



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Inspector General

WHEN GOOD MONEY GOES BAD

True Stories of Fraud in the EPA Superfund Program

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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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True Stories of Fraud in the EPA Superfund Program

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 fraud, which may occur in the Superfund Program. 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 Superfund 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 indicators 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

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.

FRAUD CASE STUDIES

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.

False Statements and False Claims

Definition:

Any untrue statement or claim, knowingly made with the intent to mislead or defraud.

Indicators:

- Discrepancies between reported facts and supporting documentation.
- Inability or refusal to provide supporting documentation.

FRAUD CASE STUDIES

EPA Contract Laboratory Settles Civil Suit for \$200,000

While admitting no wrongdoing, an environmental laboratory located in Cary, North Carolina, entered into a \$200,000 Civil Settlement Agreement with the U.S. Attorney's Office for the Eastern District of North Carolina to settle allegations that the company submitted false claims to EPA.

The laboratory provided false analytical data to EPA under the Superfund Analytical Services Contract Laboratory Program. Specifically, the company failed to properly calibrate gas chromatograph/mass spectrometer (GC/MS) instruments used in the analysis of samples from EPA Superfund sites. Each invoice submitted to EPA that contained false analytical data resulted in a false claim.

The investigation determined that quality control standards were routinely bypassed, and that improper calibration procedures extended the "run time" of the GC/MS instruments, therefore producing false analytical data. Some analysts admitted that they had been following this procedure since as early as 1992. Three analysts involved in the improper calibration practice were criminally charged and entered guilty pleas in U.S. District Court. All three analysts received probation, fines or restitution, and community service, and were subsequently debarred. Because of missing data, it was not possible to determine which samples were affected by improper calibration and, therefore, which Superfund sites were potentially affected.

Contractor Enters into \$1 Million Settlement Agreement

A contractor entered into a \$1 million settlement agreement related to performing cleanup activities at the Tar Creek Superfund Site, Northern Ottawa County, Oklahoma.

While making no admission of wrongdoing or liability, the contractor entered into a \$1 million settlement agreement with the U.S. Department of Justice, Civil Division, and the U.S. Attorney's Office for the Northern District of Oklahoma.

In its case, the government alleged that between 1996 and 2003, the contractor submitted false representations and certifications in progress reports submitted to the government. The contractor also improperly billed costs during its performance of a U.S. Army Corps of Engineers contract funded by EPA to perform cleanup activities at the Tar Creek Superfund Site. These false representations and claims resulted in the government paying more for the cleanup contract than was necessary.

Specifically, it was alleged that the contractor:

- required truck drivers and others to falsely record, on truck tickets and other reports, more cubic yardage, truck loads, and/or full loads than were actually hauled;
- directed or caused truck drivers to give the false appearance that the trucks were being fully and efficiently utilized for their intended purpose;
- paid full salary to workers who had been injured on the job and therefore should have been paid worker's compensation benefits rather than wages; and
- billed the government for time and expenses associated with transporting injured workers to medical care.

The contractor also entered into a compliance agreement with the EPA Suspension and Debarment Division. According to the agreement, the contractor must continue to maintain its internal audit program, program efficiency and cost accountability system, code of business conduct, and ethics and compliance training program.

This investigation was conducted jointly with the Defense Criminal Investigative Service and the U.S. Army Criminal Investigation Command.

Printing Company Sentenced to Making False Statements

A Puerto Rican printing company was convicted of making false statements to EPA and the Puerto Rico Environmental Quality Board (EQB). The company was sentenced to 4 years of probation, a \$750,000 fine, and an \$800 special assessment. In addition, the former President and Chief Executive Officer of the firm was convicted of negligent discharge of a pollutant into waters of the United States and sentenced to 3 years of probation, a \$25,000 fine, and a \$25 special assessment. These judicial proceedings occurred in the U.S. District Court for the District of Puerto Rico.

The company created a variety of wastes and byproducts from its printing business, including ink, which were placed in drums and transported to “La Finca” on a regular basis. EPA requested information from the company pursuant to Section 104 (e) of the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund). This information pertained to the hazardous substances and industrial wastes that were used, stored, generated, disposed of, or otherwise handled by them at the “La Finca” location. The company responded by telling EPA the company had not disposed of any industrial waste at “La Finca” even though they knew that they had placed, stored, handled, and disposed of industrial waste at the site.

In addition, EQB requested information and documents from the company concerning the disposal of industrial liquid waste. In response to that request, the company submitted fraudulent “dump tickets” or manifests reflecting the disposal of the liquid industrial waste at the Puerto Nuevo wastewater treatment plant, even though this plant was closed and not accepting industrial wastewater.

The president of the printing company was also the vice president of another company. That company used a variety of inks and generated ink and other liquid wastewater which was housed in an outside wastewater storage tank. During an inspection, EQB discovered a rupture in a pipe leading to the outside storage tank. The rupture caused blue ink and other wastewater to reach the Loiza River via a creek that was located behind the manufacturing facility. The company did not have a permit to discharge into the creek or the Loiza River. They failed to contain the release, thereby allowing the waste to enter into the ground water and the Loiza River.

This investigation was conducted with the EPA Criminal Investigation Division.

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.

