



American Recovery & Reinvestment Act (ARRA)

Fraud Awareness Briefing on VA Contract Fraud and Public Corruption

Presented By:

U.S. Department of Veterans Affairs
Office of Inspector General
Criminal Investigations Division (CID)

Discussion Points

- Recovery Act
- VA Stimulus Funds
- Types of Contract Fraud
- Fraud Indicators
- Public Corruption
- How to Report Suspected Crimes



Recovery Act



ARRA Goals:

1. Preserve and create jobs.
2. Promote economic recovery.
3. Assist those most impacted by the recession.
4. Provide investments needed to increase economic efficiency by spurring technological advances in science and health.
5. Invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.
6. Stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.



Recovery Act



Transparency and Accountability:

- The President has emphasized that every taxpayer dollar spent on economic recovery must be subject to transparency and accountability.
- If you feel Recovery Funds are being misused, or there are instances of fraud, waste, error, and/or abuse in the application and utilization of these funds by the Department of Veterans Affairs, you should report your allegations to the [VA OIG Hotline](#).



VA Stimulus Funds



Veterans Health Administration (VHA)

Medical facility non-recurring maintenance (NRM) and energy projects

\$1.0 billion

Grants to States for Extended Care Facilities

\$150 million

National Cemetery Administration (NCA)

Headstone, markers, gravesite, and monument repair; NRM, energy, road, and lodge repair projects; and equipment upgrades

\$50 million



VA Stimulus Funds



Office of Information Technology (IT)

IT support to VBA and Veterans economic recovery payments

\$50.1 million

Veterans Benefits Administration (VBA)

Claims processing and support of one-time economic recovery payments to Disabled Veterans and Survivors

\$157.1 million



VA Stimulus Funds



How can the VA OIG help?



VA Stimulus Funds



EDUCATE

- Conduct Fraud Awareness Briefings to VA staff, contractors and grantees

COORDINATE

- Join local ARRA Fraud task forces
- Reach out to State agencies with oversight of VA grantees

EVALUATE

- Conduct audits and reviews of VA program areas receiving ARRA funding

INVESTIGATE

- Proactive efforts
- Respond to complaints



VA Stimulus Funds



How can YOU help?

VA Employees' Duty to Report

Federal regulations require VA employees must report any information about actual or possible violations of criminal law involving VA or its contractors to a supervisor, management official, VA police or the Office of Inspector General (OIG). VA employees must report all criminal matters involving felonies to the OIG.

Contractor's Duty to Report

- In November 2008, the Federal Acquisition Regulation (FAR) was changed to require Government contractors to disclose violations of criminal law and the False Claims Act in connection with award and performance of government contracts and subcontracts.
- Failure to do so can result in debarment or suspension.
- Report must be from a principal officer or manager empowered to speak for the company.

Types of Contract Fraud

- Overbilling/False Claims
- Kickbacks
- Defective Pricing
- Collusive Bidding & Price Fixing
- Product Substitution

See “Red Flags” (below) for possible indicators of fraud.

Overbilling / False Claims

Statutes:

18 USC 1001, *False Statements*

18 USC 287, *False Claims*

18 USC 1341/1343, *Mail/Wire Fraud*

Case Example:

A medical transcription company increased billing to generate an increase in revenue (not related to product delivered)

Sample Red Flags of Overbilling

(Particularly for Units difficult to quantify)

- Increase in billing, but no increase in services or products delivered
- Total billing exceeds budgeted or anticipated amount
- Lack of transparency (e.g., contractor won't share details of software they use to count units of measurement because "proprietary")
- Significantly lower prices than competition, no explanation
- Inability to verify invoices

Sample Red Flags of False Claims

- Different typeface on an invoice
- Invoices for services that could/should not have been performed as claimed
- Requests for payment that are inconsistent with earlier cost reports
- Nonpayment of subcontractors and suppliers
- Undue delays in liquidating progress payments

Other Indicators of Contract Fraud

- Declaring items which are serviceable as excess or selling them as surplus while continuing to purchase similar items
- Purchasing items and/or services or establishing research projects in response to aggressive marketing efforts (and possible favors, bribes or gratuities) by contractors rather than in response to valid requirements
- Defining needs improperly in ways that can be met only by certain contractors
- Failing to develop “second sources” for items, spare parts, and services being continually purchased from a single source

Kickbacks

Statutes:

41 USC 54, *Anti-Kickback Act*

42 USC 1320a-7b(b), *Federal Anti-Kickback Law*

This Federal anti-kickback statute prohibits individuals or entities from knowingly and willfully offering, paying, soliciting or receiving remuneration to induce referrals of items or services covered by Medicare, Medicaid, or any other Federally funded program.

18 USC 874, *Copeland “Anti-Kickback” Act*

The Copeland “Anti-Kickback” Act generally prohibit Federal contractors or subcontractors engaged in building construction or repair from inducing an employee to give up any part of the compensation to which he or she is entitled under his or her employment contract and requires such contractors and subs to submit weekly statements of compliance.

Sample Red Flags of Kickbacks

- Frequent and apparently unnecessary visits by vendors
- Unexplained wealth
- Close socialization with vendors involving wining and dining/entertaining of buyers or gifts
- Shoptalk or gossip about vendor/buyer relationships
- Apparent unexplained vendor favoritism/favorable treatment over a period of time
- Frequent use of a particular vendor in spite of continual difficulty, complexity or delay by the vendor
- Excessive use of a single vendor in a competitive field

Defective Pricing

What is defective pricing?

