UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Office of Inspector General

WHEN GOOD MONEY GOES BAD

True Stories of Contract Fraud at EPA

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"Catalyst for Improving the Environment"

WHO WE ARE

The Office of Inspector General is an independent office within EPA that helps the Agency protect the environment in a more efficient and cost effective manner. We consist of auditors, program analysts, investigators, and others with extensive expertise.

WHAT WE DO

We perform audits, evaluations, and investigations of EPA and its contractors, grantees, and recipients of other Federal funds to promote economy and efficiency, and to prevent and detect fraud, waste, and abuse. We also maintain the OIG Hotline.

WHY WE DO IT

We strive to serve as a catalyst for improving the environment. By helping the Agency operate more economically, effectively, and efficiently, we contribute to improved environmental quality and human health. We strive to provide solutions to problems that ultimately result in making America a cleaner and healthier place.

OUR MISSION

Add value by promoting economy, efficiency, and effectiveness within EPA and the delivery of environmental programs. Inspire public confidence by preventing and detecting fraud, waste, and abuse in Agency operations and protecting the integrity of EPA programs.

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

Benjamin Franklin

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Introduction

In an effort to provide you with tools to identify areas that may be of concern or worth looking into, this booklet was designed to provide an overview of general fraud indicators as well as highlight some specific indicators related to contract fraud. To put a face to what is often seen as a victimless crime and to highlight the impact of fraud, included are some real-world examples of contract fraud investigations conducted by the U.S. Environmental Protection Agency, Office of Inspector General, Office of Investigations.

What Can I Do to Avoid Trouble ?

- Report any irregularities early.
- Correct any audit findings promptly.
- Have a system of checks and balances.
- Create and follow established procedures.

If you are a federal employee, you are duty bound to report Fraud, Waste, Abuse, and Corruption under the Code of Federal Regulations (CFR).

"Employees Shall Disclose Waste, Fraud, Abuse, and Corruption to Appropriate Authorities." 5 CFR 2635.101(b)(11)

We are here to assist you. We want you to succeed.

General Fraud Indicators

General fraud indictors are applicable to many areas and not exclusively tied to contracts. The list presented below is not meant to be all-inclusive and should not limit the consideration of other factors. Remember—if it doesn't pass the "smell" test, something may be amiss.

- ❑ Missing, weak, or inadequate internal controls
- ❑ Management override of key internal controls
- ❑ Lack of written policies and procedures
- ❑ Overly complex organizational structure
- ❑ High turnover rate
- ❑ Reassignment of personnel
- ❑ Termination of key personnel
- ❑ "Missing" files, reports, data, and invoices (both electronic and paper)
- ❑ Photocopies of documents where it is difficult to detect alterations
- ❑ Missing approval signatures
- ❑ Lack of separation of duties
- ❑ Discrepancies in handwriting
- ❑ Delays in production of requested documentation

Cost Mischarging and Defective Pricing Schemes

Definition:

Improper allocation of costs to a contract or charging items at a higher rate than allowed.

Indicators:

- Labor or materials costs inconsistent with the progress being made on the contract
- Timecards completed by someone other than the employee
- Failure to update cost and pricing data when costs have decreased
- Indications of falsification or alteration of supporting data

FRAUD CASE STUDIES

Contractor Enters into $6.5 Million Settlement

A Cambridge, Massachusetts, contractor entered into a $6.5 million settlement agreement with the U.S. Attorney's Office for the District of Massachusetts, Civil Division, to settle claims that they overbilled the federal government on its contracts.

For a period of 10 years, the company inflated costs it charged to the federal government contracts by improperly shifting costs uniquely associated with its commercial contracts onto federal contracts. The Defense Contract Audit Agency conducted an analysis of the costs charged to federal contracts and estimated $13.9 million was overbilled to numerous government agencies, including EPA, the Department of Defense, and the Department of Energy. The EPA work involved Superfund and engineering activities.

This investigation was conducted jointly with the Defense Criminal Investigative Service.

Contractor Agrees to Pay $424,270 to Settle Mischarging Allegations

While admitting no wrongdoing, a Fairfax, Virginia, contractor agreed with the U.S. Attorney's Office, Civil Division, to pay $424,270 to settle allegations that it overbilled costs on its Government contracts.

The investigation found indications that for approximately 8 years, the company overbilled for computer services and reproduction cost to numerous federal contracts awarded by EPA, the Department of Defense, and the Department of Energy. This overbilling occurred because the company billed estimated rates that were in excess of the actual costs for computer services and reproduction costs.

