

A. BIOGRAPHICAL INFORMATION AND QUALIFICATIONS

1. Name (Include any former names or nicknames used):

Fara Damelin

Fara Danzig (Maiden Name)

Fara H. Danzig (Maiden Name with middle initial)

2. Position to which nominated:

Inspector General, Federal Communications Commission

3. Date of Nomination:

March 21, 2023

4. Address (List current place of residence and office addresses):

Home Address: [REDACTED]

Work Address: 451 7th Street, SW, Washington, D.C. 20410

5. Date and Place of Birth:

DOB: January 14, 1970

Plainview, New York

6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Scott Randy Damelin
Executive Officer, National Security Division, U.S. Department of Justice

Leah Elise Damelin, 22
Rebecca Simone Damelin, 20

Senate Commerce Committee Nominee Questionnaire, 118th Congress
 Fara Damelin, 3/27/23

7. List all college and graduate schools attended, whether or not you were granted a degree by the institution. Provide the name of the institution, the dates attended, the degree received, and the date of the degree.

State University of New York Binghamton, 1987 – 1991, Bachelor of Arts, Political Science in May 1991

George Washington University National Law Center, 1991 – 1994, Juris Doctor in May 1994

8. List all post-undergraduate employment, including the job title, name of employer, and inclusive dates of employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Employer	Position	Location	Dates
The Limited (Clothing Store)	Sales Associate (Part Time)	Georgetown, Washington, DC	Summer 1991 Appx. May - August
Au Bon Pain	Cashier (Part Time)	Washington, DC	Summer 1991 Appx. May - August
D.C. Superior Court – Judge Colleen Kollar-Kotelly	Legal Internship (Unpaid- Part Time)	Washington, DC	Summer 1992 Appx. May - August
Amtrak, Office of the General Counsel	Law Clerk – Paid – Part Time	Union Station Washington, DC	Summer 1993, and through academic year 1993-1994
Crown Books	Sales Associate (Part Time)	Washington, DC (20 th and K, NW)	Summer 1994
District of Columbia Council Ward 6 Councilmember Harold Brazil	Law Clerk/Legislative Assistant	Washington, DC	August 1994 – August 1995
Temple Beth El	Sunday School Teacher Part Time	Alexandria, VA	Approximately September 1994 – May 1995
U.S. Department of Health and Human Services, Office of the General Counsel	Attorney	Washington, DC	August 1995 – August 2003

Senate Commerce Committee Nominee Questionnaire, 118th Congress
 Fara Damelin, 3/27/23

Employer	Position	Location	Dates
National Science Foundation, Office of Inspector General	Investigative Attorney Later promoted to Director, Office of Investigations Legal Division	Arlington, VA Alexandria, VA	August 2003 – February 2018
General Services Administration, Office of Inspector General	6-Month CIGIE Fellow Rotation - Internal Communications– Career Development Program	Washington, DC	July – December 2017
U.S. Attorney’s Office, District of Maryland	Appointed as Special Assistant United States Attorney to assist with criminal prosecution. (Continued to serve as Investigative Attorney/Director of OI Legal Division, NSF OIG)	Baltimore, MD	Approximately November 2013 – May 2014
AmeriCorps, Office of Inspector General (Formerly Corporation for National and Community Service OIG)	Deputy Inspector General	Washington, DC	February 2018 – July 2021
U.S. Department of Housing and Urban Development, Office of Inspector General	Chief of Staff	Washington, DC	July 2021 - Present

9. Attach a copy of your resume.

See Attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above after 18 years of age.

None.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution.

None.

12. Please list each membership you have had after 18 years of age or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religiously affiliated organization, private club, or other membership organization. (For this question, you do not have to list your religious affiliation or membership in a religious house of worship or institution.). Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or disability.

Organization	Position/ Membership	Dates
McLean Health and Racquet Club	Gym Membership	Approximately 1998 - Present
Langley Pool and Tennis Club	Pool Membership	Approximately 2006 - Present
Maryland Bar	Member	1994 - Present
Association of Certified Fraud Examiners	Member	Approximately 2008 - Present
Inspector General Academy	Adjunct Instructor	Approximately 2016 - Present
CIGIE Fellows Program	Member of Management Team	Approximately 2019 - Present
Girl Scouts of the United States of America	Girl Scout Leader	Approximately 2007 - 2011 and 2014 - 2018

As far as I am aware, none of the above organizations restrict membership on the bases of sex, race, color, religion, national origin, age, or disability.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

No.

14. List all memberships and offices held with and services rendered to, whether compensated or not, any political party or election committee within the past ten years. If you have held a paid position or served in a formal or official advisory position (whether compensated or not) in a political campaign within the past ten years, identify the particulars of the campaign, including the candidate, year of the campaign, and your title and responsibilities.

None.

15. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$200 or more for the past ten years.

None.

16. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

- Council of Inspectors General on Integrity and Efficiency (CIGIE) Awards for Excellence, 2011, 2014, 2019, 2021
[2011 CIGIE Awards Ceremony.pdf](#)
[2014 CIGIE Awards Ceremony.pdf](#)
[2019 CIGIE Awards Ceremony.pdf](#)
[2021 CIGIE Awards Ceremony.pdf](#)
- Selected to participate in and completed CIGIE Fellows Program, 2017
For more information: [CIGIE Fellows Program | Council of the Inspectors General on Integrity and Efficiency; IGnet](#)
- United States Attorney's Award, Eastern District of Pennsylvania, 2021

- CIGIE Adjunct Instructor Recognition Award, 2016 - 2019
- United States Attorney's Award, District of Connecticut, 2015
- NSF Director's Awards for Excellence, 2012 and 2014

17. List each book, article, column, letter to the editor, Internet blog posting, or other publication you have authored, individually or with others. Include a link to each publication when possible. If a link is not available, provide a digital copy of the publication when available.

