that **the employee solicited bribes from the president of the grantee company, which was obtained through the traditional Hawala system.**
- OIG presented the case to the Afghan Attorney General's office, and the individual was indicted for violating the Afghan bribery law.
- In December 2011, OIG assisted Afghan law enforcement authorities with arresting the employee outside of the DAI compound in Kabul, Afghanistan. DAI immediately terminated the individual, who is currently in custody awaiting trial.



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FRAUD IN THE NEGOTIATION OF A CONTRACT

Fraud indicators include:

1. "Back-dated" or after-the-fact justifications may appear in the contract file or may be signed by persons without the authority to approve noncompetitive procurement.
2. Information given to one contractor which is not given to others which give it a competitive advantage.
3. Improper release of information (e.g., prices in proposals, technical proposals or characteristics of proposals, identity or rank of competing proposals, proprietary data or trade secrets, and Government price estimates) to unauthorized persons.
4. Weakening the Government's negotiating position through disclosures to the contractor selected for award
5. Contractor misrepresentation as to costs during negotiations.
6. Failure of Government personnel to obtain and rely upon a Certificate of Current Cost or Pricing Data (if required).



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FRAUD IN THE NEGOTIATION OF A CONTRACT

Case Example:

USAID Ends \$20 Million Pakistan Children's Television Project.

- In June 2012, USAID terminated the \$20 million Pakistan Children's Television Project implemented by the Rafi Peer Theater Workshop (RPTW) following an extensive OIG investigation that was initiated by several complaints from the OIG hotline.
- OIG documented that the organization violated USAID procurement regulations and provided false information to USAID in order to award funds to certain vendors.
- Senior personnel from the organization admitted to OIG investigators that they misrepresented facts regarding the procurements in documents submitted to USAID.
- The investigation also revealed numerous instances of competitive bids from nonexistent vendors, placement of fake bids in RPTW procurement files, missing inventory, and other violations of USAID regulations.
- OIG referred the organization to USAID for debarment in May 2012.



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FRAUD IN THE POST-AWARD PHASE

1. The receipt of goods and services is certified even though physical inspections have not been performed.
2. Contractors fail to meet the contract terms but nothing is done to force compliance and follow up is always needed.
3. Contractors are not required to return excess materials.
4. Materials are provided to the contractor even though the contractor is being paid to provide them. (Office space, furniture, word processors)
5. Unsuccessful bidders usually become subcontractors after the contract is awarded.
6. Contractors are paid twice for the same items/services and there is no attempt to recoup the overpayments.
7. The labor of Agency employees is used to perform parts of contracted work.



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FRAUD IN THE POST-AWARD PHASE (CONT.)

8. Contract files are either incomplete or missing required documents. (Follow up)
9. Contract documents are altered, backdated, or modified to cover deficiencies. Demand originals.
10. Accounting reconciliation are not performed regularly relative to:
 - a. Contract payments
 - b. Daily transactions
 - c. Inventory
11. Government supplies and equipment are being shipped to non-Government addresses. (Diversion or substitution)
12. Fictitious or inordinate time frames and dates are entered on contractor records (e.g. gasoline, vehicle, maintenance, inspection, or receiving reports)
13. Contract deviations by means of changes requested and granted immediately after contract award.
14. Used or inferior products are substituted for the product actually ordered.



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FRAUD IN THE POST-AWARD PHASE (CONT.)

Case Example:

Investigation Leads to Two Guilty Pleas Involving Conspiracy to Commit Wire Fraud Regarding USAID Funds.

- OIG investigated allegations that a contractor's employee embezzled \$1 million in USAID funds by creating fictitious invoices for services not rendered during the post award phase.
- The investigation confirmed the allegation and identified co-conspirators who contributed to the fraud against USAID.
- As a result of the investigation, two defendants pleaded guilty to conspiracy to commit wire fraud.
- OIG, with the assistance of the Department of Justice, was also able to recover \$49,000 in proceeds from the subject and a related party's bank accounts



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DEFECTIVE PRICING

Contractors who inflate consultant salary histories and the pyramiding of commodity costs by inflating supplier prices through associated "middle men."

Fraud Indicators include:

1. Persistent defective pricing.
2. Repeated defective pricing involving similar patterns or conditions.
3. Failure to correct known system deficiencies.
4. Failure to update cost or pricing data with knowledge that past activity showed that prices have decreased
5. Specific knowledge, that is not disclosed, regarding significant cost issues that will reduce proposal costs. This may be reflected in revisions in the price of a major subcontract, settlement of union negotiations that result in lower increases on labor rates. etc.
6. Denial by responsible contractor employees of the existence of historical records that are subsequently found.
7. Utilization of unqualified personnel to develop cost or pricing data used in estimating process.
8. Indications of falsification or alteration of supporting data.



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DEFECTIVE PRICING (CONT.)

9. Distortion of the overhead accounts or base information by the transfer of charges or accounts that have a material impact on Government contracts.
10. Failure to make complete disclosure of data known to responsible contractor personnel.
11. Protracted delay in release of data to the Government to preclude possible price reductions.
12. The employment of people known to have previously perpetrated fraud against the Government.
13. Unusual or unnecessary use of NVOCC shippers or obscure suppliers.
14. Inflated or unusual ocean freight or insurance charges.
15. Excessive or prohibited commodity transport and/or storage charges.
16. Identical or nearly identical high salary history data on employees or consultants.



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DEFECTIVE PRICING (CONT.)

Case Example:

Former Louis Berger Group, Inc. Chief Executive Officer Arrested.

- On October 20, 2011, the former president and CEO of New Jersey-based international engineering consulting company Louis Berger Group (LBG) was arrested.
- The defendant allegedly conspired to defraud USAID by leading a scheme to intentionally overbill the United States in connection with hundreds of millions of dollars reconstruction contracts in Iraq and Afghanistan over a nearly 20-year period.
- The indictment charges the former president and CEO of LBG with one count of conspiring to defraud USAID and five counts of making false claims in connection with those billings.
- The conspiracy charge carries a maximum potential penalty of 10 years in prison; each of the false claims counts carries a maximum potential penalty of 5 years in prison.
- Each of the six counts also carries a maximum \$250,000 fine, or twice the loss from the offense. USAID has suspended the individual.



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COLLUSIVE BIDDING AND PRICE FIXING

- Collusive bidding, price fixing or bid rigging, are commonly used interchangeable terms which describe many forms of illegal anti-competitive activity.
- The common thread throughout all of these activities is that they involve any agreements or informal arrangements among independent competitors, which limit competition.
- Agreements among competitors which violate the law include but are not limited to:
 - 1) Agreements to adhere to published price lists.
 - 2) Agreements to raise prices by a specified increment.
 - 3) Agreements to establish, adhere to, or eliminate discounts.
 - 4) Agreements not to advertise prices.
 - 5) Agreements to maintain specified price differentials based on quantity, type or size of product.



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COLLUSIVE BIDDING AND PRICE FIXING (CONT.)

- The following list of indicators is intended to facilitate recognition of those situations which may involve collusive bidding or price fixing.
- In and of themselves these indicators will not prove that illegal *anti-competitive* activity is occurring.
- They are, however, sufficient to warrant referral to appropriate authorities for investigation.
- Use of indicators such as these to identify possible anti-competitive activity is important because schemes to restrict competition are by their very nature secret and their exact nature is not readily visible.



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COLLUSIVE BIDDING AND PRICE FIXING (CONT.)

Practices or events that may evidence collusive bidding or price fixing are:

1. Bidders who are qualified and capable of performing but who fail to bid, with no apparent reason. A situation where fewer competitors than normal submit-bids typifies this situation. (This could indicate a deliberate scheme to withhold bids.)
2. Certain contractors always bid against each other or conversely certain contractors do not bid against one another.
3. The successful bidder repeatedly subcontracts work to companies that submitted higher bids or to companies that picked up bid packages and could have bid as prime contractors but did not.
4. There is an apparent pattern of low bids regularly recurring, such as corporation "x" always being the low bidder in a certain geographical area or in a fixed rotation with other bidders.
5. Failure of original bidders to re-bid, or an identical ranking of the same bidders upon rebidding, when original bids were rejected as being too far over the Government estimate.



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COLLUSIVE BIDDING AND PRICE FIXING (CONT.)

6. A certain company appears to be bidding substantially higher on some bids than on other bids with no logical cost differences to account for the increase, i.e., a local company is bidding higher prices for an item to be delivered locally than for delivery to points farther away.
7. Bidders that ship their product a short distance bid more than those who must incur greater expense by shipping their product long distances.
8. Identical bid amounts on a contract line item by two or more contractors. Some instances of identical line item bids are explainable, as suppliers often quote the same prices to several bidders. But a large number of identical bids on any service-related item should be viewed critically.
9. Bidders frequently change prices at about the same time and to the same extent.
10. Joint venture bids where either contractor could have bid individually as a prime. (Both had technical capability and production capacity.)
11. Any incidents suggesting direct collusion among competitors, such as the appearance of identical calculation or spelling errors in two or more competitive bids or the submission by one firm of bids for other firms.
12. Competitors regularly socialize or appear to hold meetings, or otherwise get together in the vicinity of procurement offices shortly before bid filing deadlines.



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COLLUSIVE BIDDING AND PRICE FIXING (CONT.)

13. Assertions by employees, former employees, or competitors that an agreement to fix bids and prices or otherwise restrain trade exists.
14. Bid prices appear to drop whenever a new or infrequent bidder submits a bid.
15. Competitors exchange any form of price information among themselves. This may result from the existence of an "industry price list" or "price agreement" to which contractors refer in formulating their bids or it may take other subtler forms such as discussions of the "right price."
16. Any reference by bidders to "association price schedules," "industry price schedules," "industry suggested prices," "industry-wide prices" or "market-wide prices."
17. A bidder's justification for a bid price or terms offered because they follow the industry or industry leader's pricing or terms. This may include a reference to following a named competitor's pricing or terms.
18. Any statements by a representative of a contractor that his company "does not sell in a particular area" or that "only a particular firm sells in that area."
19. Statements by a bidder that it is not their turn to receive a job or conversely that it is another bidder's turn.



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COLLUSIVE BIDDING AND PRICE FIXING (CONT.)

Case Example:

USAID Contractors Agree to Pay \$47 Million to Resolve False Claims Act Allegations.

- As reported in previous semiannual reports to congress, the Harbert Companies violated the false claims act when they conspired to rig the bids on a USAID funded construction contract that was bid and performed in Cairo, Egypt, in the late 1980s and early 1990s.
- The companies were part of a joint venture that bid on and was ultimately awarded a contract to build a sewer system.
- The entities *entered into agreements with other potential bidders on the contract to ensure that the joint venture would win the bid.*
- Other potential *bidders agreed to either not bid or bid intentionally high in return for a payoff.*
- In March 2012, the companies agreed to pay the U.S. Government \$47 million to settle claims that they submitted false claims and caused others to submit false claims to USAID.



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COST MISCHARGING

- Cost mischarging occurs whenever the contractor charges the Government for costs which are not allowable, not reasonable, or which cannot be directly or indirectly allocated to the contract.
- The fraud most frequently encountered is called an *"accounting mischarge."* which involves knowingly charging unallowable costs to the Government, concealing or misrepresenting them as allowable costs, or hiding them in accounts (such as office supplies) which are not audited closely.
- Another common variation involves charging types of costs, which have their limits such as bid and proposal costs, or independent research and development costs) to other cost categories.
- Labor costs are more susceptible to mischarging than material costs because the employees' labor can readily be charged to any contract.
- When a labor cost is mischarged, so are the associated overhead expenses.
- Overhead costs are allocated to labor costs based upon an overhead rate or percentage.
- Overhead costs usually exceed 100 percent of the labor cost.
- Therefore, any mischarging on labor rates also impacts upon overhead charges, which ultimately results in a greater than double loss to the Government.



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COST MISCHARGING (CONT.)

Fraud indicators include:

1. Excessive or unusual labor charges by home office personnel.
2. Abrupt changes in labor charge levels for no apparent reason.
3. Labor time and charges inconsistent with project progress.
4. Inability of contractor to immediately supply time cards upon demand.
5. Time and/or charge cards that show consistent erasures or alterations.
6. Time cards made out by the supervisor and not by the individual employee.
7. Low level work charged to high level wage earners



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COST MISCHARGING (CONT.)

Case Example:

Contractor Mischarges Millions of US Dollars.

- In one case, a former contractor employee alleged that certain managers directed the mischarging of employees' time from a fixed-price contract to a cost-plus contract.
- Preliminary investigation revealed over \$100,000 was mischarged in one corporate department alone.
- The contractor acknowledged that there was some mischarging.
- An Investigation revealed substantial mischarging of several million dollars.



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PRODUCT SUBSTITUTION/DEFECTIVE PRODUCT

The term product substitution generally refers to attempts by contractors to deliver to the Government goods or services which do not conform to contract requirements, without informing the Government of the deficiency, while seeking reimbursement based upon alleged delivery of conforming products or services.

Fraud Indicators include:

1. The non-delivery of supplies paid for pursuant to fast pay procedures.
2. The delivery of look-alike goods made from non-specification materials.
3. Materials that have not been tested as required by the contract specifications.
4. Providing foreign made products where domestic were required.
5. Boxes with part of the label consistently obliterated. ("Made in Hong Kong" marked out.)
6. Commodities which are consistently defaced in the same area (metal wood files or tools with grind marks or wooden hammer handles with sanding marks).



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PRODUCT SUBSTITUTION/DEFECTIVE PRODUCT (CONT.)

7. Machines with identification or specification plates removed.
8. Any commodity which appears used when new was ordered.
9. Multiple commodities where some appear different from others (2 dozen hacksaw blades with the first and last blade in package made in the U.S. and the remainder made in India).
10. Any commodity purchased domestically, but originally shipped from a foreign port.
11. Missing source origin documentation



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PRODUCT SUBSTITUTION/DEFECTIVE PRODUCT (CONT.)

Case Example:

USAID Contractor Pays \$15 million Settlement to the U.S. Government for Sale of Defective Bullet-Proof Vests

- On October 29, 2007, a USAID contractor agreed to pay a \$15 million settlement to the United States for its role in the manufacture and sale of defective Zylon bullet-proof vests and body armor to federal, state, local and tribal law enforcement agencies.
- The manufacturer purchased and used defective, sub grade ballistic fabric for the construction of bullet-proof vests. From 1996 to 2005, it wove "Red Thread" Zylon fabric into body armor and vests although the fabric degrades faster when exposed to heat, light, and humidity.
- The United States asserts that the company either knew of, or recklessly failed to determine, the defective nature of the "Red Thread" Zylon.
- The manufacturer disputes these claims and entered into settlement to mitigate litigation expenses, delays, and inconveniences.
- In compromise, the manufacturer has also agreed to cooperate in the government's on-going investigation of other parties manufacturing and/or distributing "Red Thread" products.