Contractor Settles Civil Action for $15,000 Regarding False Claims Case

A DeSoto, Texas, company and its owners entered into a settlement agreement with the U.S. Attorney's Office for the Northern District of Texas in which they agreed to pay $15,000 to settle a civil false claims case.

The government contended that the company submitted a $6,200 invoice to EPA for work that was not authorized by EPA nor performed by the company. EPA subsequently paid the invoice. Prior to reaching this settlement, the company and its owners were debarred from government contracting for 3 years.

In addition to the civil settlement reached with the federal government, both owners were indicted by the State of Texas. For defrauding EPA of $6,200, they were each charged with theft, a felony under Texas law.

Bribery and Kickback Schemes

Definition:

Giving or receiving a thing of value for the sole purpose of influencing an official act or a business decision.

Indicators:

- An overly friendly relationship between government employees and contractors and/or among contractors who may otherwise be considered competitors.
- Excessive, new-found wealth may also be a clue that a bribe or kickback has been accepted.
- Contracting employee has an undisclosed business.

Subcontractor Kickback Scheme

The president, a former project manager, and a former site foreman of a subcontractor were sentenced in U.S. District Court for the Eastern District of Pennsylvania on a conspiracy charge. The president of the subcontractor was sentenced to 60 months of probation, the first 6 months to be served under house arrest, and ordered to pay a $5,000 fine. The former project manager was sentenced to 6 months in prison, followed by 3 years supervised release, and was ordered to pay a $32,382 fine. The former site foreman was sentenced to 60 months of probation and ordered to pay a $32,382 fine.

A contractor was awarded a contract by EPA to serve as the prime contractor in the clean up of the Berkley Products Superfund site in Denver, Pennsylvania. The prime contractor awarded a subcontract for the construction of a landfill cap at the Berkley Products site. The project manager for the prime contractor was responsible for overseeing the work performed by the subcontractor. The project manager solicited kickbacks in the amount of approximately $129,531 from the president of the subcontractor, in exchange for his certifying that the work performed by the subcontractor was completed in a satisfactory manner. The project manager for the prime contractor, in turn, kicked back approximately half of all money he received to the former project manager for the subcontractor, who, in turn, provided half of that money to the former site foreman of the subcontractor. They each received $32,382 of the kickback money. The project manager for the prime contractor provided the subcontractor with phony invoices in the amount of the kickbacks to disguise the illegal payments. For his part in the scheme, the project manager was sentenced to 33 months in prison, followed by 3 years supervised release, and was ordered to pay a $64,766 fine and $30,536 in restitution.

Previously, each individual pled guilty to one count of conspiracy to violate the Anti-Kickback Statute and one count of conspiracy to defraud the Internal Revenue Service (IRS). In addition to the sentences imposed above, the subcontractor paid $113,711 to the IRS, which represented amounts due because the subcontractor had previously deducted the kickback payments as business expenses. The subcontract project manager paid $12,177 to the IRS because he failed to report the income he had received from the kickback payments. The subcontract site foreman also paid $21,527 to the IRS for having under reported his income.

U.S. Virgin Islands Officials found Guilty in $1.4 million Bribery and Kickback Scheme

Following a 2-week trial, a federal jury in St. Thomas found a former Commissioner of the U.S. Virgin Islands Department of Planning and Natural Resources (DPNR) guilty of demanding and accepting bribes and obstructing justice. The same jury also found a former Commissioner of the Department of Property and Procurement guilty of demanding and accepting bribes in a $1.4 million bribery and kickback scheme.

The former commissioners were charged with demanding and accepting a series of bribes and kickbacks in exchange for awarding approximately $1.4 million in government contracts and then authorizing more than $1 million in payments on these contracts, despite little or no work having been performed. They were also charged with obstructing justice, stemming from attempts to thwart the criminal investigation into the underlying bribery and kickback scheme. One commissioner was sentenced to 9 years in prison to be followed by 3 years of probation. He was ordered to be held liable, along with several other defendants, for a monetary judgment in the approximate amount of $1.1 million. The other commissioner was sentenced to 7 years in prison to be followed by 3 years of probation. He was also ordered to be held liable, along with several other defendants, for a monetary judgment in the amount of $960,482.

Four individuals, including three other former U.S. Virgin Islands government officials, pleaded guilty to violating the federal bribery statute, honest services mail fraud, and structuring currency transactions in furtherance of the underlying bribery and kickback scheme. The three defendants were sentenced to prison – ranging from 21 months to 4 years – and ordered to pay restitution in the approximate amount of $1.1 million. In addition, a former DPNR Director of Permits pleaded guilty to conspiring to obstruct the criminal investigation into the bribery and kickback scheme.