None.

18. List all speeches, panel discussions, and presentations (e.g., PowerPoint) that you have given on topics relevant to the position for which you have been nominated. Include a link to each publication when possible. If a link is not available, provide a digital copy of the speech or presentation when available.

I initiated and co-chaired the development of the Grant Oversight Capstone Report for the Council of Inspectors General on Integrity and Efficiency (CIGIE), The IG Community's Joint Efforts to Protect Federal Grants from Fraud, Waste, and Abuse, issued in January 2021.

In addition, I have been actively involved in outreach for the Inspector General Community to inform stakeholders about the role of OIGs as well as fraud prevention, detection, and compliance. I've also participated on multiple professional development panels.

I conducted an internet search and provided hyperlinks to all published materials/videos related to my presentations over the years that I was able to locate. For those not published, I am providing copies of slides, when available. Some of these presentations were panels that did not include slide presentations.

- Video: Facilitator: "So you want to be Chief of Staff..." CIGIE Professional Development Committee, June 30, 2022 Lead and Learn: Professional Careers Beyond Audit, Investigations, and Legal - YouTube; Becoming and Leading as a SES or SL It's not Just Technical Part I (Program Announcement)

Senate Commerce Committee Nominee Questionnaire, 118th Congress
Fara Damelin, 3/27/23

- PowerPoint Presentation: AmeriCorps OIG, September 3, 2020: "The Office of Inspector General" (americorpsoig.gov)
- Video: Where's George? Moving Your Ideas Forward - Fara Damelin, CNCS OIG - YouTube, TED Talk, CIGIE Leadership Forum, October 21, 2019; 2019 CIGIE Lead Forum Booklet
- One of Four U.S. Representatives to attend the International Public Sector Fraud Forum-Grant Fraud Meeting, July 28, 2020 (Slides Attached)
 - Shared compilation of "Leading Practices and Ideas for Protecting Federal Funds from Fraud, Waste, and Abuse" developed in April 2020 (Attached)
- Facilitator, Pandemic Response Accountability Committee (PRAC) Listening Forums, July 2020 (There were no slides prepared for these sessions.)
- One OIG Workplace, Public Affairs Working Group, January 18, 2018 (Slides Attached)
- Panelist, Office of Research Integrity Quest Workshop, August 8, 2017 Q4RE 2017 – Agenda | ORI - The Office of Research Integrity (hhs.gov) (This was a facilitated panel discussion.)
- PowerPoint Presentation: 2017 SBIR Workshop: Office of Inspector-General Guidance (nsfiipconf.com)
- Criminal Grant Fraud Webinar, "Identifying Victims and Finding Jury Appeal," for DOJ prosecutors through the Executive Office of the United States Attorneys, June 1, 2016 (Slides Attached)
- Society of Research Administrators, NSF Office of Inspector General Investigative Update, October 21, 2015 (Slides Attached)
- Speaker, "Law and Auditor: Key Lessons that Grant Recipients and Grantors Can Learn from IG Audits and Investigations," National Grants Management Association, April 22, 2015 (Unable to locate these slides.)
- Panelist, DOD Procurement Fraud Working Group, Small Business Fraud Investigations, April 30, 2015 (This was a speaking panel with no slides.)
- The Program Fraud Civil Remedies Act, for Department of Homeland Security OIG, July 7, 2014 (Slides Attached)
- Fraud and Waste in the SBIR/STTR Program, May 16, 2014 (Slides Attached)

- NCURA Spring Meeting, NSF OIG Hot Topics, April 24, 2014 (Slides Attached)
- Panelist: "False Claims Act Liability and Hot Topics," Boston Bar Association, April 10, 2013, False Claims Act Liability: Colleges, Universities and Non-Profits (Slides Attached)
- PowerPoint Presentation: NSF Office of Inspector General Hot Topics March (slidetodoc.com), March 11, 2013, National Council of University and Research Administrators
- Society of Research Administrators, Annual Conference, Investigative Update, October 2, 2012 (Slides Attached)
- "NCET2 Webinar: Defining and Curbing Fraud and Waste in the SBIR Program, September 24, 2012 (Slides Attached)
- PowerPoint Presentation: Compliance and Integrity: An OIG Perspective: SCCE Conference April 23 2010 FINAL (corporatecompliance.org)
- Served as Adjunct Instructor with the Inspector General Academy's Contract and Grant Fraud Training Program since approximately 2016. Provided instruction on Legal Tools and Requirements, and Cooperation and Coordination of Remedies. (Example of Instructional Presentation Attached)

9. List all public statements you have made during the past ten years, including statements in news articles and radio and television appearances, which are on topics relevant to the position for which you have been nominated, including dates. Include a link to each statement when possible. If a link is not available, provide a digital copy of the statement when available.

None. (See above for presentations and outreach).

10. List all digital platforms (including social media and other digital content sites) on which you currently or have formerly operated an account, regardless of whether or not the account was held in your name or an alias. Include the full name of an "alias" or "handle", including the complete URL and username with hyperlinks, you have used on each of the named platforms. Indicate whether the account is active, deleted, or dormant. Include a link to each account if possible.

Facebook: Fara Damelin - <https://www.facebook.com/fara.damelin>
(Active)

LinkedIn: Fara Damelin - <https://www.linkedin.com/in/fara-damelin-1989131b0> (Active)

11. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

None.

12. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

As demonstrated by my attached resume, I have over 27 years of federal service, and have dedicated the past 19 years in progressively responsible positions within the Inspector General community, towards preventing and detecting fraud, waste, and abuse and promoting program efficiency and operational economy at grant-making agencies.

In my current role as Chief of Staff for the Office of Inspector General (OIG), U.S. Department of Housing and Urban Development, I serve as a trusted policy advisor and resource to the Inspector General in connection with the planning, administration, implementation, and evaluation of all programs and activities within the OIG, and effectively represent the Inspector General with internal and external stakeholders including senior officials within the Department. In carrying out the IG's policy agenda and strategic plan, I develop, implement, and evaluate new initiatives and oversight products in support of the OIG vision of influential oversight, through cross component leadership and collaboration.

In my former position as Deputy Inspector General for AmeriCorps OIG, I managed the day-to-day operations of the office, with direct oversight and accountability for all OIG components. I served as senior policy advisor to and representative of the Inspector General, regularly communicating with the agency's senior leadership, and colleagues in the law enforcement, Department of Justice, and IG communities. I formulated, implemented, and evaluated OIG investigative

policies, strategies, priorities, and goals, and led the development of the Semiannual Report. I made executive presentations and delivered briefings on investigations, enforcement, prevention methodologies, and fraud vulnerability assessments, and employed strategic hiring and resource initiatives to build capacity within our small team to maximize our impact.

Prior to joining AmeriCorps OIG, I spent over 14 years with the National Science Foundation Office of Inspector General (NSF-OIG), initially hired as an investigative attorney and later promoted to serve as Director, Office of Investigations Legal Division. I directed and managed seven investigative attorneys and teamed with special agents to perform the full spectrum of investigative activities in multiagency grant fraud investigations, from strategy development to interviews, drafting subpoenas and search warrants, conducting document review and financial analysis, preparing and presenting case referrals to criminal and civil AUSAs, and supporting civil and criminal prosecutions. In addition, I served as a Special Assistant United States Attorney to co-prosecute a criminal grant fraud trial resulting in a conviction for seven counts of felony fraud.

At all three agencies where I have served in an oversight capacity, I have been actively involved in protecting federal grant programs through my participation and oversight of investigations and audits, and through my leadership in community-wide working groups, activities, and the development of key resources. I regularly provide training and outreach to the IG, DOJ, and grantee communities, with the goal of achieving collective positive change. I am also a champion of professional development within the Inspector General community, actively leading and participating in mentorship programs, and facilitating leadership-focused panels and activities.

It would be my honor to serve as Inspector General for the Federal Communications Commission. In this role, I would use the skills, experience, and expertise I have gained throughout my career to lead the OIG in conducting independent and influential oversight to assist the FCC in meeting its critical mission: Bringing affordable, reliable, high-speed communications to all communities across our nation, and ensuring that everyone has the connections they need to gain access to education, jobs, healthcare, and opportunities, as well as helping to ensure, promote, and support public safety and national security.

13. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

If confirmed as FCC Inspector General, I will independently and transparently carry out my role, as set forth in the Inspector General Act of 1978, to prevent and detect fraud, waste, and abuse and promote economy, efficiency, and integrity within FCC programs. I will do so through leading the OIG in conducting high impact audits, investigations, evaluations, and other proactive reviews to help FCC meet its critical mission. I will seek to perform influential oversight tied to the FCC's most significant challenges, to include ensuring risk management and strong internal controls.

As set forth above, I have a demonstrated commitment to the OIG mission with almost 20 years of experience within the IG community. Over the last nine years, I have served in senior level OIG positions in three different agencies, leading effective oversight towards protecting federal programs and their beneficiaries. I have concrete organizational experience covering the broad range of OIG responsibilities and cross-disciplinary functions, as well as advanced leadership skills, that make me uniquely qualified to serve as Inspector General for the FCC.

14. What do you believe to be the top three challenges facing the department/agency, and why?

If I am confirmed as Inspector General, I would work with staff and subject matter experts within the Office of Inspector General, the Federal Communications Commission, Congress, and other stakeholders to identify the top management challenges facing the FCC.

Based upon my review of the FCC's FY 2022-2026 Strategic Plan, the FCC's Agency Financial Report, the October 14, 2022, Management and Performance Challenges, and the OIG's recent semiannual report and highlighted work products, it appears that the FCC faces the following three significant challenges:

- Ensuring program integrity in the administration of the FCC's Universal Service Fund Programs and more recent FCC programs created in response to COVID-19, so that the funding promptly reaches

communities in need, while safeguarding these funds from fraud, waste, and abuse.

- Effectively modernizing the FCC's information technology systems to enhance information security and services to its stakeholders.**
- Carrying out critical responsibilities to enhance public safety and national security, to include the administration of a Secure Networks Reimbursement Program to remove, replace, and dispose of covered communications equipment in compliance with the Secure and Trusted Communications Networks Act of 2019.**

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts, such as a 401(k) or pension plan.

None other than my federal Thrift Savings Plan retirement account.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association, or other organization during your appointment? If so, please explain.

No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

At the request of the Office of Government Ethics, I have signed an ethics agreement (attached) to divest the following individual stocks reported in my OGE Form 278, within 90 days of confirmation:

- Apple, Inc.
- Humana, Inc.
- Intel Corp.
- Microsoft Corp.
- UnitedHealth Group, Inc.
- Verizon Communications, Inc.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

None.

- 5. Identify any other potential conflicts of interest, and explain how you will resolve each potential conflict of interest.**

None.