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PROGRESS PAYMENT FRAUD

- Progress payments are payments made as work progresses under a contract based upon the costs incurred, the percentage or work accomplished, or the attainment of a particular state of completion.
- Fraud in progress payments occurs when a contractor submits a progress payment request based on falsified direct labor charges, on material costs for items not actually purchased, or on falsified-certification of a stage of completion attained or of work accomplished.

Fraud Indicators include:

1. Firms with cash flow problems are the most likely to request funds in advance of being entitled to them.
2. Progress payments which do not appear to coincide with the contractor's plan and capability to perform the contract are suspicious.
3. This could indicate the contractor is claiming payment for work not yet done.
4. Another type of contractor fraud in this area is to submit a progress payment claim for materials which have not been purchased.
5. The contractor may be issuing a check to the supplier, then holding it until the Government progress payment arrives.
6. One way to confirm this irregularity is to check the cancellation dates on the contractor's checks & if the bank received the check about the same time or later than the contractor received the progress payment, the check was probably held.



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PROGRESS PAYMENT FRAUD

Case Example:

Contractor Ordered to Pay \$7.48 Million in Bills for Collection

- Pursuant to an OIG investigation, a contractor responsible for the administration of USAID construction projects in a high-risk country was ordered to pay in excess of \$7 million in Bills for Collection.
- The investigation disclosed that under a USAID cooperative agreement, the contractor was responsible for building small scale infrastructure projects.
- Under the terms of the cooperative agreement, the contractor received funding under a Letter of Credit; however, the contractor and a subcontractor working under the contractor, failed to provide explanations for the *funding draw downs from the Letter of Credit*.
- The investigation further cited poor performance on construction projects, failure to provide cost justification, inadequate financial controls, and false reporting on projects.



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CRIMINAL AND REGULATORY VIOLATIONS BY EMPLOYEES

Fraud indicators include:

1. Employees, including contractors and foreign nationals, who continually circumvent established procedures.
2. Employees who initiate actions without proper prior approval.
3. Sloppy handling of cash or commodities should always be an area of concern.
4. The awarding of a contract in any fashion outside of the letter and spirit of established procedures.
5. Improper access to computer terminals or data.
6. Unusual or extravagant behavior or spending.
7. Unusual patterns of taking leave.



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CRIMINAL AND REGULATORY VIOLATIONS BY EMPLOYEES (CONT.)

8. Unusual or extravagant amount of mail sent to particular employees.
9. Cash not turned in properly.
10. Actions that tend to obstruct an audit trail.
11. Unusual or unauthorized interaction between an employee and bidder or contractor.
12. Frequent or unusual and/or unexplained travel.
13. Unusual and/or unexplained possession of large amounts.
14. Abrupt change in living style.
15. In short, actions that are contrary to regulation, good business practice, or common sense can be indicators that something may be wrong.



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CRIMINAL AND REGULATORY VIOLATIONS BY EMPLOYEES (CONT.)

Case Example:

Former USAID Contracting Officer Indicted for Making False Claims

- An OIG investigation was initiated based upon allegations that a Regional Contracting Officer (RCO) in the Philippines fraudulently collected Separate Maintenance Allowance (SMA) after being legally separated from his spouse.
- The OIG investigation verified that the RCO signed various divorce-related documents which established his legal separation from his spouse while continuing to claim and receive over \$14,000 in SMA payments from USAID.
- The RCO pleaded guilty to making False Claims in violation of 18 U.S.C. § 287. A one-count criminal Information was filed at the U.S. District Court for the District of Columbia charging the RCO with making False Claims in violation of 18 U.S.C. § 287.
- The offense carries a maximum sentence of five years of imprisonment, a fine of \$250,000, and a three-year term of supervised release and an order of restitution.



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FRAUD IN PROJECTS AND PROCUREMENTS

The following section describes some schemes by which procurement or contracting frauds have been perpetrated, preventive actions, and methods to detect these schemes to defraud.

Pre-Award Fraud

1. Rigged Specifications

Scheme:

- The requesting organization, in developing specifications, tailors them to meet the qualifications of one particular company, supplier, or product.
- This applies mostly to procurement of special equipment and fixtures.

Preventive Actions:

- Reviews should be made by managers in order to determine the validity of procurement requirements and specifications and the adequacy of the consideration given to alternate products, features, processes, etc..
- The contracting officer should carefully review bids, and maintain close coordination with the requesting office to ensure that all bids are properly considered.
- Reviews of bid protests (formal and informal) by the contracting officer would also provide possible indications of problems.

Detection:

- Compare specifications established for a particular procurement with the contractor's description of its product or service.
- Nearly identical matches would indicate the possibility of rigged specifications.



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FRAUD IN PROJECTS AND PROCUREMENTS (CONT.)

Other indicators of rigged specifications include:

- a. Receipt of only one bid
- b. One bid significantly lower than others
- c. Sole source procurement
- d. Protests filed by bidders

2. Collusive Bidding

Scheme:

- A group of companies with the capability of providing the same goods or services conspire to exchange bid information on contract solicitations, and to take turns at submitting the low bid.
- Such action, which may or may not be carried out in collusion with procuring officials, effectively defeats competitive bidding.

Preventive Actions:

- Heads of procurement offices should periodically review procurement records for patterns of similar contracts awarded alternately to a small group of contractors.
- Bid tally sheets would be a good source for these analyses.
- Contracting officers should be alert to situations where known companies in the area rarely bid on contracts for which they appear to be qualified.
- Inquiries (telephonic or otherwise) might be appropriate to ascertain why these companies are not bidding.
- Contracting officers should pay particular attention to bid protests (formal and informal) as indicators of existing problems.



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FRAUD IN PROJECTS AND PROCUREMENTS (CONT.)

Detection:

Examine contract solicitation files for:

- a. Small number of companies doing similar work on what appears to be a rotating basis.
- b. Awards to companies that reflect a geographic pattern indicating collusive division of territory.
- c. Fairly wide disparity between the winning and losing bids.
- d. Unsuccessful bidders who become subcontractors after contract award.

(Note : One or more of these situations are indicators of collusive bidding)

3. Unbalanced Bidding

Scheme:

- Through collusion, a company bidding on a contract (bidder) knows that one of several items on an invitation for bid will not be performed (called for) under the contract.
- Therefore, the bidder includes an unreasonably low unit price for this item on the bid sheet.
- This results in his being the low bidder. After the contract is awarded, the quantity of work that is actually performed on the other items is in excess of what was on the bid.
- The contractor stands to make more money since his bid price on these items was inflated (but not inflated enough to cause his overall bid price to be too high.)



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FRAUD IN PROJECTS AND PROCUREMENTS (CONT.)

Unbalanced Bidding (Cont.)

Preventive Actions:

- Work statements and specifications should be reviewed by someone who is thoroughly familiar with the goods or services being procured.
- Cost and price analysis work obtained by the contracting officer should be documented, and should include comparisons of individual items.
- Explanations should be sought for all items with a wide variance.

In administering contracts, both the contracting officer and the responsible project officer should ensure that modifications and change orders are for work that was not known or contemplated at the time the contract was awarded.

Detection:

- Match line items on invitations for bid with actual contract performance to disclose any excessive variances.
- Compare amounts bid on individual line items by each bidder to disclose any unreasonably low bids, particularly those items which were not subsequently performed under the contract.
- Look especially for those situations where a contractor has received repeated awards for similar types of goods or services.



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CONTRACTOR FRAUD

1. False Claims and Statements:

Scheme:

- This would cover any false information furnished by the contractor, either leading to contract award or related to contract performance.

Examples include:

- a. Cost proposal data that is incorrect or less than current or complete.
- b. False representations concerning quality of product being offered or ability to perform adequately and timely.
- c. Billings (including progress payments) not adequately supported by project status or reliable cost data, including:
 - 1) Duplicate or altered invoices used as support for payment.
 - 2) Costs charged to the project that should be charged to another project or to overhead.
 - 3) "Direct cost" from a contract charged to overhead, thereby "distributing the loss" to other contracts.
 - 4) Double billing, i.e., charging employees full-time to two or more jobs.



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CONTRACTOR FRAUD (CONT.)

Example:

- In one case, a former contractor employee alleged that certain managers directed the mischarging of employees' time from a fixed-price contract to a cost-plus contract.
- Preliminary investigation revealed over \$100,000 was mischarged in one corporate department alone. The contractor acknowledged that there was some mischarging. An Investigation revealed substantial mischarging of several million dollars.

Preventive Actions:

- The contracting officer and technical personnel of the requesting agency should review contractor cost proposals to determine the reasonableness of proposed costs, the necessity for the kinds and quantities of materials and labor proposed, and the contractor's ability to perform adequately and timely.
- The project officer should implement a comprehensive monitoring program to help disclose improprieties including but is not limited to:
 - a. Reviewing the progress of work performed
 - b. Testing the quality of work performed
 - c. Reviewing all billings to ensure that they are for work which has been satisfactorily performed
 - d. Being alert to sudden and unexpected cost growth or over-runs.

Audit services, should be utilized to determine the accuracy and validity of contractor claims.



USAID Fraud Awareness, Detection and Reporting Training Program

CONTRACTOR FRAUD (CONT.)

Detection:

- Reviews should be made of contractor proposals and actual contract costs, as well as program office reports and inspection reports.
- Independent engineering or other technical personnel should be used to provide advice on such matters as contractor qualifications and project status.
- When performing such reviews, the following indicators should be considered:
 - a. Contract slippage
 - b. Modifications to contracts because of contractor inability to perform
 - c. Significant increase in price without corresponding increase in work
 - d. Substantial subcontracting without the knowledge and approval of the contracting officer
 - e. Substantial funds expended on the work by contractor prior to contract award
 - f. Sole source procurement with substantial subcontracting
 - g. Prime contractor requiring subcontractor to utilize prime's labor and/or equipment
 - h. Inadequately supported charges for consultant fees, equipment rental, and travel
 - i. Use of employees or consultants with skill levels below that proposed
 - j. Inflated unit prices for items from contractor stock



USAID Fraud Awareness, Detection and Reporting Training Program

CONTRACTOR FRAUD (CONT.)

2. Failure to Meet Specifications

Scheme:

- A contractor, in order to increase profits, provided goods and/or services that do not comply with contract specifications in quantity and/or quality.
- Such non-compliance is not always evident because materials omitted from the end products are not readily identifiable.
- For example, a contractor uses one coat of paint rather than two; pours four inches of aggregate on road surfaces instead of six inches; or makes short deliveries of landfill.
- Qualitative non-compliance with contract specifications includes using inferior or substitute materials such as watered loads of ready-mix concrete.

Preventive Actions:

- Prevention of non-compliance with contract specifications depends on a comprehensive inspection program.
- Inspection by the project officer of work performed and materials used should be made at various intervals during the performance of the contract.
- Periodically, an evaluation should be made of the inspection program to ensure that inspections are following established procedures.

After-the-fact testing can also be useful to discover shortages or inferior quality of materials used (core borings, chemical and stress analysis, etc.). Such testing can be performed by technically-qualified personnel of the requesting organization i.e., engineers, technicians, etc.).

Detection:

- Obtain and review inspection reports to determine whether the work performed and materials used in a project were inspected and considered acceptable. A lack of such inspections indicates potential problems in meeting contract specification.
- Request assistance from independent technical personnel (i.e., engineers, technicians, etc.) to perform after-the-fact testing of quality and quantity of materials used and work performed, to determine compliance with contract specifications.



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CONTRACTOR FRAUD (CONT.)

3. Falsification of Government-Furnished Property Records

Scheme:

- The contractor falsifies its records showing non-use of Government-furnished property when, in fact, the property is being used on non-Government work.
- One investigation revealed that a contractor, with a contract to maintain copying equipment for the Government, falsified records to show use of Government-furnished parts and repairs made, when the repairs actually were not being made.
- The parts were subsequently used to repair private machines or were sold.
- The contractor also claimed that the needed parts were not in the Government-furnished inventory when, in fact, they were. He then purchased the parts, adding overhead and profit to the item.

Preventive Actions:

- The contracting officer should ensure that contractors provided with Government-furnished property utilize adequate property management controls.
- The project officer should monitor the contractor's use of Government-furnished property through periodic on-site inspection of the contractor's operation.

Detection:

- With the assistance of independent technical Government personnel (i.e., engineers, machinists, etc.) inspect the contractor's plant to determine whether the contractor's non-Government work requires the use of any of the Government-furnished property provided.
- If Government property is furnished, review the contractor's records to see if the use of the property is recorded.



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CONTRACTOR FRAUD (CONT.)

4. Co-Mingling of Contracts

Scheme:

- A company is awarded separate contracts for various efforts, i.e., partition contracts, ceiling contracts, electrical contracts, painting contracts, flooring contracts, etc. Each contract has provisions to allow for items, which are in the other contracts.
- Through collusion, the contractor can bill for the same work on each of the contracts.
- The requesting agency writes similar work orders under each contract, thus facilitating the duplicate billings.

Preventive Actions:

- The approving official in the requesting agency should review contracts prior to award to ensure that statements of work to be performed are not duplicated in other procurement.
- If more than one location is involved, the amount and type of work to be performed at each location must be clearly specified.
- The contracting officer should identify contractors holding more than one contract having the same or nearly similar work statements.
- Billings on contracts so identified, should be especially monitored by the contracting officer and the project officer to disclose duplicate payment possibilities.
- Inspection reports should be required to accompany billings to ensure that work is acceptable and conforms to specifications.

Detection:

- Identify contracts awarded to the same company and determine whether they run concurrently and if each provides for the same efforts.
- Review documentation supporting contractors' billings for similar efforts performed under more than one contract by the same contractor.
- When auditing contractors' records, check for multi-contract awards.



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CONTRACTOR FRAUD (CONT.)

5. False Invoices

Scheme:

- Where contracts provide for the continued supply of merchandise over a period of time, invoices may be inflated or may be submitted for goods not delivered. This situation is particularly applicable to open-ended purchase agreements.

Preventive Actions:

- Purchases should be reviewed to ensure that unit prices are not improperly increased by the supplier.
- Invoices should be matched against official receiving documents. Payments should not be made without such documentation.
- Inventories should be periodically made by the requesting agency to verify items on-hand against actual purchases.

Detection:

- Account for purchases through comparison of physical inventory with booked purchases.
- Determine reasonableness of quantities purchased in relation to the particular office or user.
- Check reasonableness of booked prices to disclose inflated invoices
- Verify receipt of items by checking receiving documents.



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CONTRACTOR FRAUD (CONT.)

6. Duplicate Contract Payments

Scheme:

- The contractor submits copies of the same invoice for payment, or submits more than one original invoice for the same goods or services. This may be accomplished through collusion between the contractor and the requesting agency or by a certifying officer processing a copy of a previously submitted invoice.

Preventive Actions:

- Payments should be made only against original invoices.
- Accounting personnel should be trained to detect duplicate or fraudulent documents.
- In cases where a document is suspect, the payment file should be searched for an identical document previously paid.
- The controller's office should maintain a record of contract amounts approved for payment and periodically reconcile this data to the official financial record of payments made under the applicable contracts.
- As a minimum, this reconciliation should be made at the completion of each contract.
- On fixed-price contracts, verify payments recorded in the accounting records against the project officer's records of amounts approved for payment, and match percent of physical completion against percent of dollar completion.