The four individuals and others formed a sham business and used the entity, as well as other companies, to seek and be awarded at least seven government contracts valued at approximately $1.4 million. The contracts were authorized and awarded by the former commissioner. Once the contract proceeds were negotiated, the officials kept a portion of the illicit proceeds for themselves and paid cash bribes and kickbacks totaling between $300,000 and $350,000 to various government officials.

This investigation was conducted jointly with the Federal Bureau of Investigation, the Internal Revenue Service Criminal Investigation Division, the U.S. Postal Inspection Service, and the U.S. Virgin Islands Inspector General.

Pleas Entered in Bid Rigging Case

(This case is an example of both a kickback and mischarging scheme.)

In U.S. District Court for the District of New Jersey, a Laurel Springs, New Jersey company, as well as its owner and a former employee of a prime contractor, were charged and pled guilty in a bid-rigging scheme in connection with subcontracts for wastewater treatment supplies and services at two Superfund sites in New Jersey. A Canadian company was also charged and pled guilty for its role in the scheme.

The New Jersey company and its owner pled guilty to rigging bids at the Federal Creosote Superfund site in Manville, New Jersey. The owner also pled guilty to one count of conspiracy to defraud EPA at the Federal Creosote site and to defraud another company at the Diamond Alkali Superfund site in Newark, New Jersey. As part of the conspiracy, the owner participated in a false invoicing and kickback scheme. He also pled guilty to filing false income tax returns.

A former employee of a prime contractor pled guilty to rigging bids at the Federal Creosote site. In addition, he pled guilty to one count of conspiracy to defraud EPA at the Federal Creosote site and to defraud another company at the Diamond Alkali Superfund site by participating in a false invoicing and kickback scheme. He also pled guilty to one count of aiding the New Jersey company's owner in filing a false income tax return.

The co-conspirators thwarted the competitive bidding process and defrauded EPA. The owners of the New Jersey company provided more than $26,000 in kickbacks to an employee of a prime contractor and more than $385,000 to his former supervisor in exchange for their assistance in allocating certain subcontracts to the Canadian company. The kickbacks were in the form of checks, cash, cruises, home renovations, boat trailers, and airline tickets. In addition, the employee and a former supervisor inflated invoices and accepted kickbacks from three other subcontractors at the Superfund sites.

The Canadian company pled guilty to conspiracy to defraud EPA at the Federal Creosote site by inflating the prices it charged to a prime contractor and paying kickbacks to employees of that contractor. The company was given confidential bid information that it used to inflate invoices to cover almost $1.3 million in kickbacks to employees of the prime contractor in exchange for their assistance in steering subcontracts to them. The kickbacks were in the form of money wire transfers, cruises for senior officials, various entertainment tickets, and home entertainment electronics. As part of the fraudulent scheme, this company and its co-conspirators also included amounts it kept for itself in the inflated invoices.

This case was conducted with the Internal Revenue Service Criminal Investigation Division.

What to do if You Suspect Fraudulent Activity, Waste, or Abuse

✓ **DO** contact the OIG Hotline.

✓ **DO** discuss your concerns with the OIG.

✓ **DO** seek answers to your questions in the normal course of business.

✓ **DO** cooperate with the OIG and expect to be contacted and involved.

✗ **DON'T** "tip off" subjects of actual or pending investigation.

✗ **DON'T** feel compelled to "prove" a case or intent.

✗ **DON'T** "stop" your normal course of business unless otherwise directed.

Report Suspected Fraud Activity to Our Office

You can Place a Telephone Call to Our 24-hour Hotline

(888) 546-8740

You Can Mail Us

U.S. Environmental Protection Agency
Office of Inspector General Hotline (2443)
1200 Pennsylvania Avenue, NW
Washington, DC 20460

You Can E-mail Us

OIG_Hotline@epa.gov

Or You Can Contact Our Offices Directly

Northeastern Resource Center
Arlington, VA
(703) 347-8740

Eastern Resource Center
Atlanta, GA
(404) 562-9857

Central Resource Center
Chicago, IL
(312) 353-2507

Western Resource Center
San Francisco, CA
(415) 947-4507

REMEMBER

Preserving and protecting America's land, skies and waters rest with you.

You are the eyes and ears "on the ground."

Your efforts are critical to the success of our environmental mission.

You can make a difference.

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