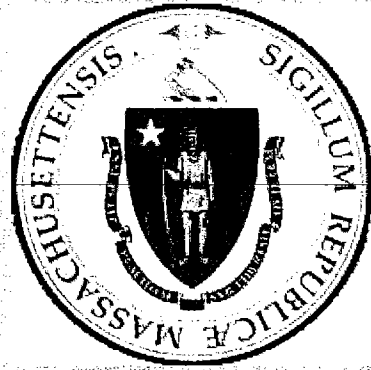
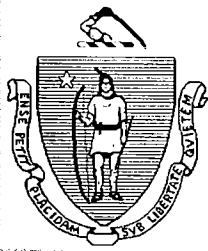


A Toolkit for Departments to Combat Fraud, Waste and Abuse



Comptroller of the Commonwealth

November 2009



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November 2009

Commonwealth Fiscal Officers:

This past spring, as part of this Office's mission to assure taxpayers that their funds are expended as intended, we initiated a series of fraud prevention efforts. One of the results of this effort was the creation of a compliance/best practice working group to discuss ways the Commonwealth can better work to prevent fraud and waste in government.

This group is comprised of Chief Financial Officers and Internal Control Officers. With assistance from the Governor's Recovery and Reinvestment Office and Attorney General Coakley's STOP Fraud Task Force, we are pleased to release the first in a series of tools and trainings specifically targeted to assist departments in fraud prevention efforts. This tool is designed to complement the existing materials on the Internal Control section of our website.

The most important message to take from this guide is that fraud prevention and detection must be a part of each employee's job. We need to remind employees of the competing responsibilities of treating taxpayers as customers while simultaneously maintaining a skeptical eye for those who are attempting to defraud us. As technology continues to provide us with new tools to do our jobs, it provides those who would defraud us with these same tools. Information security competes with hackers who try to break into our systems. Social engineers will link bits of public information into a web of lies that will make them appear credible. They will attempt to use our employees to defraud us.

We must not become complacent.

Incorporate into your businesses practices or performance metrics procedures to detect and prevent fraud. We hope this document helps in that effort. As always, thoughts and comments on how to improve this document and tools to assist in detecting fraud are always welcome.

Martin J Benison

All Fraud, Waste and Abuse Have The Same Pattern:

Pressure/Motivation

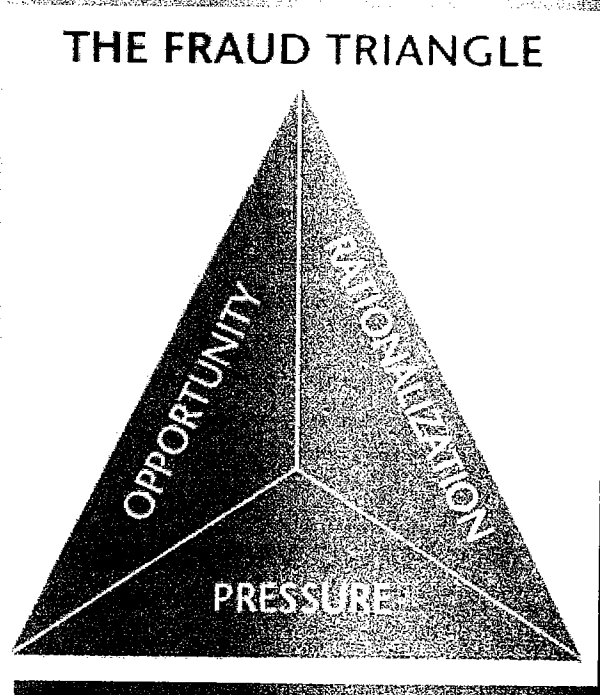
There Is a Will to Commit Fraud, Waste and Abuse

Opportunity

There Is Minimal Oversight or Lack of Controls within the Organization

Rationalization

Individuals Who Commit Fraud, Waste and Abuse View it as an Accepted Practice or Part of Their Rights as a Contractor or Employee



What Is Fraud?

There are a number of different definitions, but fraud is largely a deliberate deception to secure an unfair gain. This could be a monetary, contractual or other type of advantage that is unlawful.

What are some of the common types of fraud that governments may experience?

