



U.S. Department of Justice

Criminal Division

Assistant Attorney General

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Combating Procurement Fraud:

A National Initiative to Increase Prevention and Prosecution of Fraud in the Federal Procurement Process

OVERVIEW

At this critical time when our national defense, homeland security, and other government resources are most precious, criminals who cheat the government must be identified, stopped and punished. The sheer size of procurement operations may embolden some criminals. It is imperative that we take action to deter and prosecute unscrupulous government contractors whose theft of critically needed resources threatens America's safety and defense, as well as government employees who abuse the public trust to assist these contractors and enrich themselves. We must ensure that our fighting men and women, our critical infrastructures, and those who rely on government programs are not victimized by fraudulent conduct. Moreover, we must do everything we can to ensure that taxpayers are getting their money's worth every time the government buys goods and services.

Building on the success of the Department's Criminal and Civil Divisions and the United States Attorneys' Offices, and calling upon the Department's own considerable experience, expertise, and existing relationships in the Inspector General (IG) community to combat this problem, Deputy Attorney General Paul J. McNulty has directed Assistant Attorney General Alice S. Fisher for the Criminal Division to spearhead a National Procurement Fraud Initiative to promote the early detection, prevention, and prosecution of procurement fraud associated with the increase in contracting activity for national security and other government programs.

In partnership with the U.S. Attorneys' Offices and federal law enforcement agencies responsible for addressing this problem, the Criminal Division will form the National Procurement Fraud Task Force (the "Task Force"). The Task Force will strengthen the government's efforts to fight procurement fraud, focusing resources at all levels of government to increase criminal enforcement in areas of procurement fraud where those resources could have the most substantive impact, including defective pricing or other irregularities in the pricing and formation of contracts, product substitution, misuse of classified and procurement sensitive information, false claims, grant fraud, labor mischarging, accounting fraud, fraud involving foreign military sales, ethics and conflict of interest violations, and public corruption associated with procurement fraud. The Task Force also will promote a new level of collaboration and exchange of ideas to increase effectiveness in this vital area of law enforcement. The Task Force

will focus substantial effort on training law enforcement agents and procurement specialists on the detection and investigation of contracting fraud and will leverage the expanded law enforcement powers of the IG community to bring those who commit procurement fraud to justice.

BACKGROUND

Since the events of September 11, 2001, the United States government has increased spending to address homeland security concerns and to fight the global war on terror. As a result, the need to detect and aggressively investigate and prosecute procurement fraud and related public corruption offenses also has increased. In light of the demands on the Federal Bureau of Investigation (FBI) and other traditional law enforcement agencies in other important areas of law enforcement, the key to a renewed and sustained effort against procurement fraud is an energized and empowered IG community working in tandem with the FBI and federal prosecutors.

The Inspector General Act of 1978 required the Offices of Inspectors General (OIGs) and their staffs to investigate matters related to program operations in their agencies. This jurisdiction included administrative and criminal misconduct. However, the Act did not authorize the OIGs to utilize traditional law enforcement powers in connection with investigations. These limitations effectively forced the OIGs to team with other law enforcement agencies or to go through the time-consuming and awkward step of obtaining temporary status as Deputy United States Marshals in order to carry out law enforcement tasks.

An important step in rectifying this deficiency was the provisions in the USA PATRIOT Act which conferred additional law enforcement powers on the OIGs, and the subsequent completion in December 2003 and implementation of the Attorney General's Guidelines for OIGs with Statutory Law Enforcement Authority. OIG special agents now have statutory law enforcement authority to serve subpoenas, seek and execute arrest and search warrants, and carry firearms, which enables them to carry out their law enforcement functions in the same manner as other special agents within the law enforcement community.

DESCRIPTION OF INITIATIVE

Initiative Leadership

Under the leadership of the Deputy Attorney General, who has appointed the Assistant Attorney General for the Criminal Division to be Chair of the Task Force, the prosecutorial resources of seven key offices will be utilized in this Initiative to ensure that competing resource needs are balanced and meritorious cases are identified, investigated and prosecuted efficiently and effectively in appropriate venues. The Fraud Section of the Civil Division will handle the civil recovery aspects of these cases. Additionally, as described below, investigative resources will be provided by the FBI and by the various OIGs participating in the Initiative. The Inspector General for the General Services Administration (GSA), Brian D. Miller, will act as

Vice-Chair of the Task Force. Steve A. Linick, currently a Deputy Chief in the Fraud Section of the Criminal Division, will serve as Director of the Task Force and, in that capacity, will be responsible for coordinating and organizing all aspects of the National Procurement Fraud Initiative.