- Knowingly submitting false cost or pricing data to the Government on negotiated contracts

Statutes

- 10 USC 2306(a), Cost or Pricing Data Provision

Sample Red Flags of Defective Pricing

- Proposal estimate which was the basis for negotiation is higher than supporting documentation with no creditable explanation
- Certification of false or misleading information
- Falsification or alteration of supporting data
- Failure to update cost proposals for known cost decreases
- Failure to completely disclose known data
- Distortion of overhead or baseline information by transferring charges or accounts
- Repeated denial of the existence of historical records that are subsequently found

Collusive Bidding & Price Fixing

What is an Antitrust Violation?

Collusive bidding, price fixing, or bid rigging are commonly used interchangeable terms that describe many forms of illegal anticompetitive activity. The common thread is that they involve any agreements or informal arrangements among independent competitors which limit competition.

Statutes:

15 USC 1, *Sherman Antitrust Act*

Common Schemes:

Bid suppression or limiting, complementary bidding, bid rotation, and market division.

Sample Red Flags of Collusive Bidding & Price Fixing

- Certain contractors always bid against each other or, conversely, certain contractors do not bid against one another.
- The successful bidder repeatedly subcontracts work to companies that submitted higher bids or to companies that picked up bid packages and could have bid as prime contractors but did not.
- There is an apparent pattern of low bids regularly recurring, such as corporation “x” always being the low bidder in a certain geographical area or in a fixed rotation with other bidders.

Sample Red Flags of Collusive Bidding & Price Fixing

- Any incidents suggesting direct collusion among competitors, such as the appearance of identical calculation or spelling errors in two or more competitive bids, or the submission by one firm of bids for other firms.
- Competitors regularly socialize or appear to hold meetings, or otherwise get together in the vicinity of procurement offices shortly before bid filing deadlines.
- Bid prices appear to drop whenever a new or infrequent bidder submits a bid.
- Any statements by a representative of a contractor that his company “does not sell in a particular area” or that “only a particular firm sells in that area.”

Product Substitution

What is Product Substitution?

Generally, a product substitution case involves not delivering the service or product which the Government ordered. Product substitution cases encompass everything from a product that is technically deficient and will not fulfill its intended purpose, such as sterile supplies that are not sterile, to a personal services contract that was technically fulfilled, but not rendered in compliance with all the contracts specifications, like those requiring compliance with labor and employment laws or health and safety requirements (or a medical service contract that specifies physicians, but the VA is only given a nurse, etc.). In all instances, these involve a failure to comply with contract specifications.

What is Corruption?

- Bribery, Gratuities or Kickbacks
 - 18 USC 201
- Embezzlement and Theft
 - 18 USC 641, Theft of Government Funds
 - 18 USC 654, Embezzles or Converts Property
 - 18 USC 666, Theft or Bribery Concerning Programs Receiving Federal Funds
 - 18 USC 669, Theft/Embezzlement in Connection with Health Care
- Conflicts of Interest
 - 18 USC 208, Acts affecting a personal financial interest
 - 18 USC 209, Salary of Government Officials Payable Only by United States

Sample Red Flags of Corruption

- Placing any restrictions in the solicitation documents which would tend to restrict competition:
 - Defining statements of work and specifications to fit the products or capabilities of a single contractor.
 - Designing “prequalification” standards or specifications to exclude otherwise qualified contractors or their products.
- Unnecessary sole source/noncompetitive procurement justifications:
 - Based on falsified statements,
 - Which are signed by unauthorized officials, or
 - For which required levels of review were deliberately bypassed.
- Splitting requirements so that small purchase procedures can be utilized or to avoid required levels of review or approval, e.g., to keep each within the contracting authority of a particular person or activity.

Bribery / Employee Integrity

How to Respond to
a Bribery Attempt

Bribery Overtures

- Can you help me?
- Want a thousand?
- You scratch my back, I'll scratch yours
- They don't pay you enough, can you accept tips?
- Can you and I fix this?
- Why don't we discuss business over a drink?
- What will it take to clear this up?

Indirect Approach

- Develops more than a business relationship, a friendship is established
- Envelope of VA papers with cash mixed in
- Anonymous gifts to home or work
- Offer of a job to employee or relative
- Offers use of vacation home or boat for a vacation

How to Handle Bribery Overtures

- Don't accept anything of value.
- Immediately make notes of what happened.
- Contact the [VA OIG Hotline](#) immediately.

How to Handle Bribery Overtures

(Continued)

DO NOT ASSUME THE ROLE OF A
SUPPOSEDLY CORRUPT VA OFFICIAL
IN ORDER TO FURTHER DEVELOP THE
BRIBE WITHOUT THE PRIOR
KNOWLEDGE AND CONCURRENCE OF
THE OIG

References

- VA OIG Website (www.va.gov/oig)
- VA OIG Fraud Awareness Briefing
- United States Code, Code of Federal Regulations, Federal Acquisition Regulations (available online or at a local library)



Contacting OIG



To report criminal activity, waste, abuse, mismanagement, and safety issues to the OIG:

Call: 1-800-488-8244

Write: VA OIG Hotline
PO Box 50410
Washington, DC 20091-0410

Fax: 202-565-7936

Email: vaoighotline@va.gov