USAID Fraud Awareness, Detection and Reporting Training Program

CONTRACTOR FRAUD (CONT.)

7. Change Orders Abuse

Scheme:

- A company bidding on a contract, in collusion with personnel from the requesting organization submits a low bid to ensure receiving the contract award.
- However, the company has been assured that change orders will be issued during the life of the contract to more than compensate for the low bid. After the contract is awarded, the contractor and the procuring official share in the excessive reimbursements resulting from the numerous and/or high dollar value change orders issued against the contract.

Preventive Actions:

- Managers of requesting agencies and heads of procurement offices (management officials) should be alert to contracts where numerous and/or high dollar value change orders are proposed or issued. Such actions are indicators of possible improprieties.
- The management officials should carefully review all proposed change orders involving price increases to ensure that the additional monies are for necessary additions to the work scope of the contract, and not merely to increase the contractor's profit.
- The contracting officer should determine the reasonableness of excessively low bids through analysis of independent Government estimates and cost and pricing data.

Detection:

- Analyze contract change orders for the addition of new items and for significant increases in scope, quantities, and price of existing contract items.
- Look for indicators of change order abuse such as:
 - (1) an employee directly involved in both determining requirements and procuring the item, or taking a job with the contractor;
 - (2) high turnover rate among procurement personnel;
 - (3) request for change order signed at a higher level than that of the original procurement request and
 - (4) request(s) for change order coming from an organization different from the one requesting the procurement.



USAID Fraud Awareness, Detection and Reporting Training Program

PROCUREMENT FRAUD BY GOVERNMENT PERSONNEL

1. Excessive Small Purchases of Tools, Supplies, etc.

Scheme:

- Items are purchased and subsequently diverted for personal use. This includes items which are not required or quantities purchased in excess of requirements.
- It also includes items which are required but taken for personal use and need replacement.

Preventive Actions:

- Require after-the-fact reviews of small purchases by the manager of the agency making the Purchases to validate their reasonableness.
- A program should be established to monitor central supply withdrawals and procurement by on-site contractors.
- Once or twice a year, the manager should have prepared a list of items purchased throughout the period for comparison to the number of people using the supplies, tools, or small equipment.
- Any excessive purchases identified for which the actual items purchased cannot be located, would indicate possible diversion of the items for personal use.

Detection:

- Obtain a listing of small purchases made over a specified period of time and re-arrange the list by name of purchaser and/or organizational unit.
- Analyze the information obtained above to determine whether quantities of items purchased are reasonable considering the size of the organization and the length of time between purchases of individual items.



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PROCUREMENT FRAUD BY GOVERNMENT PERSONNEL

2. Split Purchases

Scheme:

- A procurement is split into two or more purchase orders to circumvent the agency procurement regulations which permit negotiation without formal advertising if the aggregate amount does not exceed a specified amount.
- This could be perpetrated by a contracting officer or the requesting agency.

Preventive Actions:

- Managers of the requesting agency and the procurement office should make periodic reviews of purchase orders, grouped by contracting officers who issued them and for specific periods of time, to ascertain whether:
 - (1) identical items were purchased in different quantities, either simultaneously or within short periods of time, or
 - (2) a project was split by type of work (i.e., one purchase order for material and another for labor).

Detection:

- Contracting officers should be especially alert to consecutive procurement requests for identical items from the same contractor, each for the amount requiring competitive procurement.
- Utilize computer resources to group the payments by vendor, and manually check invoices for split purchases.



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PROCUREMENT FRAUD BY GOVERNMENT PERSONNEL

3. Phantom Contractors

Scheme:

- An invoice(s) from a non-existent company is submitted for payment by either accounting or project personnel.
- This fraud could be perpetrated by accounting personnel or someone responsible for administration of the project.

Preventive/Detection Actions:

- Prior to making payments, accounting personnel should verify the authenticity of contractors by comparing unknown names to the agency listing of approved contractors.



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PROCUREMENT FRAUD BY GOVERNMENT PERSONNEL

4. Altered Receipts/Vouchers for Cash Fund Reimbursement

Scheme:

- Cashier alters a voucher after making payment against it by adding another number to the amount paid (i.e., \$40 can be changed to \$140).
- The cashier then submits the altered voucher, together with others, to accounting for replenishment of the cash fund and pockets the excess replenishment (\$100).
- Although the Accounting Office maintains a copy of such vouchers separately from the cashier, the two copies are only occasionally matched because of the large volume of individual transactions involved.
- A payee could "rip-off" the system by submitting a voucher with falsified information, and altering receipts and other documentation to support the false claims.

Preventive Actions:

- Accounting personnel should be sensitized to the possibility of and be trained to detect altered documents.
- Accounting personnel should routinely match vouchers, which they maintain, with supporting cash fund replenishment vouchers to ascertain that no improper alterations have been made.

Detection:

- Scrutinize vouchers and supporting documentation for evidence of changed figures.
- This would include differences in pens used or thickness of marks on paper, consistency in pressure marks on reverse side of invoice, and reasonableness of total invoice to individual items purchased.
- On a sample basis, make comparisons of accounting's copy of vouchers with the cashier's copy.



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PROCUREMENT FRAUD BY GOVERNMENT PERSONNEL

5. Duplicate Payments from Both Voucher and Cash Fund

Scheme:

- A vendor submits the original of an invoice to accounting for payment while the purchaser, either on his own or through collusion with the vendor, collects for the same item from the cash fund.
- A cash register tape, vendor invoice or other document may be used for reimbursement from the cash fund.
- Another technique would be for the purchaser, through collusion with the vendor, to issue two invoices for item(s).

Preventive Actions:

- Management should monitor purchases by periodic after-the-fact management or supervisory review.
- All documents should be pre-numbered and properly accounted for.

Detection:

- Compare payments of Vouchers against payments made through cash funds using for comparison the names of purchasers, vendors, and items purchased.
- This can be done manually or by computer if the information is keypunched for this specific purpose.
- Comparisons can also be made within cash fund disbursements for duplicate payments.
- Arrange vouchers (manually or by computer) in numerical or chronological order and look for duplications. In those cases where duplicate payments appear to exist, verify the physical existence of the items purchased.



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PROCUREMENT FRAUD BY GOVERNMENT PERSONNEL

6. Duplicate Payments from Cash Fund

Scheme:

- More than one original invoice, or an invoice and a shipping/receiving ticket for the same goods (small purchases), are submitted for reimbursement by the cash fund.

Preventive Actions:

- Emphasize to cashiers the importance of honoring only original invoices as payment documents.
- They should also be alerted to the potential for submission of more than one original invoice for the same item.
- Cash fund transactions should periodically be reviewed to identify payments for identical items, quantities and amounts.
- Managers of program or operations offices should periodically review cash fund transactions involving their activities for reasonableness of quantities of individual items paid for through the cash fund.
- Unusually large quantities of a single item might indicate the possibility of duplicate payments.

Detection:

- Review payment documents for a specific time period, checking for same payee, amounts paid, and items purchased.
- Be especially alert to payments supported by copies (carbon or Xerox) of invoices rather than originals.
- Unusually large quantities of a single item purchased over a short period of time may indicate the possibility of duplicate payments.



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PROCUREMENT FRAUD BY GOVERNMENT PERSONNEL

7. Bribery and Illegal Gratuities

Scheme:

- Any of the above examples involving collusion could also involve bribery or illegal gratuities.



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FRAUD INDICATORS AND FRAUD SCHEMES

- The following paragraphs outline situations that may indicate that a fraud is or has been committed against your agency and provide examples of particular schemes.
 - The information is intended to sensitize managers to the potential for fraud in day-to-day situations.
 - The indicators may also help identify systemic weaknesses at operational units.
1. Co-mingling of Contracts:
 - A company is awarded separate contracts for various efforts, e.g., electrical contracts, painting contracts, flooring contracts, etc. Each contract allows charges for services or items used in the other contracts as well. Through collusion, the contractor can bill for the same work or supplies on each of the contracts.
 2. Rigged Specifications:
 - The requesting organization tailors specifications to meet the qualifications of one particular company, supplier, or product.



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FRAUD INDICATORS AND FRAUD SCHEMES

3. Collusive Bidding:

- A group of companies with the capability of providing the same goods or services conspire to exchange bid information on contract solicitations and then take turns at submitting the low bid, effectively defeating competition. Such action may be carried out in collusion with procuring officials.

Following are some indicators of bid rigging:

- a. Identical bids are received.
- b. A number of bids are received that are much higher than published costs of previous contracts of the same type, or of previous bids by the same firms for similar contracts.
- c. Fewer firms bid than would normally be expected from that industry.
- d. There is an inexplicably large gap between the winning bid and all other bids.
- e. Apparent recurring patterns of low bids, such as a corporation always winning a bid in a certain geographical area, or in a particular rotational sequence vis-a-vis other bidders.



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FRAUD INDICATORS AND FRAUD SCHEMES (CONT.)

- f. The successful bidder subcontracts work to companies that submitted higher bids on the same project.
 - g. Bids are very close on nonstandard items with no suggested retail price.
 - h. There is a correlation between the contractors that win the bids and the size of the contracts.
 - i. Competing contractors regularly socialize, or contractors and Government procurement personnel socialize.
4. Companies Conducting Business under Several Names:
- Company officials may attempt to conceal a reputation of poor contract performance by conducting business under several different names simultaneously.
 - Such companies may also submit more than one bid or offer in response to a solicitation, thus restricting competition.
5. Conflict of Interest Situations:
- A contract is awarded to a company owned or controlled by a government employee.
 - An employee's conduct creates or gives the appearance of a conflict.
 - *For example: The employee (or a family member) has business dealings or a close social relationship with a contractor or potential contractor; or the employee or family member receives gifts, entertainment, favors, or offers of employment from an actual or potential contractor*



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FRAUD INDICATORS AND FRAUD SCHEMES (CONT.)

6. Failure to Properly Monitor Contract Performance:

- Without adequate inspection or through collusion, contractors providing goods and services have an opportunity to be paid for more work or supplies than actually delivered.
- For example, work orders for the removal and installation of partitions, electrical outlets, telephones, plumbing, etc., can be compromised by inflating the quantities of items removed or installed.

7. Failure to Meet Specifications:

- A contractor increases profits by providing goods or services that do not meet contract specifications.
- Such action is often difficult to detect because materials omitted from end products are not readily identifiable.
- For example, a contractor uses one coat of paint instead of two; uses watered loads of concrete installs inferior memory chips in computers; or uses inferior automobile replacement parts.

8. Same Individual Authorized to Order and Receive for Goods and Services:

- Persons controlling both the ordering and receiving functions can arrange for diversion of supplies or services for their own benefit or sign for "phantom", incomplete, or technically inferior shipments in exchange for money or favors from the contractor.



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FRAUD INDICATORS AND FRAUD SCHEMES (CONT.)

9. Unvarying Patterns in Small Purchases:

- Unvarying patterns in small purchases may indicate that a buyer is awarding contracts to favored vendors without soliciting competitive offers from additional firms.
- The buyer may also be entering fictitious competitive quotations and consistently awarding a favored vendor at inflated prices.

10. Frequent Complaints by Users of Supplies or Services:

- Frequent user complaints of poor quality or level of performance of supplies or services provided under a contract may indicate that contractors are delivering something less than you are paying for.
- The cause may be a poorly written contract, weak contract administration, or fraud involving contractors and employees.



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FRAUD INDICATORS AND FRAUD SCHEMES (CONT.)

11. Service Contract Specifications Include Bid Schedule Items for which there is little or No Requirement:

- The government may be paying more than necessary for contract services when bid items for which there is little or no demand are included in annual requirement contracts.
- Individuals working in requirements or contracting activities may be in collusion with incumbent contractors by including such items in bid solicitations.
- As a result, incumbent contractors gain an unfair advantage by bidding "no charge" or "token" prices for the items, thereby restricting competition.
 - *For example, on a solicitation, which has 30 bona fide separate line items on the schedule, procurement activity personnel in collusion with an incumbent may add 5 line items for which they know there will be no demand.*
 - *Competing contractors, unaware of the collusive situation, will bid each of the items based upon their estimate of actually providing the service.*
 - *The incumbent contractor will bid little or nothing, thereby giving that firm the low aggregate bid.*
 - *This unfair advantage restricts competition and enables the incumbent to overcharge for the bona fide items.*

12. Splitting Large Requirements:

- Contracting or requiring activity personnel may be splitting requirements into small purchase orders to avoid the scrutiny required for larger dollar value contracts.
- Splitting the requirement may waste funds by losing the economic advantage of volume purchasing.
- Favoritism or other forms of fraud are easier to conceal when small purchase methods are used.



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FRAUD INDICATORS AND FRAUD SCHEMES (CONT.)

13. Government Estimates and Contract Award Prices are Consistently Very Close:

- Employees may be releasing advance purchasing information to favored contractors, in violation of conflict of interest, bribery, or other statutes.
- Additionally, the unauthorized release of advance information may be indicated when the same contractor receives a preponderance of contract awards for a particular requirement, even when competition exists.

14. Contractor Complaints of Late Payment by the Agency:

- Complaints by contractors or suppliers that they are not being paid in a timely manner may indicate fraudulent manipulations and diversion of Government resources through supply or finance operations.

15. Mischarging Costs Among Contracts:

- A contractor shifts costs, usually labor charges, from an unprofitable contract (either fixed price or cost reimbursement type) to one or more other cost reimbursement contracts.
- Typically, the employee time cards are fraudulently made out to show the false cost reimbursement contract accounting code.



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FRAUD INDICATORS AND FRAUD SCHEMES (CONT.)

16. Duplicate Payment:

- A vendor submits the original voucher for payment, while the purchaser, acting alone or in collusion with the vendor, collects for the same item from the cash fund.

17. Downgrading Serviceable Property to Scrap:

- With intent to defraud the Government, property in serviceable condition may be downgraded to scrap. When the property is written off as scrap, it loses its identity as an item, simplifying the theft of the item.

18. Abnormal Increase in Consumption of Fuel or Supply Items:

- Abnormally high consumption of fuel or common supply items such as automotive parts, tools, and individual equipment indicates the items could have been diverted for personal use or resale.

19. Poor Physical Security:

- Conditions such as poor warehouse lighting, insecure storage areas, and private vehicles permitted to park adjacent to storage areas are examples of weaknesses that encourage or contribute to diversion of Government property.



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FRAUD INDICATORS AND FRAUD SCHEMES (CONT.)

20. Receipt of Items that cannot be traced to a Valid Requisition:

- Items received that cannot be traced to a valid requisition could have been ordered for personal use or resale and the resulting paperwork destroyed.

21. Failure to De-obligate Canceled Purchase Orders:

- This situation usually indicates that employees are attempting to transfer funds from one fiscal year to another or that employees are receiving a refund for canceled items and are not depositing the refund with the Government.



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FRAUD INDICATORS AND FRAUD SCHEMES (CONT.)