- 6. Describe any activity during the past ten years, including the names of clients represented, in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.**

In accordance with the Inspector General Act of 1978, as amended, while serving as Deputy Inspector General at AmeriCorps OIG and Chief of Staff for HUD OIG, I have engaged in discussions with congressional stakeholders related to appropriations and the budgetary resource needs of the OIGs to effectively carry out oversight responsibilities.

In addition, I have periodically assisted the Council of Inspectors General on Integrity and Efficiency (CIGIE) by providing information and technical support to congressional stakeholders related to CIGIE's legislative priorities.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics, professional misconduct, or retaliation by, or been the subject of a complaint to, any court, administrative agency, the Office of Special Counsel, an Inspector General, professional association, disciplinary committee, or other professional group?

If yes:

- a. Provide the name of court, agency, association, committee, or group;
- b. Provide the date the citation, disciplinary action, complaint, or personnel action was issued or initiated;
- c. Describe the citation, disciplinary action, complaint, or personnel action;
- d. Provide the results of the citation, disciplinary action, complaint, or personnel action.

No, to the best of my knowledge.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain.

No.

3. Have you or any business or nonprofit of which you are or were an officer ever been involved as a party in an administrative agency proceeding, criminal proceeding, or civil litigation? If so, please explain.

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain.

No.

- 5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain.**

No, to the best of my knowledge.

- 6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination.**

I do not have any additional information to share.

It is my honor to be nominated for the position of Inspector General for the Federal Communications Commission and I greatly appreciate the Committee's time and consideration.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by congressional committees, and that your department/agency endeavors to timely comply with requests for information from individual Members of Congress, including requests from members in the minority?

Yes, as authorized by law.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistleblowers from reprisal for their testimony and disclosures?

Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee?

Yes, as authorized by law.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

Senate Commerce Committee Nominee Questionnaire, 118th Congress
Fara Damelin, 3/27/23

(Nominee is to include this signed affidavit along with answers to the above questions.)

F. AFFIDAVIT

FARA DAMELIN being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that

Senate Commerce Committee Nominee Questionnaire, 118th Congress
Fara Damelin, 3/27/23

the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Fara Damelin
Signature of Nominee

Subscribed and sworn before me this 27 day of MARCH 2023.

Lyka Janexie Martinez-Rosario
Notary Public



Fara Damelin

Maryland Bar Admission • US Citizen

EXECUTIVE SUMMARY

- Strategic Planning
- Enterprise Risk Management
- Federal Criminal & Civil Law
- Administrative Remedies
- Grant Oversight
- Policies & Training
- Whistleblower Protections
- Investigations
- Senior Policy Advising
- Presentations & Reporting
- Congressional Outreach
- Professional Development

Oversight professional with 27 years of progressively responsible experience in federal service, including nine years in senior-level positions within the Inspector General (IG) community. An adept negotiator with expert knowledge of grants management, investigative standards, risk models, proactive reviews, data analytics, Presidential directives, federal law, regulations, and policies. Certified Fraud Examiner and adjunct instructor with the IG Academy on grant fraud and legal authorities, tools, and remedies. Develops innovative solutions for oversight and enforcement. A servant leader and expert, recognized in IG and Department of Justice (DOJ) communities for grant oversight and the prevention, detection, and passionate pursuit of fraud investigations and prosecutions. A trusted advocate who provides sound policy analysis and direction, legal advice, and guidance on the Inspector General Act (IG Act), OIG audits and investigations, whistleblower rights and protections, employment matters, and internal controls. Extensive experience developing training programs, presentations, and resources for the IG community, grantees, federal employees, and law enforcement partners.

Actively collaborates with the Council of Inspectors General on Integrity and Efficiency, Pandemic Response Accountability Committee, Interagency Suspension and Debarment Committee, law enforcement, and US Attorneys' Offices to promote economy, efficiency, and effectiveness, and prevent fraud, waste, and abuse, with extensive experience in providing research, analysis, evaluation, training, and outreach to the IG, federal sector, and grantee communities. Champion for professional development initiatives throughout the IG Community, through active and longstanding participation as speaker, panelist, and facilitator for CIGIE's Professional Development Committee, ongoing support of the CIGIE Fellows Program, and through efforts to attract new talent to the IG Community through outreach and development of executive mentor and intern programs.

RECENT EXECUTIVE EXPERIENCE

Office of Inspector General
U.S. Department of Housing and Urban Development
Chief of Staff - Senior Executive Service Position
451 7th Street, SW
Washington, DC 20410

July 2021 - Present

Serves as a principal policy advisor to the Inspector General in connection with the planning, administration, implementation, and evaluation of all programs and activities within the OIG. Carries out the IG's policy agenda and strategic plan for an office of over 500 oversight professionals, through coordination with the Deputy Inspector General and SES leadership team for all OIG components. Serves as a trusted advisor and resource to the IG, and as a critical link in the communication between OIG leadership, OIG staff and stakeholders. Provides leadership in developing, implementing, reviewing, and evaluating new initiatives in support of the OIG mission. Represents the OIG with high level officials within and outside the OIG, to include Cabinet-level and other senior executives within the Department, the IG community, and the Pandemic Response Accountability Committee. Serves as voting member of the OIG Engagement Board, through which all audit and evaluation proposals are

reviewed, evaluated, and approved. Uses executive and managerial experience and knowledge of the IG Act and IG community activities to advise the IG and Deputy IG on matters affecting the mission of the OIG and the efficiency of the Department.