- Bid Rigging
- Bribery
- Conflicts of Interest
- Minority Business Enterprise / Disadvantaged Business Enterprise or Women-Owned Business Enterprise Fraud
- Kickbacks or Unlawful “pay to play”
- Materials, Equipment and Supplies Overcharging
- Product Substitution
- Quality-Control Testing
- Time Overcharging
- Unlawful Use of Public Assets



“Red Flag” or Fraud Indicators

Red flag indicators are activities that may indicate trouble in any process. These are best described as clues or hints that something outside the norm is/has occurred and that a closer look at an area or activity is required. These indicators include, but are not limited to:

“Red Flag” or Fraud Indicators – Bid Rigging and Collusion

In bid rigging and collusion, contractors misrepresent that they are competing against each other when, in fact, they have agreed to cooperate on the winning bid to increase job profit.

- Unusual bid patterns: too close, too high, round numbers, or identical winning margins or percentages
- Different contractors making identical errors in contract bids
- Bid prices dropping when a new bidder enters the competition
- Rotation of winning bidders by job, type of work, or geographical area
- Losing bidders hired as subcontractors
- Apparent connections between bidders: common addresses, personnel, or telephone numbers
- Losing bidders submitting identical line-item bid amounts on non-standard items
- Persistent high prices by all bidders
- Joint venture bids by firms that usually bid alone
- Losing bids do not comply with bid specifications or only one bid is complete and other bids are poorly prepared
- “Sole sourcing” increases the likelihood of fraud, waste and abuse.



“Red Flag” or Fraud Indicators – Bribery

Bribery occurs when a contractor misrepresents the cost of performing work by compensating a public official for permitting contract overcharges to increase contractor profit. These indicators include, but are not limited to:

- A public official or employee has a lifestyle that exceeds his or her salary
- Oversight officials socialize with, or have business relationships with, contractors or their families
- Involvement of an unnecessary middleman or broker
- A contracting employee declines a promotion to a non-procurement position
- A contracting employee insists contractors use a certain sub-contractor or broker
- A contracting employee shows a keen interest in the award of a contract or purchase order to a particular contractor or vendor
- A contract change order lacks sufficient justification
- Other inspectors at the job site notice a pattern of preferential contractor treatment



“Red Flag” or Fraud Indicators – Conflicts of Interest

In fraud involving conflict of interest, a public official misrepresents that he or she is impartial in business decisions when he or she has an undisclosed financial interest in a contractor or consultant. These indicators include, but are not limited to:

- Unexplained or unusual favoritism shown to a particular contractor or consultant
- A public official disclosing confidential bid information to a contractor or assisting the contractor in preparing the bid
- A public official having discussions about employment with a current or prospective contractor or consultant
- A close socialization with and acceptance of inappropriate gifts, travel, or entertainment from a contractor or the ability to purchase such items at below fair market value
- A vendor or consultant address being incomplete or matching an employee’s address
- A public official leasing or renting equipment to a contractor for performing contract work
- A contracting or purchasing employee lives beyond his or her means
- A public official who is named as a designated employee fails to file Conflict of Interest or Financial Disclosure forms in accordance with Massachusetts General Laws Chapter 268B
- A public employee declines promotion from a procurement position



“Red Flag” or Fraud Indicators –

Minority Business Enterprise/Disadvantaged Business Enterprise or Women Business Enterprise Fraud

Under this scheme, a contractor misrepresents who performed the contract work in order to increase job profit while appearing to be in compliance with contract goals for involvement of minority (MBE), disadvantaged (DBE) or women (WBE) businesses in accordance with Executive Order 390, General Laws Chapter 7, Section 40N and 49CFR parts 23 and 26. These indicators include, but are not limited to:

- A business owner lacking background, expertise, or equipment to perform sub-contract work
- A situation where employees are shuttling back and forth between prime contractor and a MBE/WBE/DBE business' payrolls
- Business names on equipment and vehicles have temporary signage covering the legal owner which is not a certified MBE/WBE /DBE
- Orders and payment for necessary supplies made by individuals who are not employed by MBE/ WBE/DBE owned business
- A prime contractor facilitated purchase of MBE/WBE/DBE business
- A MBE / WBE / DBE business owner is never present at the job site
- A prime contractor always uses the same MBE/WBE/DBE
- Financial ownership agreements between prime and MBE/WBE/DBE contractors exist beyond the contractual relationship
- Joint bank accounts exist between prime contractor and MBE/WBE/DBE subcontractors
- An absence of written contracts between prime and sub-contractors



