



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT POLICY

November 14, 2008

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS
SENIOR PROCUREMENT EXECUTIVES

FROM: Lesley A. Field
Deputy Administrator

SUBJECT: Preventing Fraud in Federal Contracting

The government remains committed to detecting and deterring fraud in federal contracting. As this is a shared responsibility, I ask that you advise your agencies of the affirmative steps being taken to combat and prevent this unacceptable activity, and reiterate the steps your agency is taking to deter fraudulent contracting actions in your agencies.

The Federal Acquisition Regulation (FAR) was recently changed to require contractors to disclose violations of criminal law and the False Claims Act in connection with award and performance of government contracts and subcontracts. Contractors are subject to debarment and suspension from government contracting for knowingly failing to disclose such violations and overpayments on government contracts in a timely manner. Contractors are also required to establish internal control systems to facilitate timely disclosure of improper conduct and fully cooperate with government agencies responsible for audit, investigation, and corrective actions. This FAR change, which is effective on December 12, 2008, was published in the Federal Register on November 12, 2008 (73 FR 67064).

This FAR change is in addition to another recent FAR amendment that requires government contractors to have a written code of business ethics and an ethics compliance training program for contractor employees, and to post “fraud hotline” posters at contractor worksites, which encourage contractor employees to report fraudulent activity in connection with performance and award of government contracts.

In October 2006, the Office of the Deputy Attorney General announced the formation of the National Procurement Fraud Task Force (the Task Force) to promote the early detection, prevention, and prosecution of procurement fraud associated with increased contracting activity for national security and other government programs. More than 350 civil and criminal procurement fraud cases were filed since the Task Force began its efforts. The Task Force, which is chaired by the Assistant Attorney General of the Criminal Division, coordinates its efforts with the U.S. Attorneys’ Offices, the Justice

Department's Civil, Antitrust, Environmental and Natural Resources, National Security, and Tax Divisions, other law enforcement agencies, and the office of Management and Budget. One of the key objectives of the Task Force is to increase coordination and strengthen partnerships among all Inspectors General (IGs), law enforcement, and the Department of Justice to fight and eliminate procurement fraud. The Task Force works with contracting and audit offices and the private sector to more effectively detect and report fraud.

Additionally, the Task Force has a Web site that provides significant resources regarding fraud training, reporting, and other information that agencies will find helpful as they guard against unethical behavior by their contractors and employees. Please ensure that all of your acquisition professionals have access to this information on <http://www.usdoj.gov/criminal/npftf/>.

All agencies must take immediate actions before the effective date of the FAR change to inform their acquisition workforce of the FAR changes described above, the resources provided by the National Procurement Fraud Task Force, and their workforce's responsibilities to deter procurement fraud. Actions might include issuing agency guidance, memoranda, or other communications.

Agencies that are required to have Chief Acquisition Officers pursuant to the Services Acquisition Reform Act (P.L. 108-136) shall report to the Office of Federal Procurement Policy the steps taken to disseminate this information and to disseminate agency specific policies or requirements related to deterring procurement fraud. Please send this information to Mike Gerich, at mgerich@omb.eop.gov, no later than December 10, 2008.

Thank you for your attention to this serious matter.