



# U.S. DOC Inspector General Office of Investigations

## Recovery Act Oversight Program Fraud Indicators Training





# What is Procurement/Grant Fraud?

## Procurement/Grant Fraud

An act of deceit, trickery or deliberate neglect, committed by a federal funding recipient against the funding agency for the purpose of gaining something of value.

One or more of the following acts has usually occurred:

- Misappropriation of federal funds or property
- Deliberate neglect of procurement rules and guidelines
- Deliberate falsification of information



# What is Procurement/Grant Fraud?

## Procurement/Grant Fraud

- May be hidden, discreet or completely overt
- May involve a large OR small portion of a contract or award
- May involve a conspiracy between subcontractors/subgrantees and/or government officials
- May be a one-time incident or ongoing matter



# Criminal/Civil Fraud Statutes

**18 U.S.C. 666**

“Theft or bribery concerning programs receiving federal funds”

**18 U.S.C. 641**

“Embezzlement of Public Money, Property or Records”

**18 U.S.C. 1001**

“False statements”

**18 U.S.C. 287**

“False, fictitious or fraudulent claims”

**18 U.S.C. 371**

“Conspiracy to defraud U.S.”

**15 U.S.C. 1**

“Sherman Antitrust Act”

**31 U.S.C. 3729**

“Civil False Claims Act”



# Investigation Examples

## GRANT FRAUD

- A NIST Advanced Technology Program recipient was convicted for misapplying approximately \$500,000 of grant funds to pay for personal expenses, including rent, home renovations, cleaning services, restaurant meals, and miscellaneous household items.
- Four officials of an EDA Revolving Loan Fund program were convicted of fraud, conspiracy and money laundering after converting nearly \$800,000 to their personal use.





# Investigation Examples

## CONTRACT FRAUD



- The CEO of a corporate entity under government contract was convicted of false claims for submitting invoices under a “Buy America” program, certifying U.S. origin of products supplied, when in fact the products originated in China.
- The CEO of a company participating in a government funded program was convicted of wire fraud for submitting false bids from non-existent companies, the purpose of which was to fix prices and fake a competitive process.



# Fraud Indicators

## Fraud Indicators

“Clues or hints that a closer look should be made at an area or activity.”



# Fraud Indicators

## Fraud Indicator Categories

- I. Recipient *behavior*
- II. Recipient *communications*
- III. Recipient *performance*



# Fraud Indicators

## Behavior from funding recipients PRE-AWARD

- Collusive bidding or “bid rigging”
  - Suspicious bidding trends, patterns, and arrangements
  - Qualified bidders DO NOT bid
  - Competing bidders drop out
  - Competing bidders become subcontractors
- Price fixing and pricing agreements
- Defective & Inflated Pricing
  - Salaries, consultants
  - Equipment, goods, services
- Background checks indicate cash flow problems
  - (i.e. Dun & Bradstreet)



# Fraud Indicators

## Behavior from funding recipients POST-AWARD

- Limited internal controls such as one person handling everything
- Excessive changes to personnel
- Claiming the same costs twice – double dipping
- Unexplained increases in costs or claims
- Shifting costs often from one category or cost account to another
- Product substitution
- Product overage



# Fraud Indicators

## Behavior from funding recipients POST-AWARD

- Non-verifiable existence of vendors
- Unauthorized personnel with access
- Less than arms length transactions
- Conflicts of interest
- Unexpected or unusual activity
- Recipient under investigation by another agency



# Fraud Indicators

## Behavior from funding recipients POST-AWARD

- Award money runs out too quickly
- Unusual use of cash transactions
- Filing bankruptcy or financial problems
- Site Visit / Inspection Concerns
  - “Ghost” employees
  - Missing equipment
  - Co-mingled projects
  - Project misrepresentations
  - Business misrepresentations



# Fraud Indicators

## Communications from funding recipients

- Suggestion of gifts, money, favors or other gratuities
- Boastful, arrogant attitude
- “Holier than Thou” demeanor
- Comments of relationships with upper management
- Evasiveness
- Lack of communication
- Disinterest
- Lack of questions



# Fraud Indicators

## Communications from funding recipients

- WAY too many questions
- WAY too many requests
- Asking the SAME question over and over in hopes to change your position
- “Is there any way to get around this?”
- Claiming ignorance of rules
- Too much humor during conversations



# Fraud Indicators

## Communications from funding recipients

- Frequent time extension requests
- Payment advance requests
- Budget alteration requests IMMEDIATELY following award
- Resistance to audits, inspections and site visits
- Claiming documents were "lost or destroyed"
- Recipient employee relays ANY concern or complaint



# Fraud Indicators

## Performance from funding recipients

- Poor performance
- Tardy reporting
- NO reporting
- Too many errors in reporting
- Repeated errors in reporting
- Missing documents in reporting
- No original documents - only copies provided



# Fraud Indicators

## Performance from funding recipients

- Altered documents
- Duplicate documents
- Too many budget revisions
- NO budget revisions
- Poor accounting system
- Consistent or frequent accounting errors
- Personnel appears to be under/over qualified



# Fraud Indicators

## Specific to the Recovery Act

### 1. Competition

The Recovery Act encourages fixed price contracts and competition to the “maximum extent possible.” Therefore, be on the lookout for bid rigging, price fixing and any indicators that suggest a violation of fair competition.

### 2. Small Business Participation

The Recovery Act encourages funding to Small Businesses. Too often, businesses which are in financial difficulty are tempted to commit fraud. Be VERY aware of their communication, performance, and behavioral fraud indicators.



# Fraud Indicators

## Specific to the Recovery Act

### 3. Contract Financing

The Recovery Act allows for agencies to provide financing to contractors who find it difficult to secure cash flow in the current tight credit market. ANY contractor who requests contract financing should be carefully monitored for fraud.