Provides senior-level strategic execution of key priority initiatives within the OIG, in overseeing and directing priority internal projects and reports that have a direct impact on the OIG mission, to include leading the development of 2022 Priority Open Recommendations Resource and FY 22 and FY 23 Top Management Challenges Reports. Designed template to provide comprehensive overview of key challenges, recent progress, and impacts of the pandemic, informed by HUD OIG and GAO reports, HUD's strategic plan, outreach to HUD leadership and program officials, and additional oversight products produced by the IG community. Recently appointed to lead a cultural hub within the Chief of Staff team and oversee the development of a robust employee-focused program. Responsible for oversight of three director level leaders: Chief Diversity Officer, Director of Employment Engagement and Workplace Culture, and Director of Professional Development, who will coordinate to develop and implement strategies to enhance the work experience for all OIG employees. With this responsibility, serves as Executive Sponsor of the Employee Engagement Council and Diversity, Equity, Inclusion and Accessibility Council.

Leads a cross-functional chief of staff team of oversight and communications specialists, to provide fast-paced and dynamic support to the IG and Deputy IG, in the review and approval of all OIG oversight products; in preparing the IG and Deputy IG for senior-level meetings, interviews, hearings and outreach with stakeholders; in developing agendas and talking points for, and communications about, bi-monthly OIG Town Hall meetings; and in supporting the IG in her role as Chair of CIGIE's Professional Development Committee. Develops and leverages relationships with internal and external stakeholders to effectively move the IG's vision and priorities forward.

Championed the development of a new comprehensive IT system to assist the Front Office in receiving, reviewing, and tracking multiple OIG work products, to include audit, evaluation, and investigative reports, Congressional correspondence, policy manual chapters, and other external facing communications and work products. Continues to lead a cross-component team to enhance the original system and design new modules to attach to other workflows, such as the review of OIG policies, clearance items, and Congressional inquiries. Responsible for the development of resources and implementation of training to support the new system.

Actively supports strategic planning and enterprise risk management. Engaged with the Chief Strategy Officer and other component leadership on the development of HUD OIG's strategic plan and Enterprise Risk Management Program. Supports the Chief Risk Officer in addressing OIG-wide policy risk, serving as the principal risk owner, and leading a team to develop and implement an action plan to manage associated risks.

Spearheaded Workplace of the Future Council to develop and execute plans for HUD OIG's transition back to the workplace, resulting in the successful phased return to the workplace beginning in March 2022. Led a cross-component team of senior leaders and delegated staff to implement IG decisions with respect to telework and the decommissioning of field offices, to advise the IG and Deputy IG on return to workplace plans, and on the development of a comprehensive set of tools and resources to achieve that goal. Coordinated with a designated safety coordination team to navigate new COVID-19 surges and evolving federal guidance to update the office's safety framework and FAQs. Leveraged IG community Chief of Staff and Deputy IG networks, to share information and sample policies and guidance from other OIGs with the senior leadership team, which helped inform the IG's decisions and assisted with development of HUD OIG policies and resources. Oversaw development and dissemination of multiple resources and created and implemented a communications plan to promptly share information and keep HUD OIG staff informed.

Leads Chief of Staff community of practice within the IG Community. Collaborated with community partners on the creation of a Chief of Staff network of partners. Plans, coordinates, and leads quarterly meetings by which Chiefs of Staff share critical information and provide support and assistance to each other, to include the sharing

of templates, policies, procedures, and communications around common issues. Solicited expert presentations and discussions around enhancing diversity, equity, inclusion, and accessibility; return to the workplace policies, practices, and challenges; and new resources to include a library of position descriptions from the IG community.

Develops new and innovative strategic internal communications to connect OIG staff to the leadership team, to the mission and work of all OIG components, primarily through enhancements to a dedicated SharePoint site called “insIGht.” Oversaw the creation and design of internal sites called “CIGIE Corner” and “From the Desk of the IG,” to include all of the IG’s communications, interviews, and videos, and to serve as a one-stop shop for the IG to share information with all OIG Staff. Coordinated with the communications team to develop, maintain, and enhance the Office of the Chief of Staff page to share information about leadership development, cross cutting projects and working groups, and other opportunities and training offered internally and throughout the IG Community. Developed and shared unique blogs called “Chief of Staff Chatter” to connect the over 500 HUD OIG employees to each other, to HUD OIG’s mission and priorities, and to HUD’s programs, to include: Networking Opportunities and Resources, Back to School and Professional Development, Helping Each Other Find Balance and Resilience, and Fostering Inclusion in a Virtual World.

Champions professional development, through planning, coordination, and facilitation of multiple leadership initiatives to include serving as standing member of the CIGIE Fellows Program planning team, internal and external mentoring programs, providing leadership TED talks, facilitating, and moderating panels, and participating in new employee orientations.

**Office of Inspector General, AmeriCorps
(Formerly Corporation for National and Community Service)**

February 2018 - July 2021

Deputy Inspector General
250 E Street, SW, Suite 4100
Washington, DC 20525

Oversaw and directed the administrative components of critical program segments, various internal projects, and key high-level organization elements. Directly managed day-to-day operations of 25 employees through five senior managers and support staff and a \$6.5 million annual budget. Leveraged organizational skills, innovation and development, staff teaching, training and mentoring, and managing and coordinating complex personnel management and human resources issues and tasks, including hiring, performance, training, facilities management, telework, awards, and messaging. Served as Whistleblower Protection Coordinator, sending critical correspondence to AmeriCorps workforce annually and representing OIG at CIGIE Whistleblower Protection Coordinator working group. Developed the OIG mentor component for CIGIE Fellows Program, teaming 16 professionals with senior-level officials throughout the IG Community.