22. Overstatement of Shipment Weights:

- Carriers may be defrauding the Government by artificially inflating the weight of a shipment.
- Carriers use the following methods to "bump" or increase the true weight of a shipment:
 - a. Body Bumping: A lightweight driver sits in the van when getting the tare weight and a heavier driver gets the gross weight of the van. The net gain could be as much as 100 pounds.
 - b. Fuel Bumping: Getting the tare weight with less than a full tank of gas and the gross weight with a full tank. If the tank was 1/4 full for tare and full for gross, a net increase of 450 to 500 pounds could result.
 - c. Packing/Equipment Bumping: Getting the tare weight without the required packing/equipment (blankets, dollies, ladders, snow chains, etc.) and getting the gross weight with the equipment included could result in a net increase of several hundred pounds.
 - d. Double Billing on Small Shipments (500 to 3,000 pounds): Getting two tare weight tickets for the truck, picking up the two small shipments, getting two gross weight tickets for the combined weight of both shipments, then submitting both tickets for payment. The increase in weight would be equivalent to one of the shipments.
 - e. Weight Bumping: Adding pallets, lead ingots, etc. to the shipment to equal the weight allowance of the employee. The net increase can range from several hundred to several thousand pounds
 - f. False Tickets: Paying the weight master to provide a false weight ticket or having a supply of blank or false weight tickets. If blank tickets are used, the weight will usually be handwritten rather than printed.
 - g. Switching Trucks: Switching from a light truck/tractor to a heavier one after obtaining the tare weight.
 - h. Excluding Crating Materials: Crating materials used to protect fragile or high value items are not included when obtaining the tare weight. This crating material, usually lumber, could weigh several hundred pounds if a shipment includes several items requiring protection.



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FRAUD INDICATORS AND FRAUD SCHEMES (CONT.)

23. Failure to Conduct Inventories or Alteration of Inventory Records:

- Employees may be mismanaging the equipment/supply inventory system to permit the systematic theft of Government property.

24. Excessive Parts Replacement in Vehicle Maintenance:

- Maintenance personnel may charge unnecessary parts to vehicle maintenance and divert these parts for personal use or gain. In one example, vehicle maintenance records identified 14 tire replacements in 8,148 miles, five new batteries in 100 miles, and seven tune-ups in 8,000 miles.

25. Government Funds Used for Replacement Parts in New Vehicles:

- New vehicle warranties usually provide for replacement of many failed parts at no cost to the Government. If vehicle records show that parts procured with Government funds are being used in new vehicles, there is a possibility that the parts are being spent unnecessarily.

26. Cashiers Fail to Return a Copy of Paid Travel Vouchers to Employees:

- Cashiers may be embezzling funds by shortchanging employees if the cashiers do not return a copy of paid travel vouchers to the payee.
- Cashiers have attempted such embezzlement when making payments by folding under the "Amount Paid" corner of the voucher so the payee does not see it and by later disposing of the member's copy of the voucher.



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FRAUD INDICATORS AND FRAUD SCHEMES (CONT.)

27. Disbursement not Processed into the Accounting System on a Timely Basis:

- Employees could be making unauthorized disbursements and trying to hide or delay detection of the disbursements by not processing transactions in a timely manner.

28. Excessive Numbers of Travel Claims for Expenses that Can Be Accepted without a Supporting Receipt:

- Employees may be submitting fraudulent travel vouchers by including fictitious expenses which do not have to be supported with a receipt (e.g., taxi fares).
- Excessive numbers of such expenses in vouchers may indicate fraudulent claims.

29. Repeated Changes to Timecards/Excessive Overtime:

- Repeated erasures or changes on an individual's card, amended timecards, repeated instances of prior periods of overtime claimed, excessive amounts of overtime earned, or little or no use of annual leave may indicate possible timecard manipulation by an employee in a timekeeper position.

30. Employee Refuses Promotion, Leave, or Job Changes:

- The employee may oppose promotion or reassignment to another position because the change might remove the opportunity to obtain illegal gains.
- The employee may also fear discovery of the illegal activity in the current position.



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FRAUD INDICATORS AND FRAUD SCHEMES (CONT.)

31. A Single Individual Controls More Than one Key Resource Management Function:

- An individual who controls more than one of the key functions and responsibilities associated with any resource management activity is in a better position to exploit the system than one whose responsibilities are limited to a single key area.
- Most resource management directives stipulate separation of functions as a safeguard against fraud.
- Violation of such directives by apathetic supervisors or overzealous employees have resulted in numerous instances of fraudulent exploitation of resources.

32. Purchase Orders Being Used for Personal Orders:

- Employees may be using Government purchase orders for personal purchases to qualify for the Government discount.

33. Large Year-end Purchases for Nonspecific Items:

- Employees may obligate all year-end funds to a local vendor to establish a credit balance account. Future purchases are then made against this account.



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FRAUD INDICATORS AND FRAUD SCHEMES (CONT.)

34. Inventories Are Mixed to Prevent Identification of Purchase with Special Funds:

- Paint purchased for Government-owned quarters may be used for painting leased quarters.
- Items purchased with office supply funds may be used for quarters.

35. Journal Vouchers Being Used to Transfer "Over-Obligated" Purchase:

- Employees in the accounting function may use journal vouchers to transfer small portions of over-obligated balances into purchase orders that were not fully expended.

36. Submission of Copies of Paid Receipts to Collect Reimbursement:

- An employee may retain the original and submit multiple copies of the same receipts, thereby receiving numerous reimbursements for the same expenditure.

37. Supervisory Reviews or Computer Edits Are Bypassed:

- Large workload backlogs or collusion may cause management personnel to skip supervisory reviews of data to be entered in a computer data base, or special codes may be entered to disable computer edits.
- Most instances of computer fraud are facilitated by such procedural bypasses.



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FRAUD INDICATORS AND FRAUD SCHEMES





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WARNING SIGNS OF FRAUD

The intent in a financial fraud is to *divert or misdirect assets or information*, while preventing the disclosure of fraud.

- These two requirements often cause a trail of irregularities to be left behind.
- These irregularities may serve to alert the astute, determined accountant, investigator, or manager.

The following are potential fraud indicators:

- 1) Excessive changes in accounting principles or disregard for Generally Accepted Accounting Principles (GAAP).
- 2) Excessive or unjustified changes in accounting personnel may be an attempt to prevent employees from learning too much.
- 3.) The refusal/failure to allow an independent audit or subtle attempts to direct the audit or investigation may indicate an attempt to hide problems.
- 4.) The excessive destruction of controlled documents should not occur, although error is often given as the excuse.
 - Be alert for out of sequence invoices in files or unnumbered invoices where serial numbering is the rule.
 - Possibilities include stolen or counterfeited documents.
- 5) An excessive number of photocopies of invoices in files should lead to further inquiry. It is a simple matter to alter approved invoices with 'white-out' or similar correction fluid and copy the invoice, destroying the original.
 - The attempt may be to manipulate the audit trail or commit the fraud via the alteration.
 - Secure external and internal copies for comparison.
 - Duplicate copies of supplier invoices could also indicate the possibility of multiple payments of the same invoice with the checks diverted.



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WARNING SIGNS OF FRAUD

- 6) Excessive business checks to cash or individuals.
 - Although some checks to cash and individuals may be necessary for convenience, an excessive percentage is questionable, since businesses do business with one another, and checks made directly payable to the intended party are a better receipt.
 - When such checks show second endorsements they are highly suspect.

- 7) A pattern of second endorsements on payroll checks may indicate the normal practice of a business cashing its employees' salary checks, etc.
 - However, it may also indicate cash schemes or other illicit activity. A typical second endorsement scheme involves endorsing a fictitious employee's paycheck and issuing cash.
 - Another variation involves paying a check in a certain amount, e.g., \$500, for the purchase of material that will cost less, e.g., \$200.
 - The recipient endorses the check and returns it to the issuer, who gives the recipient the agreed upon lesser sum, e.g., \$200.
 - The canceled check will be for the larger amount, and the cash voucher or disbursements book will show the larger amount going out, e.g., \$500. The net result is evidence of paying a certain amount, while allowing the businessman or employee to pocket \$300.

- 8) Periodic or excessive conversion of cash for exchange items may be part of a scheme to divert assets and hide trails. (Exchange items include cashier's checks, money orders, etc.)

- 9) Excessive cash transactions are a poor business practice. Like item 6, the question is why?

- 10) If assets are sold or transferred for what appears to be less than adequate consideration this may indicate a sham transaction with no economic reality.
 - Businesses exist to make a profit and anything in contravention of this goal should be questioned.



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WARNING SIGNS OF FRAUD

- 11) Assets are sold but possession is maintained.
 - A real sale or a sham transaction?
 - More than a buyer seller relationship?

- 12) Post-dated checks are a possible indication of cash flow problems, or a check fraud.

- 13) Lack of sufficient vouchers and supporting documents indicate that purchases may not have actually occurred or that merchandise may have been stolen.

- 14) Excessive bad debt write-offs may indicate a scheme for an employee to split kickbacks with a co-conspirator on the outside.

- 15) Excessive spoilage/damaged goods may indicate a scheme between certain employees and purchasers/shippers similar to the bad debt write-off.

- 16) Excessive or unpaid loans to non-critical employees should be very carefully examined, for they may not be loans.
 - Documents attesting the character of the payments as a loan, even to officers, are inadequate where fraud is suspected.
 - All the documentation should be there.
 - Look for the history of repayment.

- 17) Encumbrances and liens shortly before bankruptcy could indicate the possibility of liens by related companies or sham transactions using shell corporations to protect assets and cloud ownership claims; possibility of a planned or fraudulent bankruptcy.



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WARNING SIGNS OF FRAUD

- 18) Excessive or insufficient freight expense relative to inventory purchased or to sales may indicate that purchases have been paid through means not reflected on the books or inventory purchased or sales made for unrecorded cash.
- This may also indicate the possibility of diverted assets and/or a hidden operation by management or employees.
- 19) Where inventory is a material income-producing item, concern should arise when component ratios are out of acceptable limits.
- Assume one item X is purchased for each item Y to make product Z. (Records reflecting the purchase of 1000X and 500Y should require further examination)
 - Significant increase in power consumption in a manufacturing facility without a corresponding increase in production or revenue.
 - This type of observation would apply to other ratios that are out of line with past history or industry norms (gross profit ratio, etc.).
- 20) Failure to reconcile bank statements or a conflict of the duties on the part of the person performing the reconciliation (manages cash and performs reconciliation, etc.).
- 21) An excessive number of checking accounts without a true business purpose could possibly indicate good local and/or out-of-town cash management techniques of paying from a distant bank, or it may indicate a check-kiting scheme.
- For the latter, cash reconciliation is a must.
- 22) An excessive number of employees relative to production or a change in employees without a corresponding need/revenue increase is possibly indicative of a ghost payroll scheme for generating cash.
- It may be a fraud against a customer or government where the contract terms call for "cost plus."



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WARNING SIGNS OF FRAUD

- 23) Business dealings with no apparent economic purpose are out of the ordinary, since businesses exist to make a profit. Deals with companies with little or no economic viability fall in the suspect category. also indicate the possibility of diverted assets and/or a hidden operation by management or employees.
- 24) Excessive/questionable dealings with subsidiaries should alert the auditor or investigator to the possibility of questionable expenses being passed along and/or the use of payables to free up cash, etc. It also may be an attempt to generate the appearance of revenue.
- 25) Use of management fronts, such as interlocking directorates, alter-egos, etc., to conceal true ownership control and thus conceal organizational conflicts of interest.
- 26) Inappropriate trends in relation to other events, such as a decline in the number of quality control inspectors when a large contract is received should be questioned.
- 27) A significant lack of internal controls may indicate that a questionable practice is being hidden.
- Remember that one of the basic rules is that businesses exist to earn a profit.
 - Look for actions counter to this goal.
- 28) The lack of competitive bidding may hide kickbacks or conflict of interest situations.
- 29) Questionable and significant changes in key financial ratios indicate potential problems.



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REVIEW OF CHECKS AND OTHER FINANCIAL RECORDS

Listed below are a few fraud indicators that can be looked for when reviewing contractor or consultant financial records. Certain transactions may indicate "Ghost Payrolls", unauthorized expenses, or other situations which require additional investigation.

1. Compare check numbers against date issued. Checks should be issued in sequence by check number and date.
2. See if more than one check in sequence was issued to the same vendor. It would be an unusual situation for this to occur.
3. Compare computer-generated checks with manually issued checks.
 - This is usually indicated by a different series of check numbers.
 - The method by which the checks were generated to a specific vendor should be consistent.
4. Check for differences in addresses, such as slightly different post office numbers, incorrect post office numbers or different zip codes for the same address different street numbers or alternating addresses.
5. Look for checks to different vendors going to the same mailing address.
6. Look for checks to different vendors deposited in the same bank account.
7. Deposits of checks made by each vendor should be consistent with the same account.



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REVIEW OF CHECKS AND OTHER FINANCIAL RECORDS

8. Look for checks that are prepared by different typing machines than those before and after the checks in question.
9. Be observant for checks issued in "round" amounts.
10. Checks may normally include the payee's mailing address for use in a "window" envelope. If a check is found where the address is missing or incomplete, it may be an indication that the check was delivered by other than normal means.
11. Hand-written endorsements on the back of business checks should be noted. Most businesses use a stamp indicating "For Deposit Only" or "Deposit to the Account of" etc.
12. Erasures or white-outs should always be suspect.
13. Folded or "long-held" checks should also raise suspicion.
 - Compare information from checks with addresses and expenditures shown on the vendor list.
 - If time permits, select a three-month period and review every check issued.
 - Document and analyze as discussed above. In addition, verify that all checks are accounted for and that they were issued in sequence.



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REVIEW OF CHECKS AND OTHER FINANCIAL RECORDS (CONT.)

- Also, check all payees shown on checks to see if they are shown on the vendor list.
- If any checks are missing or any payees are not on the vendor list, this should be a suspicious indicator.
- If a certain check is identified as being fraudulent, look for checks issued immediately before and after for additional indications of fraud.
- While surveying the checks, be alert to any other checks that might be suspect.
- When reviewing the accounts payable file, look for detailed information regarding individual disbursements to vendors.
- There should be a file for each vendor and a receipt or bill with the same expense item for each check issued.
- Invoices should contain pre-printed, company letterheads with street addresses and telephone numbers.
- Universal type invoices (easily purchased from a business office supply firm) should be suspect.
- Legitimate companies generally will have their own letterheads.
- Be suspicious when post office boxes and street addresses for several vendors are the same or are located in the same general area.
- Invoices to the same vendor with sequential serial numbers should be regarded as suspect.
- Missing files or vague explanations for expenditures often indicate irregular activity.



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REVIEW OF ASSUMED NAMES, RECORDS OF INCORPORATION, ETC.

