

Contract Administration

Activity 46: Fraud and Exclusion

Indicators and reporting of fraud.

Related Flow Charts: [Flow Chart 46](#)

Related Courses: [CON 127](#), [CON 090](#), [CON 216](#)

Related Tools: [Federal Awardee Performance and Integrity Information System \(FAPIIS\)](#), [Past Performance Information Retrieval System \(PPIRS\)](#), [Contractor Performance Assessment Reporting System \(CPARS\)](#), [System for Award Management \(SAM\)](#)

Tasks	FAR Reference(s)	Additional Information
1. Brief contractors and Government representatives on federal statutes and regulations regarding fraud and other civil or criminal offenses.	<p>FAR Subpart 3.1 Safeguards [improper business practices and personal conflicts of interest].</p> <p>FAR Subpart 3.2 Contractor gratuities to government personnel.</p> <p>FAR Subpart 3.3 Reports of suspected antitrust violations;</p> <p>FAR 3.402 Statutory requirements [contingent fees].</p> <p>FAR 3.502 Subcontractor kickbacks.</p> <p>FAR 3.503 Unreasonable restrictions on subcontractor sales.</p> <p>FAR Subpart 3.6 Contracts with government employees or organizations owned or controlled by them.</p> <p>FAR 3.802 Statutory prohibition and requirement [limitation on the payment</p>	<p>Reduce the chances for violation of laws out of ignorance by alerting contracting officer's representatives (CORs) and contractors to acts of cheating or dishonesty that contribute to a loss or injury to the Government. A postaward conference is an excellent forum for such action. Examples of such acts include:</p> <ul style="list-style-type: none">• Falsification of documents such as timecards or purchase orders;• Charging personal expenses to Government contracts;• Submitting false claims such as invoices for services not delivered;• Intentional mischarging or misallocation of costs;• Practices that violate antitrust laws (e.g. an industry price list);• Deceit by suppression of the truth;• Bribery;• Corrupt payments which violate the Foreign Corrupt Practices Act;

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	<p>of funds to influence federal transactions].</p> <p>FAR Subpart 3.10 Contractor code of business ethics and conduct.</p> <p>FAR Subpart 3.11 Preventing personal conflicts of interest for contractor employees performing acquisition functions.</p> <p>FAR Subpart 9.4 Debarment, suspension, and ineligibility.</p> <p>FAR 22.809 Enforcement [equal employment opportunity].</p> <p>FAR Subpart 22.17 Combating trafficking in persons.</p>	<ul style="list-style-type: none"> • Theft; • A government employee acquiring a financial interest in or seeking employment with a contractor over which the employee exercises oversight; • A Government employee owning or controlling a firm doing business with the Government; • Kickbacks; • Any unlawful or fraudulent acts resulting from accounting classification practices designed to conceal the true nature of expenses (e.g., classifying unallowable advertising or entertainment costs as office supplies); • Product substitution; • False certification that tests were performed; or • Any conspiracy to engage in, or use, the above acts.

2. Identify indications of fraud or other wrongdoing by offerors or contractors.

N/A

Indications of fraud or other wrongdoing are commonly identified though:

- Allegations by:
 - Disgruntled participants;
 - Company employees aware of the actions of others;
 - Government employees (e.g. the cognizant auditor or COR);
- Inconsistencies or inaccuracies in product or pricing information provided in quotes or offers; and
- Inconsistencies or inaccuracies in reports and other information submitted by the contractor during contract performance.

Tasks	FAR Reference(s)	Additional Information
<p>3. Report any suspicion of fraud and other civil or criminal offenses.</p>	<p>FAR 3.203 Reporting suspected violations of the gratuities clause [contractor gratuities to government personnel].</p> <p>FAR 3.303 Reporting suspected antitrust violations.</p> <p>FAR 3.405 Misrepresentation or violations of the covenant against contingent fees.</p> <p>FAR 3.806 Processing suspected violations [limitation on the payment of funds to influence federal transactions].</p> <p>FAR 49.106 Fraud or other criminal conduct [termination of contracts].</p>	<p>Report any suspicion of fraud or other wrongdoing in accordance with FAR, agency, or other appropriate policies.</p>

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4. Advise whistleblowers on seeking protection from contractor reprisal.	FAR Subpart 3.9 Whistleblower protections for contractor employees.	<p>Government contractors are prohibited from discharging, demoting or otherwise discriminating against an employee as a reprisal for disclosing information to a Member of Congress, or an authorized official of an agency or of the Department of Justice, relating to a substantial violation of law related to a contract (including the competition for or negotiation of a contract).</p> <ul style="list-style-type: none"> • Advise any whistleblower who complains of reprisal: <ul style="list-style-type: none"> ○ To file a written complaint with the agency Inspector General. The complaint must be signed and include: <ul style="list-style-type: none"> ▪ The name of the contractor; ▪ The contract number, if known; if not, a description reasonably sufficient to identify the contract(s) involved; ▪ The substantial violation of law giving rise to the disclosure; ▪ The nature of the disclosure giving rise to the discriminatory act; and ▪ The specific nature and date of the reprisal. • To review the Inspector General's report and submit a written response to the head of the agency or designee within 30 days. • If the head of the agency or designee determines that a contractor has subjected the employee to a reprisal, the contractor will be ordered to rectify the situation in accordance with FAR 3.906.

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<p>5. Inform other officials who have a need to know about investigations of fraud or other civil or criminal offense.</p>	<p>FAR 3.907-3 Procedures for filing complaints [Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (the Recovery Act)].</p>	<p>Depending on the suspected violation, advise government officials with a need to know, such as:</p> <ul style="list-style-type: none"> • Legal counsel. • Requiring activity (after consultation with the Inspector General about what may be disclosed). • Department of Labor for labor law violations. • COR. <p>Follow FAR, agency, or other appropriate procedures in informing the official(s) with a need to know.</p>
<p>6. Provide additional information requested by responsible officials.</p>	<p>N/A</p>	<p>Fully support investigation of any suspected fraud or other wrongdoing.</p>