Made legislative and policy recommendations. Served as senior policy advisor to and representative of the IG on all criminal, civil, and administrative matters. Advocated for legislative change regarding a statutory exclusion for persons convicted of certain felony frauds. Worked with CIGIE Legislation Committee and briefed congressional staff on CIGIE legislative priorities, including proposed enhancements to the Program Fraud Civil Remedies Act. Advocated for bringing in a high-level CIGIE Fellow to enhance workforce capacity on the critical Enterprise Risk Management initiative, resulting in the development of an outstanding ERM program.

Built cross-functional coalitions to create innovative solutions. Excelled at creating alliances with prosecutors, successfully leveraging the first relationship with the USAO in Philadelphia into a reference, advocate, and resource for similar cases in other jurisdictions. Took leading role in coordinating activities and meetings of CIGIE’s Deputy IG Working Group, to share best practices, high impact initiatives, and coordinate on key issues with cross-agency impact. Participated in various IG-community working groups and other coordinated activities to develop a robust network of community partners to leverage help and guidance.

Consistently produced outstanding written communications. Collaborated on drafting memoranda outlining IG's legal authorities for AmeriCorps and CIGIE, and Management Alert regarding the agency's reorganization. Coordinated and supervised the production of Semiannual Reports, management alerts, and investigative referrals. Drafted leading practices for protecting federal funds in April 2020 for the Pandemic Response Accountability Committee (PRAC) and several IGs to incorporate lessons learned into protecting critical emergency relief funds. Justified conclusions and results utilizing ideas and feedback from multiple IG-wide working groups to revise and update the document for sharing with an international forum in July 2020.

Demonstrated success in presentations, both internally and externally, on the work of the agency. Made substantive presentations to multiple audiences, including government employees, CIGIE committees and working groups, grantee organizations, and the DOJ community, including an October 2019 “TED Talk” presentation to over 1,000 members of the IG community on leadership and successfully moving ideas forward. Over five years of service as volunteer adjunct instructor for IG Academy’s Contract and Grant Fraud Training Program. Presented “One OIG Workplace” to the Public Affairs Working Group in early 2018 on the importance of a strong, collaborative, and inclusive culture in the IG community; several OIGs, including GSA OIG, adopted one or more of the recommendations in the presentation.

Planned, executed, and monitored the budget and for efficient use of resources. Assisted with preparing budget comment that focused on increased resources required to oversee agency’s Transformation Plan and required high-level Congressional outreach—partnered with IG to develop a written statement of budget needs and outreach additional resources to congressional staff. Actively facilitated the procurement of a 13% OIG budget increase for FY 21, from \$5.75 M to \$6.5 M annual appropriation, and helped develop and draft a budget request to Congress to increase OIG funding for oversight of the agency’s receipt of pandemic-relief funds that significantly expanded funding for its national service programs. Increased workforce and budget capacity by leveraging legal, audit, and data analytics interns to identify proactive initiatives, develop dashboards, expand the suspension and debarment program, draft recommendations to agency management, and lead Civil False Claims Act referrals from audit reports.

Provide expert strategic advice related to OIG audits. Supported Assistant Inspector General for Audit in managing performance challenges from outside audit firms and internal personnel issues. Found opportunities for enforcement referrals from the audit portfolio, heightened audit work visibility and created cohesion in the office. Initiated and developed plan to effectively exchange information and work with the agency to resolve over 25% of unimplemented recommendations from audit and evaluation reports.

Capitalized on extensive knowledge of and experience in grant fraud litigation. Conceived the idea of reaching out to district prosecutors within the same physical jurisdiction of the agency’s grants management unit and leveraging those contacts to access prosecutors in other districts. This changed how the office handled fraud allegations by enhancing enforcement efforts, enabled investigators to pursue civil remedies effectively and supported the audit section in referring fraud cases for civil enforcement. Identified a pattern of abuse of national volunteer service grants involving falsified time and effort reports and fabricated mandatory criminal history checks for volunteers. Developed a standard outreach presentation to identify and refer cases involving falsified timesheets, criminal history checks, and misuse of federal funds. Developed and executed plan to identify and travel to specific U.S. Attorneys’ Offices to introduce an initiative to enhance enforcement and prevent and pursue fraud. Efforts resulted in several accepted referrals throughout the country, culminating in multiple criminal plea agreements and civil settlements totaling over \$3.8 million, associated debarment actions, and several active referrals. These cases had a deterrent and educational effect, enhancing fraud prevention and detection.

Initiated and co-chaired the development of Grant Oversight Capstone Report for the Council of Inspectors General on Integrity and Efficiency (CIGIE), issued in January 2021. Collaborated with professionals across the IG Community to produce a public-facing guide to recent investigations, audits, and evaluations from over 20 OIGs at grant-making agencies and highlighting cross-disciplinary work of the IG community to protect federal grant funds. It is organized by the grant process's lifecycle – with identified risks at each stage – and makes recommendations for fraud prevention measures moving forward.

Effectively led, directed, and managed seven investigative attorneys who teamed with special agents and investigative scientists to investigate allegations of fraud and research misconduct related to NSF programs and grants. Monitored workloads, assigned cases, advised other investigative attorneys, participated in senior management meetings and activities, while continuing to carry an average caseload of six fraud investigations.

Leveraged Human Resources (HR) expertise; promoted professional development and growth. Advised IG and senior leadership on sensitive personnel issues with thorough and timely advice that allowed management to address issues appropriately. Encouraged staff to engage and become involved in the IG community and initiatives to support the OIG mission to become change leaders. Instructed two IG Academy courses and conducted a webinar on grant fraud for the Department of Justice (DOJ). Participated in the NSF OIG Mentoring Program.