1. Determine names of major corporate executives, staff members, members of the financial accounting departments.
2. Check these names against appropriate register of assumed names, incorporation records, business tax rolls, etc. to identify any businesses these individuals may be associated with.
3. If any businesses are discovered, document the names, addresses, dates of incorporation, and persons signing the records
4. If possible, obtain a complete list of the vendors the company uses with addresses and expenditures for the last several years.
5. Compare the names of businesses identified through checks of assumed names and corporation records, etc. with the vendors on the list.
 - If there are any matches, this would be an indication there is a questionable relationship between the vendor and the other companies.
 - Situations to look for would include:
 - a. Vendors used as a front to launder embezzled funds.
 - b. Vendors used to provide legitimate services but at highly inflated prices.
 - c. Vendors used to direct business to a member of a family or close associate.



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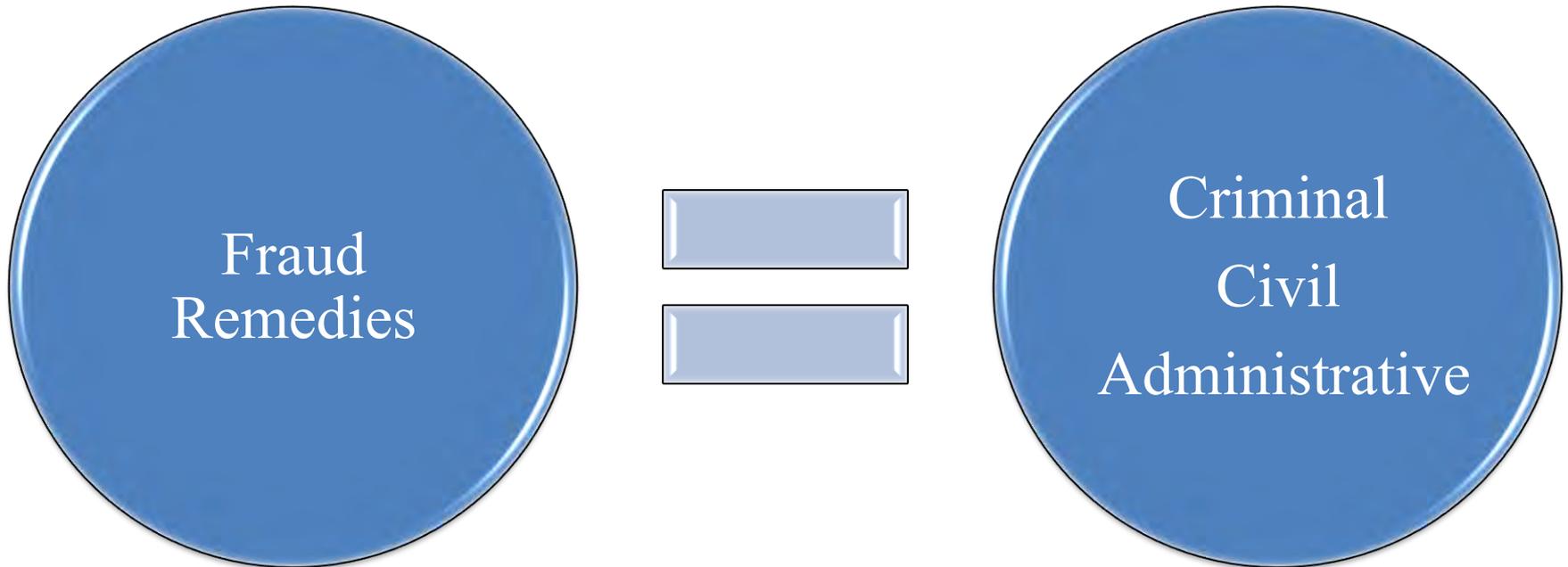
Warning Signs of Fraud





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MODULE TWO FRAUD DETECTION





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U.S. FEDERAL LAWS & CRIMINAL STATUTES

- Criminal & Civil Violations of Law used in Prosecuting Fraud
- Statutory Laws - Enacted by the U.S. Congress and signed into law by the President
- Investigated by Federal Law Enforcement Agencies with statutory authority to conduct such investigations e.g. USAID OIG Investigations
- Prosecuted by the U.S. Department of Justice and the various subordinate U.S. Attorney's Offices located in 94 Districts throughout the United States and the District of Columbia



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CRIMINAL STATUTES RELATED TO FRAUD

18 USC § 286 - Conspiracy to Defraud False Claims

18 USC § 287 – False Claims

18 USC § 371 - Conspiracy to Defraud

18 USC § 641 – Theft of Government Funds and/or Property

18 USC § 666 - Theft or Bribery Concerning Programs Receiving Federal Funds

18 USC § 1001 – False Statements

18 USC § 1031 - Major Fraud against the United States (\$1,000,000)

18 USC § 1037 - Fraud and Related Activity in Connection with Electronic Mail

18 USC § 1341 – Mail Fraud (US Postal Channels)

18 USC § 1343 – Wire Fraud

18 USC Chapter 1962 – Racketeer Influenced & Corrupt Organizations (RICO)



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18 USC § 286

Conspiracy Defraud False Claims



Whoever enters into any agreement, combination, or conspiracy to defraud the United States, or any department or agency thereof, by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim, shall be fined under this title or imprisoned not more than ten years, or both.



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**18 USC § 287
False Claims**



Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be imprisoned not more than five years and shall be subject to a fine in the amount provided in this title.



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18 USC § 371 Conspiracy to Defraud



If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both. If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.



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18 USC § 641 Theft or Embezzlement



Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or



Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted—Shall be fined under this title or imprisoned not more than ten years, or both; but if the value of such property in the aggregate, combining amounts from all the counts for which the defendant is convicted in a single case, does not exceed the sum of \$1,000, he shall be fined under this title or imprisoned not more than one year, or both. The word “value” means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.



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18 USC § 666 Theft Federal Programs



(a) Whoever, if the circumstance described in subsection (b) of this section exists (1) being an agent of an organization, or of a State, local, or Indian tribal government, or any agency thereof



(A) embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts to the use of any person other than the rightful owner or intentionally misapplies, property that (i) is valued at \$5,000 or more, and (ii) is owned by, or is under the care, custody, or control of such organization, government, or agency; or.....



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18 USC § 1001 False Statements



(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully

- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
- (2) makes any materially false, fictitious, or fraudulent statement or representation; or



- (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.



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18 USC § 1031
Major Fraud



(a) Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent (1) to defraud the United States; or (2) to obtain money or property by means of false or fraudulent pretenses, representations, or promises, in any grant, contract, subcontract, subsidy, loan, guarantee, insurance, or other form of Federal assistance, including through the Troubled Asset Relief Program, an economic stimulus, recovery or rescue plan provided by the Government, or the Government's purchase of any troubled asset as defined in the Emergency Economic Stabilization Act of 2008, or in any procurement of property or services as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, if the value of such grant, contract, subcontract, subsidy, loan, guarantee, insurance, or other form of Federal assistance, or any constituent part thereof, is \$1,000,000 or more shall, subject to the applicability of subsection



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18 USC § 1030 Computer Fraud



(a)Whoever (1)having knowingly accessed a computer without authorization or exceeding authorized access, and by means of such conduct having obtained information that has been determined by the United States Government pursuant to an Executive order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data, as defined in paragraph y. of section 11 of the Atomic Energy Act of 1954, with reason to believe that such information so obtained could be used to the injury of the United States, or to the advantage of any foreign nation willfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it;



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18 USC § 1031 Major Fraud



(a) Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent (1) to defraud the United States; or (2) to obtain money or property by means of false or fraudulent pretenses, representations, or promises, in any grant, contract, subcontract, subsidy, loan, guarantee, insurance, or other form of Federal assistance, including through the Troubled Asset Relief Program, an economic stimulus, recovery or rescue plan provided by the Government, or the Government's purchase of any troubled asset as defined in the Emergency Economic Stabilization Act of 2008, or in any procurement of property or services as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, if the value of such grant, contract, subcontract, subsidy, loan, guarantee, insurance, or other form of Federal assistance, or any constituent part thereof, is \$1,000,000 or more shall, subject to the applicability of subsection (c) of this section, be fined not more than \$1,000,000, or imprisoned not more than 10 years, or both.



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18 USC § 1037 Fraud Electronic Mail



(a) In General. Whoever, in or affecting interstate or foreign commerce, knowingly (1) accesses a protected computer without authorization, and intentionally initiates the transmission of multiple commercial electronic mail messages from or through such computer, (2) uses a protected computer to relay or retransmit multiple commercial electronic mail messages, with the intent to deceive or mislead recipients, or any Internet access service, as to the origin of such messages, (3) materially falsifies header information in multiple commercial electronic mail messages and intentionally initiates the transmission of such messages,



(4) registers, using information that materially falsifies the identity of the actual registrant, for five or more electronic mail accounts or online user accounts or two or more domain names, and intentionally initiates the transmission of multiple commercial electronic mail messages from any combination of such accounts or domain names, or (5) falsely represents oneself to be the registrant or the legitimate successor in interest to the registrant of 5 or more Internet Protocol addresses, and intentionally initiates the transmission of multiple commercial electronic mail messages from such addresses, or conspires to do so, shall be punished as provided in subsection (b).



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18 USC § 1341 Mail Fraud



Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.



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18 USC § 1343 Wire Fraud



Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), or affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.



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18 USC § 1962

Racketeer Influenced & Corrupt Organizations (RICO)

Prohibited Activities



(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer. (b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. (c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt. (d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.



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PUBLIC CORRUPTION STATUTES (BRIBERY & ILLEGAL GRATUITIES)

18 USC § 201 - Bribery of public officials and witnesses

18 USC § 207 - Restrictions on former officers, employees, and elected officials of the executive and legislative branches

18 USC § 208 - Acts affecting a personal financial interest



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18 USC § 201 Bribery



(a) For the purpose of this section (1) the term “public official” means Member of Congress, Delegate, or Resident Commissioner, either before or after such official has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror; (2) the term “person who has been selected to be a public official” means any person who has been nominated or appointed to be a public official, or has been officially informed that such person will be so nominated or appointed; and (3) the term “official act” means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official’s official capacity, or in such official’s place of trust or profit.



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18 USC § 207

Restrictions on Former US Government Employees



(a) Restrictions on All Officers and Employees of the Executive Branch and Certain Other Agencies. (1) Permanent restrictions on representation on particular matters. Any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including any independent agency of the United States), or of the District of Columbia, and who, after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia) in connection with a particular matter (A) in which the United States or the District of Columbia is a party or has a direct and substantial interest, (B) in which the person participated personally and substantially as such officer or employee, and (C) which involved a specific party or specific parties at the time of such participation, shall be punished as provided in section 216 of this title.



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18 USC § 208

Acts Affecting a Personal Financial Interest



(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, a Federal Reserve bank director, officer, or employee, or an officer or employee of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest, shall be subject to the penalties set forth in section 216 of this title.



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**Bribe
vs.
Gratuity**



Illegal gratuities are similar to bribery schemes. In fact, under the federal legislation governing the offenses of bribery and illegal gratuity (Title 18 U.S. Code Section 201), an illegal gratuity is a lesser-included offense of official bribery



The elements of an illegal gratuity are: “Giving or receiving a thing of value for or because of an official act” – Essentially after the fact before the as in the case of a bribe.



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GRATUITY

- The federal statute governing the illegal gratuity offense prohibits a public official from accepting any payment of money or thing of value other than his lawful compensation
- In practice, the statute often is applied when relatively small payments, such as gifts or entertainment, are used to attempt to influence a public official



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Criminal Violations of Fraud





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CIVIL STATUTES RELATED TO FRAUD

31 USC § 3729 – FALSE CLAIMS ACT

22 CFR 224 - PROGRAM FRAUD CIVIL REMEDIES

ADMINISTRATIVE ACTIONS – FEDERAL ACQUISITION REGULATION

48 CFR 225 – CONTRACT REMEDIES (SUSPENSION & DEBARMENT)

48 CFR 1509 – GRANTS REMEDIES (SUSPENSION & DEBARMENT)



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CIVIL LAW

31 USC § 3729 – FALSE CLAIMS ACT

a) Liability for Certain Acts.—

(1) In general.— Subject to paragraph (2), any person who—

(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

(B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

(C) conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);

(D) has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;

(E) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or

(G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 104-410 [1]), plus 3 times the amount of damages which the Government sustains because of the act of that person.



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CIVIL PROGRAM REMEDY ACTIONS

- TITLE 22--Foreign Relations
- CHAPTER II--AGENCY FOR INTERNATIONAL DEVELOPMENT
- SUBCHAPTER U--INTERNATIONAL COMMERCIAL ARBITRATION
- PART 224--IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT
- The authority to approve the determination prescribed in FAR 23.506(e) is reserved to the Secretary of State. § 224.3 Basis for civil penalties and assessments.
- (a) Claims (1) Any person who makes a claim that the person knows or has reason to know—
 - (i) Is false, fictitious, or fraudulent;
 - (ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;
 - (iii) Includes or is supported by any written statement that—
 - (A) Omits a material fact;
 - (B) Is false, fictitious, or fraudulent as a result of such omission; and
 - (C) Is a statement in which the person making such statement has a duty to include such material fact; or
 - (iv) Is for payment for the provision of property or services which the person has not provided as claimed;
- shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each such claim.
- (2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.
- (3) A claim shall be considered made to A.I.D., a recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of A.I.D. or such recipient or party.
- (4) Each claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.



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- (5) If the Government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section shall also be subject to an assessment of not more than twice the amount of such claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. Such assessment shall be in lieu of damages sustained by the Government because of such claim.
- (b) Statements. (1) Any person who makes a written statement that—
 - (Cont.) The person knows or has reason to know—
 - (A) Asserts a material fact which is false, fictitious, or fraudulent; or
 - (B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement had a duty to include in such statement; and
 - (ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement,
- shall be subject, in addition to any other remedy and may be prescribed by law, to a civil penalty of not more than \$5,000 for each such statement.
- (2) Each written representation, certification, or affirmation constitutes a separate statement.
- (3) A statement shall be considered made to A.I.D. when such statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of A.I.D.
- (c) No proof of specific intent to defraud is required to establish liability under this section.
- (d) In any case in which it is determined that more than one person is liable for making a claim or statement under this section, each such person may be held liable for a civil penalty under this section.
- (e) In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of such persons.