### 4. Structuring Contract Deliverables

The Recovery Act also permits agencies to structure contract line items to allow invoicing and payments based on interim and partial deliverables, milestones & percent of completion. As such, please be on the lookout for fraud indicators regarding invoices such as: duplicates, copies, and suspicious vendors.



# Fraud Indicators

## Specific to the Recovery Act

### 5. Buy American

The Recovery Act requires agencies to apply Buy American provisions to the greatest extent possible. Specifically, any project for the construction, alteration, maintenance, or repair of a public building or public work must utilize iron, steel, and manufactured goods produced in the U.S. unless expressly exempted. Beware of fictitious vendors, product substitution and scams to utilize foreign products without an agency exemption or waiver, wherever such waiver would be required.



# Fraud Indicators

## Specific to the Recovery Act

### 6. Large Money, Large Problems

Historically, when government agencies are tasked to award large sums of money in a short amount of time the risk for fraud increases. Oftentimes, few select large companies are the only qualified bidders for large dollar projects. Please be aware of market conditions and report any pre-award indicators of bid rigging, price fixing or market allocation.



# Fraud Indicators

**In summary, please be on the lookout for...**

**ANYTHING  
that indicates lying,  
stealing, cheating,  
waste or abuse**



# Fraud Indicators

The #1 fraud indicator you should acknowledge is....

**INTUITION**

**NOTHING SPECIFIC,  
CIRCUMSTANCES GENERALLY  
GIVE YOU A BAD FEELING.**



# We Need Your Help!

You are the eyes and ears for our agency!

We rely on your intuition, experience and professionalism to keep us informed of fraud indicators!





# Please Contact Us

We want to hear ***ANY CONCERNS*** you may have regarding our Recovery Programs and procurement recipients.

- We ***DO NOT*** require that you detect evidence of a crime.
- We ***DO NOT*** require that there be a specific allegation.
- When in doubt....please contact us immediately.



# Please Contact Us

## Positive Considerations

- Quickly “stop the bleeding”.
- It’s better to be safe than sorry.
- Our presence encourages recipient compliance and responsiveness.
- Let us investigate so you may focus on your job.



# Please Contact Us

## Professional Assistance

- We operate independently.
- We're trained to conduct criminal investigations.
- We maintain resources that facilitate criminal investigations:
  - Law enforcement authority
  - Investigative tools (i.e. subpoenas & search warrants)
  - Financial forensics skills
  - OIG auditing staff assistance
  - Computer forensics laboratory



# Legal Protections

## *Department Administrative Order (DAO) 207-10*

- Requires employees to report to the OIG any information indicating possible existence of: any violation of law, rules or regulations, mismanagement, gross waste of funds, conflicts of interest, standards of conduct.

## *Government-wide Standards of Ethical Conduct, 5 CFR Section 2635.101(b)(11)*

- “Employees shall disclose waste, fraud, abuse and corruption to appropriate authorities.”



# Legal Protections

## Recovery Act Authority

The Recovery Act gives the OIG specific authority to review and investigate any concerns regarding the use of Recovery Act funds. OIG agents are authorized to:

- Examine all contractor, subcontractor, State or local records related to Recovery Act funding transactions
- Conduct audits and initiate investigations
- Interview employees



# Whistleblower Protections

## *Whistleblower Protection Act*

- Federal employees may not be retaliated against by management for reporting information regarding potential crimes, frauds or violations of law to the OIG.
- The OIG will not tolerate ANY retaliation, harassment, or hostility from managers towards DOC employees who communicate or cooperate with the OIG.
- All allegations of Whistleblower violations will be reviewed and where appropriate, investigated by our office.



# Whistleblower Protections

## *Whistleblower Protection - Recovery Act*

The Recovery Act also provides explicit protections for ***non-federal whistleblowers***. The Act prohibits funding recipients from discharging, demoting or discriminating against any employee for disclosing any concern to their supervisor, the head of a federal agency or his/her representatives, or the OIG information that the employee believes is evidence of:

- Gross mismanagement or waste of grant or contract funds.
- Danger to public health or safety related to the use of funds.
- Abuse of authority related to the implementation or use of funds.
- Violation of law, rule or regulation related to an agency contract or grant awarded or issued related to funds.



# Whistleblower Protections

## *Recovery Act - OIG Responsibilities*

- Investigate all Whistleblower complaints related to Recovery funds that are not frivolous or being addressed by another official proceeding.
- Report of our findings to the complainant, complainant's employer, head of DOC and the Recovery Accountability and Transparency Board within 180 days (extensions may be applied for).
- Provide a written explanation to complainants and their employers if we decline to pursue a Whistleblower allegation.



# Whistleblower Protections

## Recovery Act - OIG Responsibilities

- Uphold the Privacy Act – by NOT disclosing information about complainants.
- Provide information in our semi-annual reports to congress to include:
  - Investigations we declined to pursue and
  - Investigations requiring a time extension



# Let's Work Together

## TEAMWORK

We value your assistance and it is our sincere goal to provide you with excellent training and service. By working together we will ensure that our Recovery Act programs are ***well monitored and proactively protected from waste, fraud and abuse.***



# Fraud Awareness

**Questions and Answers?**



**We look forward  
to working with you!**

Kirk Yamatani  
Special Agent  
Recovery Act Oversight Program  
Office of Investigations  
U.S. DOC OIG

**(202) 482-0934**  
**[kyamatani@oig.doc.gov](mailto:kyamatani@oig.doc.gov)**

**OIG HOTLINE**  
**(800) 424-5497**  
**[hotline@oig.doc.gov](mailto:hotline@oig.doc.gov)**

For more information  
please visit our website  
**[www.oig.doc.gov](http://www.oig.doc.gov)**