Prosecutorial Resources

Department of Justice Resources

Fraud Section - The Criminal Division's Fraud Section has a long-standing relationship with the IG community, particularly the Department of Defense (DoD) IG. The Fraud Section is currently a member of the DoD-IG's existing Procurement Fraud Working Group and has assisted in training investigators on the prevention and detection of procurement fraud. In addition, the Fraud Section has prosecuted many important procurement fraud cases and regularly provides assistance to United States Attorneys' Offices that prosecute procurement fraud cases.

Mr. Linick, the Director of the Task Force, will strengthen existing relationships and forge new ones between the Fraud Section and the OIGs, the FBI's Integrity in Government Unit and the United States Attorneys' Offices. Through coordination with the Criminal Division, Mr. Linick also will make Fraud Section and other prosecutorial resources available to United States Attorneys' Offices on significant procurement fraud cases when assistance is requested and/or when United States Attorney resources are in short supply. Moreover, Mr. Linick will encourage joint investigations and prosecutions of procurement fraud cases with the offices described below.

Public Integrity Section (PIN) - The Criminal Division's Public Integrity Section also has long-standing relationships with all major OIGs. By Executive Order, the Chief of the Section serves as counsel to the Integrity Committee of the President's Council on Integrity and Efficiency. In addition, starting in 2002, PIN has assigned trial attorneys to serve as liaisons with each of the major OIGs. These liaisons discuss potential cases, review ongoing matters and prosecutions, outline the evidence needed to meet the elements of relevant statutes, and provide advice to agents in the field engaged in law enforcement operations. The PIN also recently assisted the IG investigative community in the development and adoption of a standardized advice of rights form for interviews of federal employees to replace the patchwork of less effective and confusing forms currently in use. The PIN's expertise in the area of public corruption will complement procurement fraud prosecutions which, in many cases, involve insider corruption. Finally, PIN management works on a daily basis with the FBI's Integrity in Government Unit.

Asset Forfeiture and Money Laundering Section (AFMLS) - A third key component from the Criminal Division is AFMLS. Procurement fraud, at its heart, is a theft of taxpayer money. Whether the crime is illegal kickbacks or bribes, intentional over-billing, or the substitution of inferior goods or services, the perpetrators of the crime are seeking ill-gotten gains.

Accordingly, any effective initiative must include routine, swift and comprehensive use of seizure warrants and forfeiture remedies as an integral part of enforcement strategy. AFMLS trial attorneys will provide this expertise immediately and complement the work of the prosecutors overseeing the investigation of the underlying fraud.

Civil Division - The Civil Division's Commercial Litigation Branch, Fraud Section, is responsible for recovering the losses that federal agencies suffer as a result of procurement fraud. Along with the United States Attorneys' Offices, the Fraud Section enforces the False Claims Act, other federal statutes and common law remedies to address all types of procurement fraud, including overcharging, defective pricing, quality deficiencies and product substitution, and bribery and corruption of public officials. Since 1986, the Civil Division has recovered over \$3 billion in losses associated with DoD procurement fraud.

In sum, PIN, the Fraud Section, AFMLS and the Civil Division have had a successful track record of joint prosecutions in the procurement fraud area. In this last year alone, PIN, Fraud and AFMLS teamed up to bring a series of fraud and bribery cases -- including forfeiture counts and seizure warrants -- against military and civilian personnel involved in an elaborate kickback scheme involving Iraqi reconstruction funds. Examples of these cases include:

- Philip Bloom, a civilian who owned several companies doing business in Iraq, paid more than \$1 million in money, cars, jewelry and other things of value to Coalition Provisional Authority (CPA) officials in return for CPA contracts. Bloom also laundered \$2 million in stolen CPA money for CPA officials in return for CPA contracts. In total, Bloom received over \$8 million in rigged contracts.
- Bruce Hopfengardner, an Army Reserve Lieutenant Colonel and a former special advisor to the CPA, steered contracts to his own company in exchange for \$144,500 in cash, more than \$70,000 worth of vehicles, a \$6,000 watch, and a \$2,000 computer. Hopfengardner also laundered \$300,000 for Bloom and stole \$120,000 in CPA money.
- Robert Stein, the comptroller for the CPA, accepted more than \$1 million in bribes and stole more than \$2 million in CPA money designated for Iraq reconstruction.

U.S. Attorney Resources

Successful implementation of this initiative will also depend on the involvement and commitment of at least three key United States Attorneys' Offices: the Eastern District of Virginia (EDVA), the District of Columbia, and the District of Maryland. In addition to prosecutorial resources, grand jury availability, and experience and familiarity with local courthouses, each district will have substantial jurisdictional and venue equities in this procurement fraud initiative.