Built cross-functional coalitions and represented OIG at high-level meetings, workgroups, committees, and teams, to include active participation on the Financial Fraud Enforcement Task Force's Grant Fraud Working Group. Organized and moderated two community-wide workshops on suspension and debarment and small business fraud. Co-led the response to GAO-review regarding measures taken to prevent fraud in the SBIR program and worked with NSF to improve its financial drawdown certifications per Uniform Grant Guidance.

Extensive technical credibility. Teamed with special agents to conduct multiagency grant fraud investigations resulting in one criminal trial conviction, five criminal plea agreements, over \$5.5 million in criminal restitution, and eight Civil False Claims Act settlements, recovering over \$5 million. Performed the full spectrum of investigative activities, from strategy development to interviews, drafting subpoenas and search warrants, conducting document review and financial analysis, and preparing and presenting referrals to criminal and civil AUSAs, and supporting civil and criminal prosecutions. Served as a Special Assistant United States Attorney to co-prosecute a criminal trial resulting in a conviction for seven counts of felony fraud. Briefed the National Science Board, stakeholders, and CIGIE working groups on a wide range of oversight topics and case studies

Hosted two OIG-wide training workshops: (1) Small Business Innovation Research (SBIR) Investigations Workshop, "Protect, Pursue, Prosecute," and (2) Suspension and Debarment Workshop, "Suspension, Debarment, and Coordination of Remedies: Effective Lifecycle Communication is the Key." Brought together key stakeholders from the IG community, program officials, and federal prosecutors to enhance the use of administrative remedies and to better protect small business programs from fraud.

Initiated and oversaw development of NSF-OIG Grant Fraud Case Digest to highlight successful civil and criminal prosecutions to increase the number of substantiated investigative referrals accepted by DOJ attorneys for civil and criminal prosecution. This law enforcement sensitive digest serves as a one-stop resource for prosecutors handling OIG referrals, to include civil complaints and settlements, criminal indictments, plea agreements and jury instructions, and associated press releases.

Participated in CIGIE Fellows program to develop enterprise leadership skills. Detailed for six months to the General Services Administration (GSA) OIG to plan and implement internal communications initiatives.

Drafted recommendation to enhance IG Community's use of the Program Fraud Civil Remedies Act (PFCRA), a statute allowing federal agencies to administratively pursue smaller dollar value fraud claims. Served on a working group under the Small Business Administration (SBA) OIG to develop a legislative recommendation to address statutory impediments and draft a comprehensive practitioner's guide. Co-developed and delivered outreach presentations on standing up a PFCRA program and pursuing PFCRA cases. Recognized with a CCIG Award and Letter of Commendation from SBA IG.

EARLY PROFESSIONAL EXPERIENCE

General Attorney, Office of the General Counsel

August 1995-August 2003

United States Department of Health and Human Services, Washington, DC

- Represented agency before Equal Employment Opportunity Commission and Merit Systems Protection Board
- Assisted Department of Justice attorneys with federal employment litigation

EDUCATION

GEORGE WASHINGTON UNIVERSITY NATIONAL LAW CENTER

J.D., with Honors, May 1994

STATE UNIVERSITY OF NEW YORK AT BINGHAMTON

B.A., Political Science, May 1991

SELECT PROFESSIONAL & LEADERSHIP DEVELOPMENT

Government Executive Change Maker's Summit, sponsored by Senior Executive Association
and Partnership for Public Service, 2022

CIGIE Leadership Forum, 2017 – 2022

CIGIE Women in Leadership Forum, 2019

CIGIE Fellows Program, 2017

OPM Federal Executive Institute's Leadership for a Democratic Society, 2016 – 2017

Washington Executive Seminar, Graduate School USA, 2015

Federal Employment Law Supervisor Series, 2013

Certified Fraud Examiner (CFE), 2008

SELECT PRESENTATIONS

“So you want to be Chief of Staff...” Facilitator, CIGIE Professional Development Committee, June 30, 2022

“It’s All about the Dash,” Leadership Talk at CIGIE Flash Mentoring Event, February 23, 2022

One of Four U.S. Representatives, International Public Sector Fraud Forum-Grant Fraud, July 28, 2020

Facilitator, Pandemic Response Accountability Committee (PRAC) Listening Forums, July 2020

"Where's George? Moving Your Ideas Forward" TED Talk, CIGIE Leadership Forum, October 21, 2019

One OIG Workplace, Public Affairs Working Group, January 18, 2018

Panelist, Office of Research Integrity Quest Workshop, August 8, 2017

Criminal Grant Fraud Webinar, "Identifying Victims and Finding Jury Appeal," for DOJ prosecutors through
the Executive Office of the United States Attorneys, June 1, 2016

Speaker, "Law and Auditor: Key Lessons that Grant Recipients and Grantors Can Learn from IG Audits and
Investigations," National Grants Management Association, April 22, 2015

Panelist, DOD Procurement Fraud Working Group, Small Business Fraud Investigations, April 30, 2015

"Best and Worst Practices of Federal Grantees," Society of Research Administrators, October 20, 2015

"False Claims Act Liability and Hot Topics," Boston Bar Association, April 10, 2013

SELECT AWARDS

CIGIE Awards for Excellence, 2011, 2014, 2019 and 2021

United States Attorney's Award, Eastern District of Pennsylvania, 2021

CIGIE Adjunct Instructor Recognition Award, 2016 - 2019

United States Attorney's Award, District of Connecticut, 2015

NSF Director's Awards for Excellence, 2012 and 2014

**NSF OFFICE OF INSPECTOR GENERAL
FALSE CLAIMS ACT LIABILITY
AND HOT TOPICS
BOSTON BAR ASSOCIATION
APRIL 10, 2013**

FARA DAMELIN
INVESTIGATIVE ATTORNEY

WHAT IS AN OFFICE OF INSPECTOR GENERAL?

