

# IF YOU BUILD IT, THEY WILL COME

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# PROCUREMENT FRAUD



Some of the most damaging corruption impacting the stability of an organization rest in the form of procurement fraud.

# PROCUREMENT FRAUD



When government sets out to build its procurement system, corrupt individuals will come and work to take dishonest advantage of what has been built.

# PROCUREMENT FRAUD



While corruption can infect society in many forms; it is in the procurement process where a fraudster will have access to significant amounts of money

# WHAT TO EXPECT



Success in procurement investigations rests on a clear understanding of the basic elements that constitute the different types of fraud facing an auditor or investigator.

# WHAT TO EXPECT

It is essential to note that when conducting procurement fraud investigations, an auditor or investigator will likely encounter elements of the following crimes:

- ▶ False filings
- ▶ Falsification of records.
- ▶ Environmental crimes
- ▶ Prevailing Wage Fraud
- ▶ Change Order Fraud
- ▶ Bid Rigging
- ▶ MWBE Fraud

# RECIPE FOR FRAUD

- ▶ Concealment of a material fact or a false representation.
- ▶ Knowledge on the part of the person making the false representation that it is, in fact, false, or gross negligence.
- ▶ Intent to deceive.
- ▶ Reliance on the false representation.
- ▶ Injury to the party relying on the false representation.

# FOUR TYPES OF FRAUD



There are four types of fraud that I would like to touch on today:

- ▶ Program Fraud
- ▶ Contract Fraud (specification and solicitation)
- ▶ MWBE Fraud
- ▶ Change Order Fraud

# PROGRAM FRAUD



- ▶ In this type of fraud, there will be an effort made to misappropriate funds or resources from a government program.
- ▶ I have conducted numerous investigations into government program frauds.
- ▶ It is amazing to see how creative criminals are and how many new and unexpected methods they use to commit fraud.

# PROGRAM FRAUD

- ▶ In every case, the harm extends much further than the “undefined government.”
- ▶ In fact, the injury almost always reaches ordinary people, families, and children, people who are legitimately in need.
- ▶ Such families are often forced to remain in shelters because the funds or vouchers intended to help them obtain permanent housing, or some other program need were misdirected in return for the personal profit of the fraudster.

# PROGRAM FRAUD



- ▶ Children have been left in abusive households undetected because those charged with caring for them were busy trying to be successful in hatching schemes instead of focusing on the needs of the children.
- ▶ Program fraud is not just about stealing money; it is also about stealing lives.

# CONTRACT FRAUD



Contract fraud can be separated into several categories. Generally, we find that a dishonest vendor who is involved in one aspect of contract fraud is likely involved in others, as well.

# BID RIGGING

- ▶ Bid-rigging schemes have the potential to do significant harm to the contracting process.
- ▶ A successful bid-rigging scheme can increase project cost and compromise the procurement process on multiple levels.
- ▶ Corrupt individuals usually work independent of government officials when attempting to execute bid-rigging schemes.

# BID RIGGING



- ▶ In these schemes, there is a heavy reliance on the cooperation of conspirators to do their part in controlling which conspiring vendor will get the contract.
- ▶ Bid rigging is a difficult scheme to prove. It requires detailed document review and, in most cases, the cooperation of a participating conspirator.

# KICKBACKS

- ▶ In almost all cases involving kickback schemes, the conspirator making the illegal payment will pass this expense onto the government and, ultimately, the people.
- ▶ There is no reason to believe that an untrustworthy vendor will cover the expense of the kickback out of his profits.

# INTENTIONAL DELIVERY OF INFERIOR GOOD

- ▶ Inferior goods are not just a matter of getting brand X, instead of a name-brand product without any further consequences.
- ▶ There are times that inferior speaks to the fact that the structure built is not what was agreed to in the contract.
- ▶ The medication administered does not cure as claimed.
- ▶ The protective equipment being used by government officials cannot protect as advertised.
- ▶ The use of inferior goods can literally mean the difference between life and death.

# CHANGE-ORDER FRAUD



- ▶ Change orders are formal changes or amendments to a contract, which is a legal document, and are themselves legal documents.
- ▶ Once a change order is executed, it becomes part of the contract and cannot be unexecuted. The only way to make further modification to a contract is through another change order.

# CHANGE-ORDER FRAUD

- ▶ One way in which change-order fraud occurs is when a contractor is paid based on an approved change order, but the work was not actually performed.
- ▶ Another way is when the work on the approved change order was already provided for in the original contract, and the contractor colludes with a procurement official to approve the unjustified request for a change order.

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# CHANGE-ORDER FRAUD



- ▶ Change-order fraud can occur in a multitude of disguises.
- ▶ The success of many change-order schemes is based on the confidence of the corrupt contractor or procurement official that a fraudulent change order could be processed without detection, resulting in substantial profit for the conspiracy team.

# CHANGE-ORDER FRAUD

- ▶ In many cases, contractors will bid low on a project to ensure that they win the contract.
- ▶ It is their reliance on an established relationship with a procurement official, or the vendor's ability to manipulate the procurement process that in his mind ensures the processing of fraudulent change orders and a profit.
- ▶ Change-order fraud is not just a matter of fraudulent cost increase. It can also involve inferior goods and unsafe products.

# MWBE FRAUD



- ▶ Pass-Through Companies
- ▶ Bogus Utilization plans
- ▶ Using Staff members as Fronts
- ▶ Altered or Inflated Invoices

# BRIBERY



- ▶ Offering a bribe involves an attempt to influence a public servant to compromise the authority bestowed upon him in support of the people.
- ▶ The individual offering the incentive will offer something of value to the public servant in an effort to persuade him to betray that authority and public trust.

# BRIBERY



- ▶ Soliciting a bribe involves an attempt by someone entrusted to act properly upon the authority bestowed upon him or her to betray that trust and seek payment in exchange for taking improper actions that would undermine his or her public position of trust.
- ▶ It does not matter who takes the first steps in bringing the inducement to life; either participant can be charged with the crime, whether soliciting, accepting, or offering the bribe.
- ▶ Make no mistake, at the end of the day, the acceptance of a bribe by a public official is simply an act of betrayal.

# GRATUITIES



- ▶ Unscrupulous individuals laying a foundation intended to influence government employees view unlawful gratuities as an investment.
- ▶ Sometimes it is a short-term investment, and other times it is intended to be a long-term investment.
- ▶ Recognize that it is an investment, and it is not intended to benefit the people.
- ▶ Recognizing a gratuity is not always as easy as recognizing a bribe.

# EXAMPLES OF FRAUD



- ▶ Heating oil fraud scheme
- ▶ Beep Away
- ▶ Solicitation of Computers
- ▶ Bonds
- ▶ Bogus Utilization Plans
- ▶ Charging of Personal Expenses

# PROACTIVE



- ▶ Conspiracies can occur in a multitude of forms as they penetrate the procurement process.
- ▶ They can take place among employees, contractors, vendors, and politicians.
- ▶ Auditors and Investigators must be mindful of this and, become proactive in uncovering frauds.

# REMOVE THE BLINDERS



- ▶ The success of most procurement fraud schemes rests on a lack of communication among the honorable players involved in the procurement process.
- ▶ In most cases, as the scheme is being executed, someone in the procurement process gets a sense that something is not right.

# REMOVE THE BLINDERS



- ▶ Rather than responding to that inner sense that something has gone amiss, many employees will simply clear their throat and say nothing about what their expertise and experience are telling them.
- ▶ The corrupt individual relies on the inaction of the honest man wearing blinders.