The EDVA is home to the Pentagon and key components of the intelligence community. In addition, many major government contractors maintain corporate headquarters or important

operations within the geographic boundaries of this district. The EDVA recently implemented its own procurement fraud initiative and has ongoing and productive relationships with the relevant investigative agencies. Maryland is home to large government contractors, significant contracting agencies (particularly in the area of health and science-related projects) and other key elements of the intelligence community. As for the District of Columbia, many federal agencies procuring goods and services are headquartered in Washington, D.C. Accordingly, this district has a large concentration of first-line victims of procurement fraud and the witnesses necessary to prove these crimes. Each of the United States Attorneys' Offices described above will participate in the National Procurement Fraud Task Force. In addition, the Task Force will work to develop cases for prosecution, utilizing the expertise and resources of all of the United States Attorneys' Offices.

Investigative Resources

Among others, the federal agencies that will participate in the Task Force include the FBI, the Special Inspector General for Iraq Reconstruction and the OIGs associated with DoD, Central Intelligence Agency, National Aeronautics and Space Administration, GSA, Department of Housing and Urban Development, Department of Justice, Department of Homeland Security, Department of Energy, Department of Veterans Affairs, Nuclear Regulatory Commission, Small Business Administration, Social Security Administration, U.S. Postal Service, Office of the Director of National Intelligence, National Reconnaissance Office, Department of State, Department of Transportation, Department of Treasury, Department of Interior, and Department of Agriculture. In addition, given the overwhelming size of the defense slice of the procurement pie, all defense-related investigative agencies -- Defense Criminal Investigative Service, Naval Criminal Investigative Service, Army-CID, and the Air Force Office of Special Investigations -- will be full participants.

Goals of the Initiative

The Task Force will focus its efforts on the following priorities:

- a. Identification and prosecution of viable procurement fraud cases through coordination with United States Attorneys' Offices, IG field offices, and the regional procurement fraud working groups (described below);
- b. Ensuring adequate resources are available to successfully investigate and prosecute procurement fraud cases;
- c. Standardization of "best practices" (e.g., recruitment of sources, consensual calls, and witness interviews);
- d. Better coordination between agency auditors and investigators to ensure that red flags and badges of fraud are promptly reported to criminal investigators for follow-up investigation;

- e. Better identification and resolution of investigative and coordination issues as they arise in joint cases (*e.g.*, audit support and expanded efforts to share information);
- f. Specialized training for OIG agents and auditors on the investigation and prosecution of procurement fraud cases;
- g. Examination of existing laws and policies, including conflict of interest laws and voluntary disclosure policies, to determine if they need strengthening or change;
- h. Development of strategies to encourage agencies, auditors and contracting officers to refer more cases for criminal and civil prosecution; and
- i. Better coordination of targeted civil, regulatory and criminal enforcement actions.

This Task Force will provide a novel and much-needed mechanism to encourage and facilitate the sharing of strategies to prevent and detect procurement fraud as well as information associated with targets of procurement fraud investigations. The Task Force will encourage the concentration of law enforcement resources and, in appropriate cases, the adoption of a multi-agency approach to investigating criminal and civil cases.

Some Task Force participants already have adopted effective strategies that should be shared. Examples of these strategies include the following:

- a. Collaboration between federal agents and government contractors to educate them on effective means for preventing fraud, waste and abuse;
- b. Collaboration between special agents and prosecutors at early stages of procurement fraud investigations to ensure successful prosecutions and civil recoveries;
- c. Education of government contracting officers, program managers and other agency personnel on issues relating to the detection and prevention of procurement fraud;
- d. Placement of agency investigators at major procurement offices to work with agency employees who are directly involved in negotiating government contracts;
- e. Use of computer data-mining and other programs to uncover and detect procurement fraud; and
- f. Enhanced efforts to detect ethics violations and conflicts of interest by current and former agency officials.

The Task Force will meet periodically to facilitate the exchange of information and ideas. The Task Force will continue to expand its membership to maximize positive impact in the procurement process. Increased communication will also lead to greater collaboration in investigative efforts and increased prosecutions.

Other Aspects of Initiative

This Initiative will also involve the participation of the IGs and United States Attorneys' Offices in the field. Therefore, various United States Attorneys' Offices throughout the country will coordinate and organize their own procurement fraud regional working groups. These regional groups will work to implement the strategies and mission of the Task Force as well as to facilitate the exchange of information among agencies at the regional level.

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