

## Contract Administration

# Activity 46: Fraud and Exclusion

*Indicators and reporting of fraud.*

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

**Related Courses:** CLM 049 (Procurement Fraud Indicators)

**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
<p>1. Brief contractors and Government representatives on federal statutes and regulations regarding fraud and other civil or criminal offenses.</p>	<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 of funds to influence federal</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"> <li>• Falsification of documents such as timecards or purchase orders;</li> <li>• Charging personal expenses to Government contracts;</li> <li>• Submitting false claims such as invoices for services not delivered;</li> <li>• Intentional mischarging or misallocation of costs;</li> <li>• Practices that violate antitrust laws (e.g. an industry price list);</li> <li>• Deceit by suppression of the truth;</li> <li>• Bribery;</li> <li>• Corrupt payments which violate the Foreign Corrupt Practices Act;</li> </ul>

Tasks	FAR Reference(s)	Additional Information
	<p>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"> <li>• Theft;</li> <li>• A government employee acquiring a financial interest in or seeking employment with a contractor over which the employee exercises oversight;</li> <li>• A Government employee owning or controlling a firm doing business with the Government;</li> <li>• Kickbacks;</li> <li>• 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);</li> <li>• Product substitution;</li> <li>• False certification that tests were performed; or</li> <li>• Any conspiracy to engage in, or use, the above acts.</li> </ul>

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>

Tasks	FAR Reference(s)	Additional Information
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"> <li>• Advise any whistleblower who complains of reprisal: <ul style="list-style-type: none"> <li>○ To file a written complaint with the agency Inspector General. The complaint must be signed and include: <ul style="list-style-type: none"> <li>▪ The name of the contractor;</li> <li>▪ The contract number, if known; if not, a description reasonably sufficient to identify the contract(s) involved;</li> <li>▪ The substantial violation of law giving rise to the disclosure;</li> <li>▪ The nature of the disclosure giving rise to the discriminatory act; and</li> <li>▪ The specific nature and date of the reprisal.</li> </ul> </li> </ul> </li> <li>• To review the Inspector General’s report and submit a written response to the head of the agency or designee within 30 days.</li> <li>• 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.</li> </ul>

Tasks	FAR Reference(s)	Additional Information
<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"> <li>• Legal counsel.</li> <li>• Requiring activity (after consultation with the Inspector General about what may be disclosed).</li> <li>• Department of Labor for labor law violations.</li> <li>• COR.</li> </ul> <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>