

Fraud Prevention and Awareness



U.S. Environmental Protection Agency
Office of Inspector General
Office of Investigations



Fraud Prevention and Awareness



Welcome to the Environmental Protection Agency, Office of the Inspector General, Office of Investigations, Fraud Prevention and Awareness Training.

This training provides you with information and suggestions to help monitor the use of funds and to inform you of the potential for fraud, waste and abuse in EPA State Revolving Fund programs.



What is the EPA Office of the Inspector General?



- Created pursuant to the Inspector General Act of 1978, as amended
- An independent office within EPA
- Mission: Conduct audits and investigations of fraud, waste and abuse within EPA operations and programs
- Major Functional Units:
 - Office of Audit - Responsible for performance, compliance, financial, and investigative support audits
 - Office of Investigations - Responsible for administrative, criminal, civil, and special project investigations



Why are you here?



- You have received funds from EPA through the State Revolving Fund program
- It is your responsibility to effectively manage these funds
- Preventing and Detecting fraud is a team effort
 - Project Officers
 - Engineers/Inspectors
 - Accountants
 - Law Enforcement
- We rely on you!!!



Why Should I Monitor My Project?



As a recipient of EPA funds, you must monitor your project because:

- You are responsible for completing the project according to the approved plans and specifications.
- It helps protect the Federal, state and local investment.
- The responsibility to monitor the project begins when the loan or grant is made.
- Monitoring reduces the opportunity for fraud, waste and abuse.
- Federal law requires an audit if you spend over \$500,000 of Federal funds annually...**let us walk you through some of the audit requirements.**



What are the Single Audit Requirements?



- The Single Audit Act requires an audit if you spend over \$500,000 of Federal funds.
- Your audit must address compliance requirements that apply to your project. One of those requirements is “Subrecipient Monitoring.”
- Here’s a website to learn more about the audit and compliance requirements of the Single Audit Act:

www.whitehouse.gov/omb/circulars/a133

Let’s talk about subrecipient monitoring...



How Do I Monitor My Project?



Management involvement:

- Coordinating and overseeing all aspects of the project:
 - Selecting the right people for the right jobs.
 - Overseeing the procurement process.
 - Developing and maintaining good working relationships with the local community, contractors, and Federal and state officials.
- Monitoring should start the day the grant or loan is awarded and includes:
 - Background checks on contractors and consultants.
 - Being involved in the project from start to finish.
- Due diligence--know something about your contractors (engineers, construction contractors, consultants, and others) that are involved in your project:
 - Financial background
 - Past performance
 - Experience and expertise:



How Do I Monitor My Project?



Financial monitoring:

- Involves reviewing billings and invoices from contractors, subcontractors, engineers, and suppliers
- Things to look for:
 - **Incorrect labor rates**--are you paying for a senior engineer, but getting the services of someone who is less qualified?
 - **Charges for labor**--are the number of labor hours reasonable for the number of people working on the project?
 - **Charges for materials**--are you paying too much or paying for materials that don't meet contract specifications?
 - **Charges for equipment**--were you billed for unused or unnecessary equipment?
 - **Documentation**--are the costs documented? Are any documents missing or altered? Are receipts, invoices, and statements reasonable?



How Do I Monitor My Project?



Technical monitoring:

- Involves conducting on-site inspections, reviewing progress billings from contractors and engineers, and coordinating construction results with financial data and payment requests
- Things to look for:
 - **On-site inspections**--is construction in accordance with plans and specifications? Are contractors using appropriate construction methods? Are change orders appropriate?
 - **Contractor billings**--are billings in line with project completion and milestones? Do materials meet project specifications? Do contractors and subcontractors comply with the *Davis Bacon* and *Buy American* provisions, as required by the ARRA?
 - **Coordination with financial staff**--are you working with the financial staff to ensure contractors are paid appropriately?



How does the State monitor my project?



- During-the-Award Monitoring
 - Review financial and performance reports.
 - Audit reports, reimbursement requests, construction reports, engineering reports
 - Site visits to review financial and program records and observe operations
 - Inspections, reviews, procedures
 - Regular Contact with borrowers and inquiries concerning project activities



“There is no kind of dishonesty into which otherwise good people more easily and frequently fall than that of defrauding the government.”

Benjamin Franklin



Can monitoring prevent and detect fraud, waste and abuse?



Now that you know what Monitoring involves, what if you suspect a problem?

- Is it an error?
- Or do you suspect fraud?

While an incorrect labor or equipment charge or misstated invoice might be an indicator of fraud, they could also be the result of weak internal controls, mismanagement or poor business practices.

Weak internal controls are also opportunities for fraud.



So, What is Grant Fraud?



Fraud is:

the willful misrepresentation or concealment of a material fact in order to obtain something of value.

There is a fine line between *Fraud* and a *Mistake*...