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- **ADMINISTRATIVE ACTIONS - SUSPENSION AND DEBARMENT**
- **Title 48: Federal Acquisition Regulations System**
- **PART 225—FOREIGN ACQUISITION**
- Subpart 225.3—Contracts Performed Outside the United States
- 225.370-5 Remedies.
- (a) In addition to other remedies available to the Government—
- (1) The contracting officer may direct the contractor, at its own expense, to remove and replace any contractor personnel who fail to comply with or violate applicable requirements. Such action may be taken at the Government's discretion without prejudice to its rights under any other contract provision, including termination for default. Required contractor actions include—
- (i) Ensuring the return of personal identity verification credentials;
- (ii) Ensuring the return of any other equipment issued to the employee under the contract; and
- (iii) Revocation of any physical and/or logistical access granted to such personnel;
- (2) The contracting officer shall include the contractor's failure to comply with the requirements of this subpart in appropriate databases of past performance and consider any such failure in any responsibility determination or evaluation of past performance; and
- (3) In the case of award-fee contracts, the contracting officer shall consider a contractor's failure to comply with the requirements of this subpart in the evaluation of the contractor's performance during the relevant evaluation period, and may treat such failure as a basis for reducing or denying award fees for such period or for recovering all or part of award fees previously paid for such period (see 216.405–2–71).
- (b) If the performance failures are significant, severe, prolonged, or repeated, the contracting officer shall refer the contractor to the appropriate suspension and debarment official.
- [73 FR 16774, Mar. 31, 2008, as amended at 77 FR 35887, June 15, 2012]



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- **ADMINISTRATIVE ACTIONS - SUSPENSION AND DEBARMENT**
- Title 48: Federal Acquisition Regulations System
- PART 1509— CONTRACTOR QUALIFICATIONS
- Subpart 1509.4—Debarment, Suspension and Ineligibility
- Source: 65 FR 37291, June 14, 2000, unless otherwise noted.
- 1509.403 Definitions.
- The “Debarring Official” and the “Suspending Official” as defined in FAR 9.403 is a designated individual located in the Office of Grants and Debarment. This Agency official is authorized to make the determinations and provide the notifications required under FAR subpart 9.4 or this subpart, except for the determinations required by FAR 9.405–1(a) which are to be made by the Head of the Contracting Activity. All compelling reason determinations to be made by the Debarring or Suspending Official under FAR subpart 9.4 or this subpart will be made only after coordination and consultation with the Head of the Contracting Activity. See also 2 CFR part 1532.
- **NOTE: The Office of Acquisition & Assistance (OAA) is the designated Debarring and Suspending Official for USAID.**



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Civil and Administrative Remedies





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Criminal Justice Process Terminology - associated with the investigation and prosecution of criminal violations of U.S. Law pertaining to Fraud:

- Fourth Amendment – Unreasonable Searches & Seizure
- Fifth Amendment – Self-incrimination
- Six Amendment – Right to Counsel
- Arrest Warrant
- Arraignment
- Grand Jury
- Grand Jury Indictment
- Information
- Plea Agreement
- Criminal Trial
- Conviction
- Acquittal



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CONSTITUTIONAL BILL OF RIGHTS - 4TH, 5TH & 6TH AMENDMENTS

- **Fourth Amendment** – The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
- **Fifth Amendment** - No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.
- **Sixth Amendment** - In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.



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ARREST WARRANT & ARRAINGMENT

- Arrest warrant – Rule 4 Federal Rules of Criminal Procedure regarding an Arrest Warrant or Summons on a Complaint
- (a) Issuance. If the complaint or one or more affidavits filed with the complaint establish probable cause to believe that an offense has been committed and that the defendant committed it, the judge must issue an arrest warrant to an officer authorized to execute it. At the request of an attorney for the government, the judge must issue a summons, instead of a warrant, to a person authorized to serve it. A judge may issue more than one warrant or summons on the same complaint. If a defendant fails to appear in response to a summons, a judge may, and upon request of an attorney for the government must, issue a warrant.
- Arraignment - Under the Federal Rules of Criminal Procedure, "arraignment shall consist of an open reading of the indictment to the defendant and call on him to plead thereto. He/she shall be given a copy of the indictment before he/she is called upon to plead.



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FEDERAL GRAND JURY & GRAND JURY INDICTMENT

Grand Jury Clause of the U.S. Constitution:

- The Fifth Amendment to the United States Constitution provides that "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger.
- The grand jury is an independent body, whose functions include not only the investigation of crime and the initiation of criminal prosecution but also the protection of the citizenry from unfounded criminal charges" and that targets of investigations have the right to, and can, "request or demand the opportunity to tell the grand jury their side of the story.

Rule 6 of the Federal Rules of Criminal Procedure governs grand juries.

- It requires grand juries to be composed of 16 to 23 members and that 12 members must concur in an indictment. A grand jury is instructed to return an indictment if the probable cause standard has been met. The grand jury's decision is either a "true bill" (formerly *billa vera*, resulting in an "indictment"), or "no true bill".
- Grand jury proceedings are secret. (violations are considered as contempt of court infraction punishable by incarceration and fines imposed by a Judge of jurisdiction).
- No judge is present; the proceedings are led by a prosecutor.

Indictment – is a formal charge issued by a grand jury stating that there is enough evidence that the defendant committed a crime to justify having a trial. Indictments are used primarily for felonies which is sentence of more than one year.



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Information - may be used in lieu of an indictment for an offense punishable by imprisonment for more than one year and prosecuted by information if the defendant—in open court and after being advised of the nature of the charge and of the defendant's rights—waives prosecution by indictment

Plea agreement - an agreement between the government and the defendant to resolve a pending criminal case by the defendant's entering a guilty plea rather than going to trial. The prosecutor may agree to dismiss or reduce certain charges, or recommend a certain sentence in return for the defendant's entering a guilty plea and, in some cases, providing information to the prosecutor.

Criminal Trial

- Under the Sixth Amendment, in all criminal prosecutions, the accused criminal has the right to a trial by an impartial jury of the state and district in which the individual allegedly committed a crime.
- Codified at 18 U.S.C.A. § 3161 et seq., this act requires, among other things, a criminal defendant to be brought to trial within seventy days of either his or her indictment or first appearance in court. Certain delays are, also, automatically excluded from the seventy-day period.
- A determination in a judicial proceeding of facts or issues brought before it in accordance with jurisdictional authorities. Return. The jury must return its verdict to a judge in open court. The verdict must be unanimous.

Conviction - finding by a judge or jury that the defendant who has been on trial is guilty of the crime with which he or she was charged.

Acquittal - At the end of a criminal trial, a finding by a judge or jury that a defendant is not guilty. An acquittal signifies that a prosecutor failed to prove his or her case beyond a reasonable doubt, not that a defendant is innocent



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INSPECTOR
GENERAL

AUTHORITIES OF SPECIAL AGENTS USAID INSPECTOR GENERAL OFFICE OF INVESTIGATIONS



- The OIG Office of Investigations (IG/I) conducts worldwide investigations into allegations of criminal, civil, and administrative violations relative to the Agency.
- The IG/I 's investigative priority is to prevent fraud, waste, and abuse within programs and operations of our client agencies and to foster and encourage the integrity of USAID employees, as well as those of our contractors, grantees and host country counterparts.
- The IG/I's role in this area includes identifying cases of embezzlement, bribery, kickbacks, false claims, conflicts of interest and other instances of program abuse.
- IG/I pursues allegations of abuses in USAID programs and activities as well as other violations of law or misconduct by those who participate in these programs.
- IG/I Special Agents, be they Civil Service Criminal Investigators or Foreign Service Criminal Investigators, have full law enforcement officer authority and employ an array of investigative techniques including interviews, surveillance, electronic monitoring, undercover operations, subpoenas, and the execution of arrest and search warrants.



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INSPECTOR
GENERAL

CRIMINAL & CIVIL CASES USAID Inspector General Office of Investigations



A comprehensive review of investigations conducted by the USAID Inspector General Office of Investigations that resulted in criminal and civil prosecution.





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INSPECTOR
GENERAL

CASE STUDIES USAID Inspector General Office of Investigations



- With the knowledge you attained thus far, now we will assess various cases studies to determine if the case is criminal, civil or administrative?
- Each group will have to determine what factors determine whether it is civil or criminal?
 - Criminal Charges, if so what kind?
 - Criminal Information, Criminal Complaint or Indictment
 - Any arrests?
 - Civil Charges, if so what kind?
 - Civil Suit?
 - Program Remedies?
 - Administrative Action, if so what kind?





USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #1

INVESTIGATION LEADS TO \$1 MILLION RECOVERY FROM USAID CONTRACTOR PURSUANT TO AN OIG INVESTIGATION

(CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- A U.S. BASED CONTRACTOR WAS ISSUED A BILL FOR COLLECTION IN THE AMOUNT OF \$1,046,253.00 FOR FAILING TO OBTAIN A CONTRACTING OFFICER'S APPROVAL PRIOR TO LEASING NON-U.S. MADE VEHICLES ON A LONG-TERM BASIS AS REQUIRED BY THE TERMS AND CONDITIONS OF THE CONTRACT.
- IN ADDITION, THE CONTRACTOR ENTERED INTO NON-COMPETITIVE LONG-TERM CONTRACTS ON AN EXCLUSIVE BASIS TO LEASE THE VEHICLES.
- THE LACK OF AN APPROVED SOURCE ORIGIN WAIVER, A CURSORY REVIEW OF THE LOCAL MARKET, AND THE FAILURE TO COMPETE A LARGE PROCUREMENT; IS A VIOLATION OF THE GUIDING PRINCIPLES OF THE FEDERAL ACQUISITION REGULATIONS (FAR) MANUAL, WHICH SEEKS TO PROMOTE COMPETITION TO THE MAXIMUM EXTENT POSSIBLE.



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #2

INVESTIGATION LEADS TO ARREST OF RELIEF OFFICIAL (CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- ON DECEMBER 14, 2007, A U.S. MAGISTRATE JUDGE SIGNED A CRIMINAL COMPLAINT AND ISSUED AN ARREST WARRANT FOR THE FORMER FINANCIAL DIRECTOR OF A USAID-FUNDED, NONPROFIT FOUNDATION THAT PROVIDES SUPPORT, TRAINING AND HOUSING FOR SOUTH AMERICAN CITIZENS WHO ARE DISPLACED BY VIOLENCE.
- PURSUANT TO THE CRIMINAL COMPLAINT, SPECIAL AGENTS FROM THE USAID, OFFICE OF INSPECTOR GENERAL ARRESTED THE FORMER FINANCIAL DIRECTOR FOR VIOLATING TITLE 18, UNITED STATES CODE, SECTION 666, THEFT OF U.S. PROGRAM FUNDS.
- ACCORDING TO THE CRIMINAL COMPLAINT, THE RELIEF OFFICIAL EMBEZZLED MORE THAN \$214,800 U.S. DOLLARS BY PURCHASING AND PAYING FOR A CONDOMINIUM, PERSONAL LOANS, SCHOOL TUITION, AND FURNITURE.
- THE EMBEZZLEMENT SCHEME WENT UNDETECTED, BECAUSE THE FINANCIAL DIRECTOR FALSIFIED INFORMATION WITHIN THE COMPANY'S FINANCIAL STATEMENTS.



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #3

USAID CONTRACTOR PAYS \$15 MILLION SETTLEMENT TO THE U.S. GOVERNMENT FOR SALE OF DEFECTIVE BULLET-PROOF VESTS (CRIMINAL, CIVIL OR ADMINISTRATIVE?)

- ON OCTOBER 29, 2007, A USAID CONTRACTOR AGREED TO PAY A \$15 MILLION SETTLEMENT TO THE UNITED STATES FOR ITS ROLE IN THE MANUFACTURE AND SALE OF DEFECTIVE ZYLON BULLET-PROOF VESTS AND BODY ARMOR TO FEDERAL, STATE, LOCAL AND TRIBAL LAW ENFORCEMENT AGENCIES.
- THE MANUFACTURER PURCHASED AND USED DEFECTIVE, SUB GRADE BALLISTIC FABRIC FOR THE CONSTRUCTION OF BULLET-PROOF VESTS. FROM 1996 TO 2005, IT WOVE "RED THREAD" ZYLON FABRIC INTO BODY ARMOR AND VESTS ALTHOUGH THE FABRIC DEGRADES FASTER WHEN EXPOSED TO HEAT, LIGHT, AND HUMIDITY.
- THE UNITED STATES ASSERTS THAT THE COMPANY EITHER KNEW OF, OR RECKLESSLY FAILED TO DETERMINE, THE DEFECTIVE NATURE OF THE "RED THREAD" ZYLON.
- THE MANUFACTURER DISPUTES THESE CLAIMS AND ENTERED INTO SETTLEMENT TO MITIGATE LITIGATION EXPENSES, DELAYS, AND INCONVENIENCES.
- IN COMPROMISE, THE MANUFACTURER HAS ALSO AGREED TO COOPERATE IN THE GOVERNMENT'S ON-GOING INVESTIGATION OF OTHER PARTIES MANUFACTURING AND/OR DISTRIBUTING "RED THREAD" PRODUCTS.



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #4

CONTRACTOR ORDERED TO PAY \$7.48 MILLION IN BILLS FOR COLLECTION PURSUANT TO AN OIG INVESTIGATION

(CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- A CONTRACTOR RESPONSIBLE FOR THE ADMINISTRATION OF USAID CONSTRUCTION PROJECTS IN A HIGH-RISK COUNTRY WAS ORDERED TO PAY IN EXCESS OF \$7 MILLION IN BILLS FOR COLLECTION.
- THE INVESTIGATION DISCLOSED THAT UNDER A USAID COOPERATIVE AGREEMENT, THE CONTRACTOR WAS RESPONSIBLE FOR BUILDING SMALL SCALE INFRASTRUCTURE PROJECTS.
- UNDER THE TERMS OF THE COOPERATIVE AGREEMENT, THE CONTRACTOR RECEIVED FUNDING UNDER A LETTER OF CREDIT; HOWEVER, THE CONTRACTOR AND A SUBCONTRACTOR WORKING UNDER THE CONTRACTOR, FAILED TO PROVIDE EXPLANATIONS FOR THE FUNDING DRAW DOWNS FROM THE LETTER OF CREDIT.
- THE INVESTIGATION FURTHER CITED POOR PERFORMANCE ON CONSTRUCTION PROJECTS, FAILURE TO PROVIDE COST JUSTIFICATION, INADEQUATE FINANCIAL CONTROLS, AND FALSE REPORTING ON PROJECTS



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #5

USAID CONTRACTOR AND SUBCONTRACTORS INDICTED FOR CONTRACT FRAUD (CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- A USAID CONTRACTING COMPANY AND FOUR SUBCONTRACTORS HAVE BEEN CHARGED WITH CONSPIRACY, MAJOR FRAUD, AND WIRE FRAUD IN CONNECTION WITH THE WAR AND REBUILDING EFFORTS IN AFGHANISTAN.
- THREE INDIVIDUALS WERE ARRESTED AND CHARGED IN U.S. DISTRICT COURT IN WASHINGTON, D.C.
- THE INDICTMENT ALLEGES THAT THE SUBCONTRACTORS DEFRAUDED THE UNITED STATES BY OBTAINING REIMBURSEMENT FOR INFLATED EXPENSES PURPORTEDLY INCURRED FOR RENTAL VEHICLES, FUEL, AND SECURITY PERSONNEL.
- THESE FALSE INVOICES INFLATED THE AMOUNTS THE CONTRACTOR ACTUALLY PAID FOR RENTAL VEHICLES AND FUEL.



