Contract and Procurement Fraud

Detection and Prevention
Introduction

- Procurement schemes have certain characteristics that make them particularly difficult to detect and prevent.

- Organizations can protect themselves by:
  - Instituting ethics and compliance programs that ensure reporting, accountability, and oversight
  - Establishing tailored, proactive procurement fraud detection and prevention programs
Ethics and Compliance Program

- An effective ethics and compliance program is the foundation for all anti-fraud efforts.
- The Corporate Sentencing Guidelines can multiply or mitigate penalties for violations based on whether the organization has an effective, values-based ethics and compliance program in place.
Elements of an Effective Ethics and Compliance Program

- Establishing standards and procedures
- Assigning responsibility for compliance
- Conducting due diligence in hiring/delegation
- Communicating standards and procedures
  - Training programs
Elements of an Effective Ethics and Compliance Program

- Achieving compliance
  - Monitoring and auditing systems
  - Reporting system
- Enforcing standards through disciplinary action
- Appropriately responding to detected offenses
A proactive procurement fraud detection and prevention program includes:

- Fraud risk assessments
- A tailored anti-fraud program
- A response plan that outlines how to react when suspicious activity arises
Conduct a Fraud Risk Assessment

- Help an organization’s leadership recognize what makes it most vulnerable to fraud
- Should address the nature and extent of the procurement fraud risks to which an entity is exposed
- Should be foundation for internal controls and procedures
Fraud Risk Assessment: Preliminary Issues

- Who will perform the assessment?
- To whom and how will the assessment be reported?
- How can technology and data analytics be used in the risk assessment process and ongoing compliance efforts?
- How will the assessment results be integrated into the company’s overall anti-fraud efforts?
- How will the assessment results be used to fine-tune fraud-prevention programs?
Framework for Fraud Risk Assessment

- Submit a preliminary request list.
- Identify the risks.
- Identify potential fraud schemes relevant to the risks.
- Obtain information.
- Evaluate and prioritize the risks.
- Implement mitigating controls.
Develop a Tailored Anti-Fraud Program

- Anti-fraud policies and procedures
- Ethical tone at the top
- Employee education
- Annual review
Develop a Tailored Anti-Fraud Program

- Management oversight
- A reporting system
- Process-level internal controls
- Monitoring activities
Establish a Response Plan

- Outline how to react when suspicious purchasing-related activity arises.
- Identify who in the organization handles various fraud matters under different circumstances.
Establish Reporting Protocols

- Necessary to ensure that designated executives are notified immediately to enable a prompt response
- Indicate how to communicate the incidents to the appropriate level of management
Identify Factors Used to Conduct a Preliminary Investigation

- Possible factors to consider include:
  - The credibility of the evidence
  - The subject of the allegation
  - The seriousness of the allegation
  - The levels of employees allegedly involved
  - The government’s involvement
Install Measures to Preserve Relevant Information

- Litigation hold
- Adverse consequences of failing to preserve relevant information:
  - Questioning the integrity of the fraud investigation
  - Monetary fines and sanctions
  - Adverse inference jury instruction sanctions
  - Dismissal of claims or defenses
Consider the Need for Voluntary Disclosure

- Voluntarily reporting misconduct can result in reduced fines and other forms of leniency.
- Government contractors are required to disclose credible evidence of criminal violations, civil violations, and significant overpayments.