



Fraud Reporting Guidance For USAID Implementing Partners

Obligation to Report

USAID contractors and implementing partners have an affirmative obligation to report allegations of fraud related to USAID projects under both the Federal Acquisition Regulations (FAR) and USAID regulations. The timely reporting of fraud allegations allows the OIG, USAID, and the implementing partner to efficiently protect taxpayer funds while moving forward with important program activities. Examples of schemes uncovered in USAID funded projects include: corruption (bribery, kickbacks, and gratuities), collusive behavior between vendors and/or procurement staff, product substitution, false claims (billing for goods and services not provided), embezzlement or theft, and other types of procurement fraud.

FAR 52-203-13 Reporting Requirements (Pertains to Contracts/Subcontracts)

“Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor or a subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. 3729-3733)”.

Reports Related to Cooperative Agreements and Grants

The general guidelines for the proper execution of cooperative agreements and grants are listed within 22 CFR 226 (*Administration of Assistance Awards to U.S. Non Governmental Organizations*). These guidelines address internal controls, financial accounting systems, and the requirement for full and fair competition and outline various courses of action available to Agreement Officers when violations occur. Included in 22 CFR 226.62 (*Enforcement*) is the authority for an Agreement Officer to disallow all or part of any transaction made by an implementing partner not in compliance with these regulations.

Title 18 U.S. Code Section 4 – Misprision of a Felony

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

Procedures

1. Initial Notification: When a USAID implementing partner becomes aware of a potential situation involving fraud, corruption, or false claims related to a USAID project, the OIG should be notified as soon as possible. The notification should be made to: http://www.usaid.gov/oig/hotline/contractor_complaint_frm2.html. In the event the allegations relate to an ongoing contract, the notification should also be sent to the contracting officer in accordance with FAR 52-203-13.

2. OIG Review and Consultation: Once the OIG receives the initial allegation, it will be reviewed and the organization submitting the report will be contacted to further discuss the matter. If the allegation involves ongoing criminal misconduct, the implementing partner should refrain from any activity that may interfere with any future or ongoing investigation. If the implementing partner is not certain how to proceed, they can contact OIG investigations in Washington or an investigator assigned to the servicing Regional Inspector General Office.

3. Investigation by OIG: In some cases, the OIG will initiate an investigation and will advise the implementing partner of what actions should be taken. When the OIG initiates an investigation, it is critical that the implementing partner cooperate and assist in preserving data that may be needed.

4. Investigation by Implementing Partner: In other cases, the OIG and the implementing partner may mutually agree that the implementing partner will conduct its own investigation of the allegations. The OIG and the implementing partner will mutually decide on a period of time for the inquiry. At the conclusion of the investigation, the implementing partner should provide the following information:

- a. A report of investigation outlining the investigative steps completed and the results.
- b. A copy of any personnel actions taken by the implementing partner as a result of the investigation.
- c. A summary of the financial impact, if any, of the activity investigated. This should include a detailed summary of any potentially disallowable costs (in accordance with either the FAR or 22 CFR 226 as appropriate) as well as any losses due to fraud or other inappropriate activity.

5. Disclosure of Information to USAID Compliance and Oversight of Partner Performance (COPP) Division: Once the investigation is completed, a copy of the above-listed documents should also be sent to the USAID COPP Division at compliance@usaid.gov as well as to the servicing contracting or agreement officer.