“Red Flag” or Fraud Indicators – Kickbacks or Unlawful “pay to play”

In kickback schemes, a contractor or subcontractor misrepresents the cost of performing work by secretly paying a fee for being awarded the contract, therefore inflating the job cost to the government. These indicators include, but are not limited to:

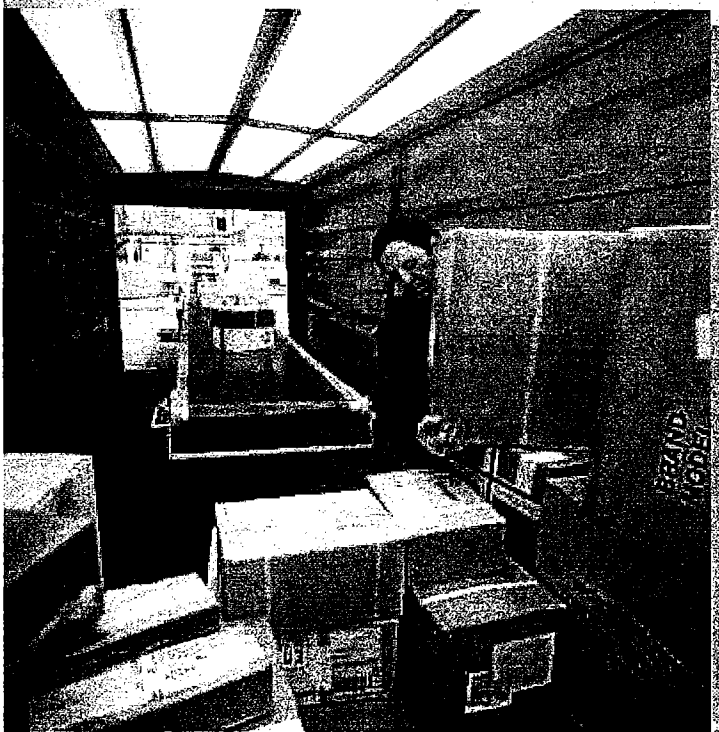
- Unexplained or unreasonable limitations on the number of potential subcontractors contracted for bid or offer
- Continuing awards to subcontractors with poor performance records
- “No-value-added” technical specifications that dictate contract awards to particular companies
- Non-qualified and / or unlicensed sub-contractors working on prime contracts
- Poor or no established contractor procedures for awarding of subcontracts through competition
- Lack of separation of duties between purchasing, receiving, and storing
- Purchasing employees maintaining a standard of living exceeding their income



“Red Flag” or Fraud Indicators – Commodities, Materials, Equipment and Supplies Overcharging

Under this fraud scheme, a contractor misrepresents how much construction and non-construction materials, commodities, equipment and/or supplies were actually used on the job to increase profit.

- Discrepancies are present between contractor - provided quantity documentation and observed data compared to amounts requisitioned or required
- A refusal or inability to provide supporting documentation
- Photocopies of documentation are submitted when originals are expected
- The contractor resists inspection during the job or delivery process
- Packing lists, bills of lading, other shipping and receipt records have altered or missing information
- Irregularities in standard stationery or other contractor documents that are used to calculate payments
- An unusually high volume of purchases from one vendor
- Invoiced goods cannot be located in inventory or accounted for
- Not taking advantage of contracted discounts or volume purchasing
- The acquisition price is not easily discernable



“Red Flag” or Fraud Indicators – Product Substitution

In a fraud scheme involving product substitution, a contractor misrepresents the product used in order to reduce costs for materials. These indicators include, but are not limited to:

- Mismatching or mislabeling of products and materials
- A contractor that restricts or avoids inspection of goods upon delivery
- A contractor refuses to provide supporting documentation regarding production or manufacturing
- Photocopies of necessary certification, delivery, and production records exist where originals are expected
- Irregularities in signatures, dates, or quantities on delivery documents
- A high rate of rejections, returns, or failures
- Certifications required in the contract are not signed
- A contractor offers to select samples for testing programs
- A supplier entertains or provides gratuities to procurement personnel
- Vendor fails to supply warranty information
- Vendor fails to apply manufacturers’ rebates/discounts towards final costs



