

Combating Fraud and Protecting the Integrity of Government Contracting



State of New Jersey Department of Law & Public Safety Division of Criminal Justice - Financial Crimes Bureau

The Attorney General, through The Division of Criminal Justice, Financial Crimes Bureau, is responsible for the detection, investigation and prosecution of offenses which corrupt or undermine the public procurement process.

Government Procurement officials are responsible for the expenditure of taxpayer funds for the purchase of goods and services. Fraud and corruption of the procurement process impacts upon the ability to effectively obtain the goods and services needed at the lowest competitive price and in a timely fashion. Further, the practices which undermine the public perception of integrity of the procurement process impair the ability of all governmental entities to garner support of their legitimate procurement needs.

Taxpayers have rightfully demanded that government spend tax money wisely and effectively. Preserving competition and ensuring the integrity of the procurement process provides government purchasing officials with the ability to obtain goods and services at the lowest possible cost and builds public confidence that taxpayer funds are being spent wisely. The Division of Criminal Justice and the Financial Crimes Bureau have the investigative tools and experience to determine whether particular practices in given contracting situations violate the criminal or antitrust laws. Together we can help to ensure that taxpayer dollars are used effectively.

This guide is designed to assist you in evaluating the procurement process to detect violations of the law which harm the public procurement process. Preventing fraud and corruption of the process is essential. When violations of the law cannot be prevented, it is essential to identify and prosecute the violators to obtain redress and deter future violators. Your assistance in bringing evidence of illegal conduct in public contracting to our attention is essential to safeguarding the integrity of the government purchasing process.

What are the relevant laws?

Legislation that became effective April 17, 2000 included several important tools for combating fraud

and corruption in government contracting. First, the criminal laws now specifically identify false claims and the making misrepresentations in connection with a government contract a serious crime. Second, the laws against bid rigging and collusion now carry increased penalties. Third, the laws governing bribery, gratuities, gifts and conflict of interest have been strengthened.

What do I look for?

Fraudulent and corrupt practices take a variety of forms and it is not possible to describe all manifestations here. Nevertheless, the following are examples of common practices which may be illegal. Some violate the criminal law and some violate antitrust laws.

Misrepresentations

It is illegal for a vendor to intentionally misrepresent an important fact in connection with a government contract. The misrepresentation need not be in writing and need not be in a certification. Any material misrepresentation will violate the law. Moreover, it is illegal to make such a misrepresentation during any part of the negotiation, bid, award or administration of the contract.

False Claims

It is illegal for a vendor to knowingly make a false claim for payment in connection with a government contract.

Price Fixing

Competitors may not agree to raise, stabilize or otherwise affect the prices at which they will sell goods or services. Such agreements are illegal whether or not they set specific prices - any agreement among competitors affecting price levels is illegal.

Vertical Price Fixing

An agreement between a seller of a product and the buyer as to what price the buyer will resell the product is illegal.



Bid-rigging

Competitors may not agree in any way to affect the outcome of a competitive bid process. They may not agree who will win the bid, what bids each will submit, that a bidder will not submit a bid or to rotate who will win particular contracts.

Bribery

A vendor may not offer or give any benefit to a public official in exchange for an official act or an act that violates the public official's duty. Similarly, a public official may not solicit or take any benefit from a vendor in exchange for an official act or a violation of his/her duty. "Benefit" includes anything regarded by the recipient as a gain or advantage to him/herself or to a person or entity in whose welfare he/she is interested.

Gratuity

A vendor may not offer or give any benefit to a public official because of official acts by the public official or because the public official properly or improperly assisted the vendor. Similarly, a public official may not solicit or take such benefits.

Gifts

A public official may not solicit or take any benefit from a vendor that is not permitted by law. In other words, a public official should be sure that there is legal authority to accept any benefit from a vendor or potential vendor.

Conflict of Interest

A public official may not transact business on behalf of the government with any business in which the official or any member of his/her family has a financial interest. Further, a public official may not receive any benefit directly or indirectly from any contract for goods or services to be provided to the governmental entity where he/she works.

What can you do?

It is important that contracting officials and vendors be vigilant to detect potential violation of law which corrupt or derail the competitive bid and normal procurement process. If you have reason to believe a violation of law has occurred, contact the Division of Criminal Justice, Financial Crimes Bureau, Antitrust/Procurement Fraud Unit.

The Division of Criminal Justice Financial Crimes Bureau, Antitrust/Procurement Fraud Unit was established to combat fraud and corrupt practices in government procurement. The Division investigates violations of the law and pursues criminal and civil remedies to punish and deter illegal conduct and to obtain restitution and damages when appropriate.

To report a possible violation contact:

***Division of Criminal Justice-Financial Crimes Bureau
Antitrust/Procurement Fraud Unit
25 Market Street
P.O. Box 085
Trenton, NJ 07628
(609) 292-2848***

Additional information may be obtained at:

www.njdcj.org