That line is **Intent!**



What are the Elements of Fraud?



- A Representation
- About a Material Point
- Which is False and Intentional
- Which is Acted Upon
- To the Victim's Damage

(Victims can be Gov't and/or Non Gov't Entities or Individuals)



Who are the Victims of SRF Fraud?



- As taxpayers, we are all victims of SRF fraud
- Here's why:
 - When fraud occurs, the Community pays for something it did not receive.
 - The contractor received more money than was entitled.
 - The SRF paid the Community for those fraudulent costs.



What can I do to avoid trouble ?



- Report any irregularities
- Correct any audit findings
- Strong Internal Controls
 - System of Checks and Balances
 - Establish and Follow Procedures
- Abide by terms of agreement
- Create accountability
- Regular and open communication with your State or EPA contact



Now that I know what fraud is, how can it affect my project?



The most common frauds in the SRF involves construction and engineering contracts, and here are a few types of frauds:

False Statements and Claims

False billings/Cost mischarging

Conflicts of Interest

Product Substitution

Bribery and Kickbacks

Bidrigging--Conspiracy or Collusion

Let's discuss these frauds of in more detail...



What are False Claims and Statements?



A **False Claim** is **knowingly** presenting a claim for payment that is not true or accurate.

It also includes **knowingly** making or using false records or statements to obtain payment by the government.

The most common cases involve situations when contractor's overcharge for time, materials and equipment.

However, knowingly **failing to test** a product (as required by government specifications) or using **substandard** (not meeting specifications) or **defective products** are also false claims or statements.

For example, think of the thousands of different pumps, valves, pipes, electrical components, and other materials in a treatment plant--then think of what could happen if those parts are substandard or defective.



What is Cost mischarging?



Cost mischarging is the improper allocation of costs or the charging of unallowable costs, directly or indirectly, to a government contract usually resulting in the Government being overcharged for goods and services.

Examples are:

- Charging for employees not working on the project
- Ghost Employees (employees who don't really exist)
- Artificial inflation of rates
- Billing an employee's time to multiple contracts
- Charging for costs not incurred or work performed
- Charging of personal and/or unallowable expenses
- Charging for employee rates not commensurate with their expertise
- Charges for unnecessary equipment
- Shell companies



What are Conflicts of Interest?



- **Conflicts of Interest** may occur when an individual or corporation is in a position to exploit a professional or official capacity in their personal or corporate benefit.
- **Conflicts of Interest** exist even if no improper act results from it, and can create an appearance of impropriety that can undermine confidence in the conflicted individual or organization.

For example, a purchasing manager of an organization has a duty to perform their work with loyalty to that employer, thus choosing sellers who offer the best products at the lowest prices, but might be tempted to have the organization buy, from the manager's sibling, products that are not as good or as cheap.



Here are few more examples



- A member of the City Council owns a building supply company providing materials to a contractor working on an SRF construction project.
- Purchasing materials or services from a firm where a relative is the controlling party.
- Gifts from business associates to influence decision making. Gifts may include cash or non-tangible things such as airline tickets, vacations, golf outings, etc.



How do I deal with a Conflict of Interest?



- **Avoidance**

- The best way to handle conflicts of interests is to avoid them entirely.

- **Disclosure**

- Disclose any interests that could compromise your integrity and give the appearance of a conflict of interest.

- **Recusal**

- Those with a conflict of interest should not make decisions where such a conflict exists. The need for recusal varies depending upon the circumstance.

For example, the board of a government agency is considering hiring a consulting firm, and a partner of one of the firms under consideration is a close relative of a board member. That board member should not vote on which firm is to be selected, and to minimize any conflict, the board member should not participate in any way.



What is Product Substitution?



Product substitution is supplying goods or services that do not meet contract specifications.

For example, a contractor:

- *Delivers goods which do not conform to contract requirements without informing the government.*
- *Uses foreign made products where domestic products are required (**Buy American provisions of the Act**)*
- *Uses products that do not meet specifications.*
 - *Thinner-wall pipe than specified.*
 - *Roofing: 20 year vs. 40 year.*
 - *Electrical: Substandard pumps, panels, switches.*

Effects:

- *Paying for something not received (pay for a Cadillac but get a Chevy).*
- *Increased maintenance costs (shorter useful life-20 year roof vs. 40 year).*
- *Health, safety, environmental (sewage pump failure causes over-flow).*



What are Bribery and Kickbacks?



Bribery is offering, giving, receiving, or soliciting something of value to influence the actions of an official as part of their public or legal duty. It alters the behavior or decisions of the person receiving the bribe.

Example--a Contractor approaches the Public Works Director about an upcoming project, and offers him money in exchange for an advance copy of the bid package. The Director agrees, resulting in an unfair advantage to the contractor.

