

SLFRF FRAUD, WASTE AND ABUSE GUIDE

This document is an informational guide to provide a basic understanding of Fraud, Waste and Abuse. Differences in organizations and programs may require variations to the analysis. This reference guide does not make any assurances or promises, does not create an advisory relationship, and does not supplant the need to understand Federal, State, and Local requirements.

Fraud

Fraud is defined as the wrongful or criminal deception intended to result in financial or personal gain. Fraud includes false representation of fact, making false statements, or by concealment of information. Examples include, but are not limited to, the following:

- Falsification of information during the applications or procurement process
- Billing for services not rendered or duplication of payments
- Alteration of documents or forgery, which may include contracts, purchase orders, and invoices
- Bribery or kickbacks
- False claims or bid rigging
- Theft, embezzlement, or other misapplication of funds or assets
- Impropriety with respect to reporting financial transactions
- Falsifying eligibility

Fraud Quick Guide (Be on the lookout!)

The list of general fraud indicators presented below is not meant to be all-inclusive and should not preclude program staff from identifying and considering other indicators. However, the items presented below should raise awareness to a greater possibility of fraud occurring or being present:

- Management override of key controls
- Lack of documented or monitored internal controls
- Lack of, or outdated, processes and procedures
- Lack of separation of duties and chain of command



- Overly complex organizational structure
- Key employee never taking leave or vacation
- High turnover rate, reassignment, firing of key personnel
- Missing or destroyed electronic or hard copy documents
- Poor quality or illegible photocopied documents
- “Unofficial” electronic files or records instead of “archived” or “official” files or records
- Unsupported revisions or alterations to data files or records
- File modification dates that do not fit the appropriate timeline for when they were created
- Missing signatures of approval or discrepancies in signature/handwriting
- Computer report totals that are not supported by source documentation
- Lengthy unexplained delays in producing requested documentation

Waste and Mismanagement

Waste and mismanagement is defined as the thoughtless or careless expenditure, mishandling, and/or abuse of resources to the detriment (or potential detriment) of the U.S. Government. Failure to comply with laws, rules, and regulations could lead to incurring unnecessary costs resulting from inefficient or ineffective practices, systems, or controls. Incurring these unnecessary costs may constitute waste and mismanagement of federal funds. Some examples included, but are not limited to, the following:

- Purchasing unnecessary supplies, material, and equipment
- Purchasing supplies material, and equipment without regard of cost
- Using supplies, materials, and equipment carelessly resulting in unnecessary waste and replacement

Abuse

Abuse is defined as excessive or improper use of a thing, or to use something in a manner contrary to the natural or legal rules for its use. Abuse can occur in financial or non-financial settings. Examples include, but are not limited to, the following:



- Making procurement or vendor selections that are contrary to existing policies or are unnecessarily extravagant or expensive
- Receiving favor for awarding contracts to certain vendors
- Using one's position for personal gain or to gain an advantage over another
- Taking excessively more time than necessary to perform a task or function

Whistleblower Protection

Colorado Whistleblower Laws

The Whistleblower Protection Act (WPA) (5 U.S.C. § 2302(b)(8)) protects Federal employees or applicants for Federal employment from retaliation for making protected disclosures. The WPA also provides penalties for supervisors who retaliate against Whistleblowers.

At the state level, Colorado has two statutes that protect whistleblowers. One statute, Colorado Revised Statutes Section 24-50.5-103, protects public (state) employees, while the other statute, Colorado Revised Statutes Section 24-114-102, protects private sector employees.

For public employees, the statute provides that any employee who provides or discloses information regarding illegal policies or actions not in the public interest may not be retaliated against. This protection does not apply to:

1. Employees who disclose information that they know to be false or who disclose information with reckless disregard for its truth;
2. Employees who disclose information from public records which are closed to public inspection;
or
3. Employees who disclose other confidential information.

A public employee must file a written complaint within 30 days from the incident of retaliation, and may file a lawsuit only if the complaint is denied. Whistleblower retaliation is **any adverse action that a company takes against an employee because he or she has reported, either internally, illegal conduct on the part of a company**. Termination is an extreme form of retaliation.



For private employees, the statute also prevents retaliation, with exceptions similar to those listed above for public employees. However, an important requirement is that the employee must make an effort to provide the information directly to their supervisor or other internal authority before disclosing it to an outside source. Unlike the public sector statute, private employees may bring a civil lawsuit for wrongful termination or termination in violation of public policy without going through a formal complaint process

Steps to Take Prior to Award

Recipients of federal funds must have strong internal controls, Internal Controls, in place from the beginning of the program/projects prior to awarding funds to applicants. In addition to developing internal controls (including processes and procedures), below are some steps that must be taken by recipients awarding funds to applicants:

Verify that the applicant or contractor is not listed as suspended or debarred on Sam.gov. Entities and persons found on these lists are ineligible to participate in federally funded programs.

Perform a Duplications of Benefits (DOB), Duplication of Benefits, check to ensure that there is no duplication of benefits. A DOB occurs when an entity or person receives funds from various sources for the same purpose and the total funds received for that purpose is more than the total amount needed to address the need. If an actual DOB check is not performed by the recipient, the recipient may require that subrecipients complete a DOB Certification form which must be maintained in the records.

An organization should have policies and procedures which address the inner workings and operations of the organization and grants management (including an organizational/staff chart). In addition, staff should be trained on the types of fraud, waste, and mismanagement – including the review of the “Categories and Indicators of Risk” chart in this document -- to be aware of the types of fraud that occur in various tasks and programs. Staff also need to be trained to know what to do, why, and when to report suspected activity.

Establish an Anti-Fraud Waste and Abuse Hotline or other communication channels that can be clearly communicated to the public when promoting funding opportunities. This channel will allow anyone



with evidence of fraud, waste, or abuse activity to report such activity to the prime recipient responsible for compliance and oversight of federal expenditures. For example, the State of Colorado maintains a portal for the report of fraud, waste, or abuse of State funds, <https://coag.gov/file-a-complaint/report-waste-fraud-and-abuse/>.



Waste, Fraud, and Abuse Reports

If you have evidence of fraud, waste, or abuse activity, report such activity to management, an oversight agency, or legal authorities for further investigation.

Best practice would be for the entity to have adopted a written policy, and to follow it. Typical steps in the handling of waste, fraud and abuse reports include:

The report, disclosure or tip is received and reviewed,

The report and evidence provided is evaluated to validate it coincides with waste, fraud, or abuse, and further documentation may be requested,

The report will be referred to the appropriate authorities (such as the U.S. Department of Treasury),

An investigation will be undertaken and completed, and

Based on findings resulting from the investigation, prosecution or other appropriate action will be taken.