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #6

INVESTIGATIONS LEADS TO FIRST US EXTRADITION FROM ESTONIA (CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- IN NOVEMBER 2007, AN ESTONIAN CITIZEN WAS INDICTED IN THE MIDDLE DISTRICT OF NORTH CAROLINA (MDNC) ON CHARGES OF WIRE FRAUD, MONEY LAUNDERING AND BRIBERY PURSUANT TO AN OIG INVESTIGATION.
- THE INDIVIDUAL WORKED ON A \$239 MILLION USAID GOVERNANCE CONTRACT IN IRAQ FROM MAY 2003 THROUGH OCTOBER 2003 DURING WHICH TIME HE, AMONG OTHER OFFENSES, UNLAWFULLY DIRECTED TWO SUBCONTRACT AGREEMENTS TO A DUBAI FIRM. OVER \$7 MILLION WAS THEN PAID TO THIS FIRM.
- THE DUBAI FIRM THEN PROVIDED THE CONTRACTOR WITH HUNDREDS OF THOUSANDS OF DOLLARS IN GOODS AND SERVICES, INCLUDING SIGNIFICANT IMPROVEMENTS TO HIS NORTH CAROLINA HOME AND FUNDS FOR THE PURCHASE AND FURNISHING OF TWO CONDOMINIUMS IN MIAMI.
- SUBSEQUENT TO INDICTMENT, THE OIG WORKED IN CONCERT WITH THE US DEPARTMENTS OF JUSTICE AND STATE, INTERPOL AND ESTONIAN OFFICIALS TO FIND, SECURE AND RETURN THE INDIVIDUAL TO THE US. IN SEPTEMBER 2008, INTERPOL ARRESTED THE SUBJECT IN ESTONIA.
- FOR THE NEXT ELEVEN MONTHS, AMERICAN OFFICIALS SOUGHT TO EFFECT HIS EXTRADITION UNDER AN UNTESTED 1923 TREATY BETWEEN THE US AND ESTONIA WHILE THE SUBJECT FILED MOTIONS FROM JAIL TO PREVENT IT. FINALLY, IN AUGUST 2009, THE SUBJECT WAS TRANSPORTED BY US MARSHALS TO THE MDNC WHERE LEGAL PROCEEDINGS WILL CONTINUE.



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #7

OIG INVESTIGATION LEADS TO CLAIM AGAINST A VENDOR FOR \$9.5 MILLION (CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- AN OIG INVESTIGATION WAS INITIATED BASED ON ALLEGATIONS THAT A VENDOR, WHO WAS PROVIDING TECHNICAL ASSISTANCE TO USAID, OVERBILLED THE AGENCY BY FALSELY CERTIFYING IT HAS COMPLETED UNFINISHED WORK.
- IN COLLABORATION WITH THE OIG'S OFFICE OF AUDIT, AN ANALYSIS WAS PERFORMED THAT LED TO A CLAIM FOR DISALLOWED CONTRACT COSTS.



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #8

OIG INVESTIGATION LEADS TO APPROXIMATELY \$32,600 RECOVERY (CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- AN OIG INVESTIGATION WAS INITIATED BASED UPON ALLEGATIONS THAT A LOCALLY EMPLOYED STAFF (LES) PROCUREMENT AGENT IN ZIMBABWE SUBMITTED FALSE INVOICES TO THE MISSION FOR LOCAL PROCUREMENTS.
- THE OIG INVESTIGATION VERIFIED THAT THE LES EMPLOYEE USED HIS POSITION TO MAKE FALSE CLAIMS AND PROFIT FROM THE ABUSE OF USAID FUNDS.
- IT WAS DETERMINED THAT THE SEPARATION PAY DUE TO THE LES EMPLOYEE WAS APPROXIMATELY \$32,600.
- IN COLLABORATION WITH THE EMBASSY REGIONAL SECURITY OFFICER, IT WAS DOCUMENTED THAT AT LEAST THIS AMOUNT WAS STOLEN; THEREFORE, NO SEVERANCE OR OTHER PAYOUT WAS MADE TO THE LES EMPLOYEE UPON HIS TERMINATION.



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #9

INVESTIGATION LEADS TO ARREST AND CONTRACT TERMINATION (CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- AN OIG INVESTIGATION WAS INITIATED BASED UPON ALLEGATIONS THAT USAID WAS BILLED FOR COMMUNITY STABILIZATION PROJECTS THAT WERE NEVER IMPLEMENTED AND/OR COMPLETED.
- BASED UPON INTERVIEWS CONDUCTED BY OIG AND DOCUMENTS OBTAINED DURING THE COURSE OF THE INVESTIGATION, A FOREIGN MAGISTRATE JUDGE ISSUED ARREST WARRANTS FOR 12 LOCAL NATIONALS SUSPECTED OF FALSIFYING DOCUMENTS FOR THE ALLEGED FICTITIOUS COMMUNITY STABILIZATION PROJECTS BILLED TO USAID.
- THE ARREST WARRANTS WERE OBTAINED THROUGH COORDINATION BETWEEN THE OIG, A U.S. MAJOR CRIMES TASK FORCE, AND LOCAL LAW ENFORCEMENT.
- OF THE 12 ARREST WARRANTS ISSUED, ONE ARREST WAS MADE OF A DUAL U.S. CITIZEN. THE OTHER ARRESTS ARE YET TO BE MADE.
- THE TOTAL AMOUNT DEFRAUDED USAID IS YET TO BE DETERMINED. AS A RESULT OF THE INVESTIGATION, THE COMMUNITY STABILIZATION CONTRACT WAS TERMINATED.



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #10

INVESTIGATION LEADS TO \$446,117.00 BILL OF COLLECTION (CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- LOCAL PERUVIAN LAND OWNERS IN CONJUNCTION WITH THE CONTRACTOR'S EMPLOYEES UNLAWFULLY OBTAINED USAID FUNDS BY FALSIFYING INFORMATION REGARDING THE ERADICATION OF COCA PLANTS AND THE TRUE OWNERSHIP OF PARCELS AND FAMILIES PARTICIPATING IN USAID'S ALTERNATIVE DEVELOPMENT PROGRAM IN LIMA, PERU.
- THE INVESTIGATION REVEALED THAT THE CONTRACTOR MADE PAYMENTS TO INDIVIDUALS UNDER FICTITIOUS NAMES, MADE DOUBLE PAYMENTS, MADE PAYMENTS TO INELIGIBLE MINORS, AND MADE PAYMENTS TO PEOPLE NOT ON THE ORIGINAL COMMUNITY LISTS AND NOT ELIGIBLE FOR BENEFITS.
- MOREOVER, THE INVESTIGATION REVEALED THAT IT WAS THE CONTRACTORS' EMPLOYEES' UNWRITTEN POLICY TO INFLATE THE ORIGINAL COMMUNITY LISTS, ADDENDUMS AND THE INVOICES IN ORDER TO MEET THE TARGETS/GOALS PLACED ON THEM BY MANAGEMENT.
- AS A RESULT OF THE INVESTIGATION, THE CONTRACTOR'S CHIEF OF PARTY AND THE DEPUTY DIRECTOR RESIGNED AND THE CONTRACTOR ENTERED INTO A SETTLEMENT AGREEMENT WITH USAID THAT REQUIRED THEM TO PAY OVER \$440,000 IN AN EFFORT TO RESOLVE ALL ISSUES IDENTIFIED BY THIS INVESTIGATION



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #11

USAID CONTRACT SUBJECT TO DEBARMENT AND MULTIPLE SYSTEMIC CHANGES FOR UNLICENSED PROGRAM SERVICES AND PROSTITUTION (CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- AN OIG INVESTIGATION OF A 4 YEAR, MULTI-CONTRACT, \$250 MILLION PROGRAM IN SOUTHEAST ASIA UNCOVERED GROSS MISCONDUCT.
- OVER 100 CONSTRUCTION SUBCONTRACTS WERE FOUND TO HAVE BEEN SOLD BY WINNING SUBCONTRACTORS TO UNLICENSED CONTRACTORS, WITH THE KNOWLEDGE OF EMPLOYEES AT THE AMERICAN COMPANY THAT PRESIDED OVER THE PROGRAM SINCE 1995.
- A USAID EMPLOYEE, TASKED WITH ENGINEERING OVERSIGHT OF MANY OF THESE PROJECTS, ADMITTED TO THE OIG THAT OVER A PERIOD OF FOUR YEARS HE ACCEPTED GIFTS OF PROSTITUTION FROM EMPLOYEES AT THE PRIME CONTRACTOR - INCLUDING ONE EMPLOYEE WHO WAS LATER PROMOTED TO THE SECOND HIGHEST LEVEL OF PROGRAM COMMAND.
- IT WAS ALSO DISCOVERED THAT THE FIRMS' INTERNAL SYSTEM FOR CONDUCTING FRAUD INVESTIGATIONS WAS FLAWED AND SERVED TO KEEP PROBLEM EMPLOYEES IN PLACE WHILE DISCOURAGING COMPLAINANTS FROM COMING FORWARD.
- THE INVESTIGATION RESULTED IN NUMEROUS SYSTEMIC CHANGES WITHIN THE PROGRAM. A REFERRAL SENT TO USAID FOR CONSIDERATION OF DEBARMENT FROM FEDERAL PROGRAMS OF CULPABLE LOCAL CONTRACTING FIRMS AND EMPLOYEES OF THE US CONTRACTOR IS PENDING.



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #12

OIG INVESTIGATION LEADS TO \$5000.00 RECOVERY, TERMINATION AND LOCAL ARREST OF A FOREIGN SERVICE NATIONAL

(CRIMINAL, CIVIL, OR ADMINSTRATIVE?)

- THE OIG INITIATED AN INVESTIGATION BASED ON ALLEGATIONS THAT A FOREIGN SERVICE NATIONAL (FSN) SOLICITED KICKBACKS FROM A USAID VENDOR IN MALAWI.
- THE INVESTIGATION CONFIRMED THE SOLICITATION AND RECEIPT OF THE \$5000.00 KICKBACK PAYMENT BY THE FSN.
- LOCAL LAW ENFORCEMENT ARRESTED THE EMPLOYEE AND USAID TERMINATED EMPLOYMENT SERVICES.
- A USG CLAIM HAS BEEN MADE ON THE FUNDS TO BE RETURNED TO USAID AT THE CONCLUSION OF THE LOCAL PROSECUTORIAL PROCESS.



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #13

FORMER USAID CONTRACTING OFFICER INDICTED FOR MAKING FALSE CLAIMS (CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- AN OIG INVESTIGATION WAS INITIATED BASED UPON ALLEGATIONS THAT A REGIONAL CONTRACTING OFFICER (RCO) IN THE PHILIPPINES FRAUDULENTLY COLLECTED SEPARATE MAINTENANCE ALLOWANCE (SMA) AFTER BEING LEGALLY SEPARATED FROM HIS SPOUSE.
- THE OIG INVESTIGATION VERIFIED THAT THE RCO SIGNED VARIOUS DIVORCE-RELATED DOCUMENTS WHICH ESTABLISHED HIS LEGAL SEPARATION FROM HIS SPOUSE WHILE CONTINUING TO CLAIM AND RECEIVE OVER \$14,000 IN SMA PAYMENTS FROM USAID.
- THE RCO PLEADED GUILTY TO MAKING FALSE CLAIMS IN VIOLATION OF 18 U.S.C. 287. A ONE-COUNT CRIMINAL INFORMATION WAS FILED AT THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA CHARGING THE RCO WITH MAKING FALSE CLAIMS IN VIOLATION OF 18 U.S.C. 287.
- THE OFFENSE CARRIES A MAXIMUM SENTENCE OF FIVE YEARS OF IMPRISONMENT, A FINE OF \$250,000, AND A THREE-YEAR TERM OF SUPERVISED RELEASE AND AN ORDER OF RESTITUTION.



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #14

USAID SUBCONTRACTORS ARRESTED AND SUSPENDED INDEFINITELY FROM BUSINESS WITH U.S. GOVERNMENT (CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- PURSUANT TO INDICTMENTS PREVIOUSLY REPORTED, FOUR USAID SUBCONTRACTOR PRINCIPALS WERE SUSPENDED FROM DOING BUSINESS WITH THE U.S. GOVERNMENT. THEY HAD BEEN CHARGED WITH CONSPIRACY, MAJOR FRAUD, AND WIRE FRAUD IN CONNECTION WITH REBUILDING EFFORTS IN AFGHANISTAN.
- THE SUBCONTRACTORS DEFRAUDED USAID BY OBTAINING REIMBURSEMENT FOR INFLATED EXPENSES PURPORTEDLY INCURRED FOR RENTAL VEHICLES, FUEL, AND SECURITY PERSONNEL. THESE FALSE INVOICES INFLATED THE AMOUNTS THE CONTRACTOR ACTUALLY PAID FOR RENTAL VEHICLES AND FUEL.
- THE USAID CONTRACTOR, ITS OWNERS, AND TWO FORMER EMPLOYEES HAD BEEN INDICTED FOR CONSPIRING TO DEFRAUD USAID OF APPROXIMATELY \$3 MILLION DURING THE PERFORMANCE OF THE CONTRACT.
- SUBSEQUENT TO THE INDICTMENT, THE OWNERS AND A FORMER EMPLOYEE WERE ARRESTED.
- THE REMAINING FORMER EMPLOYEE, A LOCAL CITIZEN, IS SERVING A 2-YEAR SENTENCE FOR HIS INVOLVEMENT WITH THE FRAUD. IN ADDITION, USAID SUSPENDED INDEFINITELY ALL FOUR EMPLOYEES AND THE CORPORATION FROM DOING BUSINESS WITH THE GOVERNMENT.



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #15

FORMER EMPLOYEE OF USAID GRANTEE CONVICTED OF EMBEZZLEMENT (CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- AN OIG INVESTIGATION LED TO THE CONVICTION OF A FORMER CHIEF OF PARTY FOR A USAID GRANTEE THAT RECEIVES USAID FUNDS TO PROMOTE DEMOCRACY IN CUBA.
- THE FORMER EMPLOYEE PLEADED GUILTY IN U.S. DISTRICT COURT TO ONE COUNT OF THEFT FROM A PROGRAM RECEIVING FEDERAL FUNDS.
- THE SUBJECT HAD ENGAGED IN A 2-YEAR SCHEME TO DEFRAUD THE GRANTEE OF USAID FUNDS BY OVERCHARGING FOR EQUIPMENT PURCHASES, RESULTING IN A NET PROFIT OF NEARLY \$580,000.
- THE SUBJECT PAID \$646,731 IN RESTITUTION PLUS INTEREST TO THE GRANTEE, WHICH FORWARDED THE MONEY TO USAID.