Kickback is the result of when a government employee receives or solicits something of value to influence the outcome.

Example-- the Public Works director approaches a contractor and promises to award the contract in exchange for money or something else of value.



What is Bidrigging?



Bid rigging is collusion between two or more competitors. It is a form of price fixing. It typically involves an agreement in which one party of a group of bidders will be designated to win the government bid.

These frauds generally involve:

***Subcontract bid-rigging**--the conspirators agree not to submit bids, or submit inflated bids, in return for being awarded subcontracts from the successful bidder.*

***Bid suppression**--some conspirators agree not to bid so that another conspirator can win the contract.*

***Complementary bidding**--also called cover bidding--submitting a bid knowing it is too high or has unacceptable conditions.*

***Bid rotation**--bidders “take turns” being the successful bidder.*



What are Fraud Indicators?



Fraud indicators are clues that may warrant further review of a specific area or activity. Here's some "Red Flags" to watch for:

- Weak or missing internal controls
- Management override of key controls
- Lack of written policy/procedures
- High turnover, reassignment, or termination of personnel
- Lack of separation of duties
- Overly complex organizational structure
- Promise of thing of value to ignore, disregard, or dismiss a required action
- Unexplained increase in wealth



What are Fraud Indicators?



- Questionable transactions or agreements with related parties
- Failure to following bidding procedures
- Overly friendly relationship between gov't employee and contractor or among competing contractors
- Bid appear unreasonably low
- Winning bid too high compared to costs estimates
- Contractor includes in its bid, or hires as subs, contractors competing for same contract
- Acceptance of late bids
- Winning bid unnecessarily voided, re-bid and/or awarded to another company
- Numerous Change Orders



What are Fraud Indicators?



- Missing or inadequate documentation
- Delays, inability or failure to provide requested documentation
- Indications of falsification or alteration of supporting data
- Photocopies of documents where it is difficult to detect alterations
- Time cards completed by someone other than employee
- Missing approval signatures
- Lower level work being performed by high salaried employees
- Labor time and charges inconsistent with progress of project



Case Example





So you suspect fraud... what do you do next?



What you should do:

- discuss your concerns with the OIG.
- seek answers to your questions in the normal course of business.
- cooperate with the OIG and expect to be contacted and involved.

What you should not do:

- change your normal course of business unless otherwise directed.
- tip off subjects of actual or pending investigation.
- protect someone who may be committing fraud.
- Feel compelled to “prove” a case or intent.



Making a Referral



- Anyone may call and discuss concerns.
- Referrals can be based on hearsay, something that does not seem right, and inconsistencies.
- Your concerns do not need to be a “sure thing” to be referred to OI. You do not have to “prove” your case.
- Many investigations begin from referrals from concerned citizens and state, local and contactor employees.



Let's talk about Whistleblower protections



The ARRA prohibits reprisals against a “whistleblower” of state and local government and contractor employees:

An employee of a non-Federal entity receiving ARRA funds, may not be discharged, demoted, or discriminated against for disclosing any information the employee reasonably believes is evidence of:

- gross mismanagement or gross waste of ARRA funds;
- a substantial and specific danger to public health or safety related to the implementation of the ARRA funds;
- an abuse of authority related to the implementation of the funds; or
- a violation of law, rule, or regulation related to a contract, grant, or other award of ARRA funds.



Let's talk about Whistleblower protections



An employee who believes that they have been the subject of reprisal can submit a complaint to the OIG. The OIG shall investigate the complaint and submit the findings of the investigation to the person, the person's employer, the head of the appropriate Agency, or the Recovery Accountability and Transparency Board.



What happens next?



- Evaluation of Referral
- Actions
 - Administrative
 - Audit
 - Investigation



Key Documents



- Copy of Contracts
- Contractor billings and invoices
- Engineering records and project file reviews
- Original mailing envelopes/fax transmissions
- Reimbursement requests
- State claims to EPA
- Electronic Funds Transfers and Checks



Outcomes/Remedies



- Administrative
 - Repayment/Reimbursement
 - Stop work order
 - Termination
 - Compliance Agreements
- Suspension/Debarment
- Civil – (False Claims Act)
 - \$5,500 to \$11k per claim
 - 3 times damages
- Criminal
 - Fines
 - Probation
 - Incarceration



Summary



Thank you for attending this presentation. Hopefully, we have made you aware of your responsibilities to monitor your EPA funded project and what to do if you suspect fraud, waste or abuse.

EPA's goal is to protect the environment. Our job is to help you, the taxpayer, monitor the use of these funds.

If you suspect fraud, waste or abuse, we are only a phone call or email away.



How do I Get Help?



OIG Hotline

1-888-546-8740

On the web:

www.epa.gov/oigearth.hotline.htm

Email:

recoveryreferrals.oig@epa.gov



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