

Procurement Fraud

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What is procurement fraud?

- During the contract procurement process
- During contract performance
- During invoicing process
- During certification process
- During selection of subcontractors
- During administration of subcontracts

Why does it matter?

- Disruption to business
- Investigation expenses
- Disclosure obligations
- Monetary liability
- Potential criminal liability
- Potential suspension or debarment

Fraud during procurement process

- Misrepresentations in proposals
 - Status as small business
 - *U.S. ex rel. Longhi v. Lithium Power Techs.*
 - Eligibility and qualifications
- Fraud in the inducement
 - Bribes and Kickbacks
 - Bid rigging
 - *U.S. ex rel. Bunk v. Gosselin World Wide Moving, N.V.*

Fraud during contract performance

- Product substitution
 - Use of expired material
 - Failing to meet specifications
- Improper testing
- Misuse of government property
- Unauthorized substitution of personnel
- Failure to comply with contract provisions, statutes and regulations (post-*Escobar*)

Fraud during invoicing

- Labor mischarging
 - Overstating labor hours and/or rates
 - Direct vs. Indirect
- Material mischarging
- Use of improper rates
- Inclusion of unallowable costs

Fraud in certifications

- Truth in Negotiations Act
 - CyTerra Corporation settlement
- Davis-Bacon Act
 - *U.S. ex rel. Wall v. Circle C Constr.*
- Environmental Regulations
- Country of Origin

Subcontractors

- Failure to comply
- Failure to monitor compliance
- Unjustified reliance on certifications
- Failure to verify qualifications

What makes it “fraud”?

- Actual knowledge
- Reckless disregard or deliberate ignorance
 - Includes failure to make simple inquiries which would have alerted to falsity
- More than negligence
 - Bad math is not fraud
 - Common failures of engineers is not fraud

Questions?

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