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #16

USAID CONTRACTOR INDICTED FOR BANK FRAUD (CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- AN OIG INVESTIGATION REVEALED THAT AN EMPLOYEE OF A USAID CONTRACTOR IN EGYPT COMMITTED BANK FRAUD BY DELIBERATELY FALSIFYING SHIPPING DOCUMENTS TO INFLATE THE COSTS OF USAID-FUNDED TRANSACTIONS, VALUED AT OVER \$1 MILLION.
- THE CONTRACTOR WAS AN EXPORT SUPPLIER PARTICIPATING IN THE USAID COMMODITY IMPORT PROGRAM IN CAIRO, WHICH PROMOTES PRIVATE SECTOR INVESTMENT IN EGYPT.
- AN EGYPTIAN IMPORTER WAS BUYING POLYPROPYLENE, WHICH THE ENTERPRISE USED TO PRODUCE STURDY FABRIC BAGS FOR TRANSPORTING AND STORING PRODUCTS SUCH AS CRUSHED STONE, SAND, CEMENT, CHEMICALS, OR ANIMAL FEED.
- THE CONTRACTOR EMPLOYEE DELAYED SHIPMENTS AND BACKDATED SHIPPING DOCUMENTS TO TAKE ADVANTAGE OF FALLING POLYPROPYLENE PRICES WITHOUT RENEGOTIATING THE AGREED-UPON PRICES OR PASSING THE SAVINGS ON TO THE IMPORTER.
- THE SCHEME INCREASED THE SUPPLIER'S PROFIT MARGIN AND THE AMOUNT OF THE SALES REPRESENTATIVE'S COMMISSIONS. THE CONTRACTOR LATER PLEADED GUILTY TO FELONY FALSE USE OF SHIPPING DOCUMENTS.



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #17

FORMER RELIEF OFFICIAL SENTENCED TO 30 - DAY JAIL TERM (CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- DURING THE PREVIOUS REPORTING PERIOD, A FORMER FINANCIAL DIRECTOR OF A USAID-FUNDED NONPROFIT FOUNDATION IN COLOMBIA WAS ARRESTED FOR THEFT OF PROGRAM FUNDS AS A RESULT OF AN OIG INVESTIGATION.
- ON AUGUST 5, 2008, A U.S. DISTRICT COURT JUDGE SENTENCED THE FORMER FINANCIAL DIRECTOR TO 30 DAYS IMPRISONMENT TO BE SERVED ON CONSECUTIVE WEEKENDS AND THREE YEARS PROBATION.
- IN ADDITION, THE FORMER FINANCIAL DIRECTOR WAS ORDERED TO PAY RESTITUTION IN THE AMOUNT OF \$193,336 AND A \$100.00 ASSESSMENT FEE.



USAID Fraud Awareness, Detection and Reporting Training Program



USAID CASE STUDY - #18

USAID GRANTEE ISSUED \$1 MILLION BILL FOR COLLECTION (CRIMINAL, CIVIL, OR ADMINISTRATIVE?)

- THE OIG RECEIVED AN ALLEGATION THAT A USAID FUNDED GRANTEE ORGANIZATION IN IRAQ WAS MAKING UNALLOWABLE PURCHASES, AMOUNTING TO APPROXIMATELY \$37,000, WITH USAID FUNDS.
- THE INVESTIGATION DETERMINED THAT THE ORGANIZATION MADE AN ADDITIONAL \$1.2 MILLION IN UNAUTHORIZED PURCHASES.
- ADMINISTRATIVE REMEDIES WERE SOUGHT DURING THE COURSE OF THE INVESTIGATION.
- THE ORGANIZATION WAS OFFICIALLY NOTIFIED BY USAID AND TOLD THAT RETROACTIVE APPROVAL FOR THE PROCUREMENTS WOULD NOT BE GRANTED AND THAT A BILL OF COLLECTION, TOTALING \$1.2 MILLION, WOULD BE ISSUED IN THE FORM OF A DEMAND LETTER.



USAID Fraud Awareness, Detection and Reporting Training Program

Case Studies





USAID Fraud Awareness, Detection and Reporting Training Program

MODULE THREE REPORTING FRAUD



**U.S. Agency for International Development
Office of Inspector General
P.O. Box 657
Washington, DC 20044-0657**



USAID Fraud Awareness, Detection and Reporting Training Program

REPORTING FRAUD

All USAID employees have a legal and moral obligation to report Fraud, Waste, and Abuse and the Office of Inspector General within USAID is charged with the statutory responsibility of conducting audits and investigations to protect the agency from such activities.

- Specifically, the Office of Investigations within the OIG (OIG/I) conducts worldwide investigations into allegations of criminal, civil, and administrative violations relative to the Agency.
- OIG/I's investigative priority is to prevent fraud, waste, and abuse within programs and operations of our client agencies and to foster and encourage the integrity of USAID employees, as well as those of our contractors, grantees and host country counterparts.
- The OIG/I's role in this area includes identifying cases of embezzlement, bribery, kickbacks, false claims, conflicts of interest and other instances of program abuse.
- OIG/I pursues allegations of abuses in USAID programs and activities as well as other violations of law or misconduct by those who participate in these programs.
- OIG/I Special Agents, be they Civil Service Criminal Investigators or Foreign Service Criminal Investigators, have full law enforcement officer authority and employ an array of investigative techniques including interviews, surveillance, electronic monitoring, undercover operations, subpoenas, and the execution of arrest and search warrants.



USAID Fraud Awareness, Detection and Reporting Training Program

REPORTING FRAUD

Reporting fraud can be done by contacting an OIG/I Special Agent at one of their regional offices or via the OIG Hotline. OIG/I Special agents, who conduct investigations worldwide are assigned to either the OIG Headquarters Office in Washington, D.C. or to one of seven regional offices currently located in:

Kabul, Afghanistan
Cairo, Egypt
San Salvador, El Salvador
Baghdad, Iraq
Islamabad, Pakistan
Manila, Philippines
Pretoria, South Africa
Dakar, Senegal



The Office of Inspector General is a strongly supportive environment where teamwork, leadership, communication, and creativity are encouraged. We are looking for creative, highly motivated people. As a team member you will be involved in investigations focused on critical and sensitive issues supporting, not only, the mission of USAID but the overall U.S. foreign policy, objectives and national security interests, as well.



USAID Fraud Awareness, Detection and Reporting Training Program

OIG Hotline

- The purpose of the OIG hotline is to receive complaints of fraud, waste, or abuse in our client agencies' programs and operations, including mismanagement or violations of law, rules, or regulations by employees or program participants.
- OIG oversees the programs and operations of USAID, the Millennium Challenge Corporation, the United States African Development Foundation, the Inter-American Foundation, and upon request, the Overseas Private Investment Corporation. Complaints may be received directly from employees, program participants, or the general public.
- The Inspector General Act and other pertinent laws provide for the protection of persons making hotline complaints.
- You have the option of submitting your complaint(s) via telephone, U.S. mail, Internet, or electronic mail.
- OIG's internal electronic systems meet all security standards required of Federal agencies.
- However, if you elect to submit your complaint(s) via Internet or e-mail, we cannot guarantee confidentiality because of the non-secure nature of electronic systems that we do not control.
- For telephone reporting, call 1-800-230-6539 or 202-712-1023.
- Complaints may be sent to ig.hotline@usaid.gov.
- Alternatively, you may complete the online complaint form at Web form Submission, or submit the completed PDF form (complaint form pdf) by fax at (202) 216-3801 or by mail to the following address:

U.S. Agency for International Development

Office of Inspector General

P.O. Box 657

Washington, DC 20044-0657



USAID Fraud Awareness, Detection and Reporting Training Program



REPORTING FRAUD

Office of Investigations

Significant Activities

Overseas Contingency Operations

To assist Overseas Contingency Operations, OIG Investigations became an active participant on three Department of Justice (DOJ) task forces, the National Procurement Fraud Task Force (NPFTF), the International Contract and Corruption Fraud Task Force (ICCTF), and the DOJ National Security Division (NSD), Non-governmental Task Force.

- The mission of the three task forces is to
 - 1) promote the early detection, prevention, and prosecution of procurement and grant fraud;
 - 2) conduct proactive activities of organizations receiving USAID funds for indications of fraud related to possible financing; and
 - 3) stop the flow of funds to organizations that support terrorist activities.

Investigations Introduction

- Protecting foreign assistance programs and operations from fraud, waste, and abuse is a priority for Investigations.
- Thus, our focus is prioritize high-impact investigations involving program and employee integrity investigations, issues of Congressional interest, and matters involving threats to national security terrorist.



USAID Fraud Awareness, Detection and Reporting Training Program

REPORTING FRAUD

Fraud Reporting Guidance For USAID Implementing Partners Obligation to Report

- USAID contractors and implementing partners have an affirmative obligation to report allegations of fraud related to USAID projects under both the Federal Acquisition Regulations (FAR) and USAID regulations.
- The timely reporting of fraud allegations allows the OIG, USAID, and the implementing partner to efficiently protect taxpayer funds while moving forward with important program activities.
- Examples of schemes uncovered in USAID funded projects include:
 - corruption (bribery, kickbacks, and gratuities),
 - collusive behavior between vendors and/or procurement staff,
 - product substitution,
 - false claims (billing for goods and services not provided),
 - embezzlement or theft, and
 - other types of procurement fraud.



USAID Fraud Awareness, Detection and Reporting Training Program

REPORTING FRAUD

FAR 52-203-13 Reporting Requirements (Pertains to Contracts/Subcontracts)

“Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor or a subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. 3729-3733)”.



USAID Fraud Awareness, Detection and Reporting Training Program

REPORTING FRAUD

Reports Related to Cooperative Agreements and Grants

- The general guidelines for the proper execution of cooperative agreements and grants are listed within 22 CFR 226 (Administration of Assistance Awards to US. Non Governmental Organizations).
- These guidelines address internal controls, financial accounting systems, and the requirement for full and fair competition and outline various courses of action available to Agreement Officers when violations occur.
- Included in 22 CFR 226.62 (Enforcement) is the authority for an Agreement Officer to disallow all or part of any transaction made by an implementing partner not in compliance with these regulations.



USAID Fraud Awareness, Detection and Reporting Training Program

REPORTING FRAUD

Title 18 U.S. Code Section 4— Misprision of a Felony

- Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States,
- conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States,
- shall be fined under this title or imprisoned not more than three years, or both.



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REPORTING FRAUD

Procedures:

1. Initial Notification: When a USAID implementing partner becomes aware of a potential situation involving fraud, corruption, or false claims related to a USAID project, the OIG should be notified as soon as possible. The notification should be made to:
http://www.usaid.gov/oig/hotline/contractor_complaint_frm2.html.
2. In the event the allegations relate to an ongoing contract, the notification should also be sent to the contracting officer in accordance with FAR 52-203-13.



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3. OIG Review and Consultation:

- Once the OIG receives the initial allegation, it will be reviewed and the organization submitting the report will be contacted to further discuss the matter.
- If the allegation involves ongoing criminal misconduct, the implementing partner should refrain from any activity that may interfere with any future or ongoing investigation.
- If the implementing partner is not certain how to proceed, they can contact OIG investigations in Washington or an investigator assigned to the servicing Regional Inspector General Office.



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4. Investigation by OIG:

- In some cases, the OIG will initiate an investigation and will advise the implementing partner of what actions should be taken.
- When the OIG initiates an investigation, it is critical that the implementing partner cooperate and assist in preserving data that may be needed.



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5. Investigation by Implementing Partner:

- In other cases, the OIG and the implementing partner may mutually agree that the implementing partner will conduct its own investigation of the allegations.
- The OIG and the implementing partner will mutually decide on a period of time for the inquiry. At the conclusion of the investigation, the implementing partner should provide the following information:
 - a. A report of investigation outlining the investigative steps completed and the results.
 - b. A copy of any personnel actions taken by the implementing partner as a result of the investigation.
 - c. A summary of the financial impact, if any, of the activity investigated.
 - d. This should include a detailed summary of any potentially disallowable costs (in accordance with either the FAR or 22 CFR 226 as appropriate) as well as any losses due to fraud or other inappropriate activity.



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5. Disclosure of Information to USAID Compliance Division:
 - Once the investigation is completed, a copy of the above-listed documents should also be sent to the USAID_CD@complianceusaid.gov as well as to the servicing contracting or agreement officer.



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REPORTING FRAUD

FILING A WHISTLEBLOWER ACTION

To make a report contact:

U.S. OFFICE OF SPECIAL COUNSEL

1730 M STREET, N.W., SUITE 218

WASHINGTON, DC 20036-4505

PHONE: (202) 254-3640*

TOLL FREE: 1-800-572-2249*

***Hearing and Speech Disabled:**

Federal Relay Service 1-800-877-8339



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- If an individual has knowledge that a false claim was submitted to the government, the individual should first retain an attorney. The attorney will then draft a complaint and a disclosure statement. The whistleblower can file the complaint and the disclosure statement under seal in U.S. District Court and copies are served upon the Department of Justice.
- After the filing of the complaint, the Justice Department has 60 days to investigate the allegations and determine whether it will join the lawsuit. If the department decides not to participate in the lawsuit, the individual has the right to continue to pursue the claim on behalf of the United States. If the department does not participate, the whistleblower will receive a higher portion of any recovery received.
- If the Justice Department elects to join the lawsuit, it has the primary responsibility for prosecuting the case and can limit the whistleblower's participation in the action. If the government successfully prosecutes the suit, the private party may recover from 15–25 percent of the recovery, plus reasonable attorneys' fees and costs. If the government does not take over the prosecution, and the *qui tam* plaintiff successfully wins the case on his own, the court may award the plaintiff 25–30 percent of the recovery, plus reasonable attorneys' fees and costs. The judge normally determines the percentage.



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Who Can Bring a '*Qui Tam*' Action

- The False Claims Act provides that any “person” can file a ‘qui tam’ action as long as they have direct and independent knowledge of the fraud and such knowledge was not obtained from a “public disclosure.”
- The definition of person includes not only individuals, but also businesses and state or local government entities.
- The most common plaintiffs in qui tam actions are employees of government contractors, health care employees, and employees of local, state, or federal government.



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No FEAR Act

- On May 15, 2002, Congress enacted the "Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002," which is now known as the No FEAR Act.
- One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Public Law 107-174, Summary.
- The Act requires this agency to provide notice to Federal employees, former Federal employees and applicants for Federal employment to inform you of the rights and protections available to you under Federal antidiscrimination and whistleblower protection laws.
- The Act also requires this agency to post on its public website statistical EEO data. This data is updated on a quarterly basis.
- For additional information on the No FEAR Act, you may contact the Office of Civil Rights and Diversity at (202) 712-1110 .
 - Read the USAID No FEAR Act Notice.
 - Read the USAID No FEAR Act EEO Report. - Updated September 30, 2011



USAID Fraud Awareness, Detection and Reporting Training Program

SUMMARY

The objective of this training was to enhance your skill level and knowledge of fraud by providing you an education in the following areas:

- Awareness of fraud, who commits fraud and why?
- Identify common indicators of fraud
- Identify fraud schemes commonly used to defraud USAID and the warning signs
- Describe the fraud remedies available to address criminal, civil, and administrative fraud impacting USAID
- Understanding criminal proceedings and relevant US Laws
- Discuss criminal and civil statutes used in prosecuting fraud
- Discuss actual investigations and prosecutions of USAID cases worldwide
- Enhance knowledge of fraud and detection techniques by analyzing OIG case studies
- How to report fraud & make referrals to investigators



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Reporting Fraud