Each federal agency has independent OIG

OIG missions:

- Prevent and detect waste, fraud, and abuse
- Promote economy, effectiveness, efficiency
- Keep agency **head** and Congress fully and currently informed

OIG Tools To Meet Mission Goals:

- Investigations
- Audits

BACKGROUND: NSF OIG INVESTIGATIONS

Who Are We?

- Special agents (Federal Law Enforcement Officers)
- Investigative Scientists
- Investigative Attorneys
- Analysts

How are investigations initiated?

- Reactive
- Proactive

What types of Investigations?

- Civil/Criminal
- Administrative

WHAT TYPES OF ISSUES DO WE INVESTIGATE?

CIVIL/CRIMINAL

- Theft/embezzlement
- Financial mismanagement
- Misuse of grant funds
- Conflicts of Interests

ADMINISTRATIVE

- Research Misconduct: Plagiarism, Fabrication, Falsification
- Conflicts of Interests
- Merit review violations

FRAUD INVESTIGATIONS

HOW DO GRANTEES GET IN TROUBLE

Embezzlement/Theft

- Using grant funds to pay for personal mortgage payment, bedroom furniture, vacations, American Idol tickets

False Statements

- Falsely asserting support of a key organization in proposal
- Falsely asserting collaboration with a foreign scientist
- Falsely certifying eligibility requirements for award program
- Falsely certifying required matching funds (cost-sharing)
- False financial reporting

FRAUD INVESTIGATIONS: HOW DO GRANTEES GET IN TROUBLE?

■ FALSE CLAIMS

- Claiming reimbursement for grant funds not spent on funded project
- Grantee-approved no cost extension just to spend remaining grant funds
- Drawing down federal funds for unallowable expenses
- False Interim Reports and Milestone Charts in SBIR/STTR Phase II Awards

■ MISMANAGEMENT OF FEDERAL FUNDS

- Co-mingling federal and non-federal funds
- Failing to account for expenditure of federal funds
- Transferring costs from overdrawn project accounts
- Charging one grant for expenditures of another
- Failing to know, follow, or care about applicable rules
- Expending funds after award expiration date

POSSIBLE OUTCOMES OF CIVIL/CRIMINAL INVESTIGATIONS

- **Civil Action**

- Civil False Claims Act (Treble damages)

- **Criminal Action (Prosecution)**

- Criminal False Claims/False Statements
- Theft/Embezzlement
- Mail/Wire Fraud
- Conspiracy and Obstruction

- **Administrative Action**

- Suspension/termination of current NSF awards
- Government-wide suspension/debarment
- Program Fraud Civil Remedies Act

HOT TOPIC

GOVERNMENT-WIDE SUSPENSIONS AND DEBARMENTS

To protect federal funds from those who are not
“presently responsible”

Consequences:

- Central GSA Excluded Parties List
- Applies to all prospective grants and contracts over \$25,000
- If one agency imposes, barred from ALL federal funds

Recent Trend:

- Fact-based suspensions imposed during ongoing investigations

HOT TOPIC

SBIR/STTR FRAUD INVESTIGATIONS

Background & Purpose of SBIR/STTR Programs

Eligibility Requirements

Relationship with Universities

Common Types of Abuse

- Facilities
- Primary Employment
- Overlapping/Duplicative funding

Investigative Outcomes

- Indictments for false statements/false claims/theft of federal program funds/mail fraud/wire fraud
- Government wide suspension and debarment

REASONS WHY UNIVERSITIES WANT TO KNOW WHEN A UNIVERSITY EMPLOYEE IS A PI ON AN SBIR/STTR AWARD

1. Because a PI on an SBIR/STTR award must be “primarily employed” by the company that receives the federal funds
2. Because serving as a PI on an SBIR/STTR award requires a time commitment
3. Because of likely conflicts of interest that must be managed
4. Because the university must know of all current and pending support for PIs applying for federal funds through the university
5. Because some PI’s on SBIR/STTR awards wrongfully perform work on SBIR/STTR awards at university labs with university equipment

TOP 10 THINGS YOU DON'T WANT TO SAY TO AN OIG INVESTIGATOR

1. Do you think I have time to read all of your rules?
2. Time and Effort Policy? Well, we don't actually have one of those yet.
3. Sorry, I can't get you the records; they are being archived in a dangerous building.
4. Wow..Really? No! Entertainment can't be charged to federal awards? Is a trip to Universal Studios considered entertainment?
5. If I have to go back and create cost share records now, that's what I'll do!

TOP 10 (OR 11) THINGS YOU DON'T WANT TO SAY TO AN OIG INVESTIGATOR

6. Wow, I had no idea our records were such a mess.
7. I probably threw out the COI disclosure form...I throw out anything that looks bureaucratic.
8. Chicken Dinner Analogy: which goes...
9. I signed the purchase requisition because I saw that everyone else signed too.
10. No, I haven't received any formal training about federal grants management. BUT I have received "on the job" training.
11. Well, sure, if you are going to rely on our time sheets, you would probably have a pretty good False Claims Act case.

NUMBER 12: BUT...WE DID THE WORK!!!

Very common defense to grant fraud cases

Problem Scenario: If grantee receives \$1 million to carry out a funded proposal, carries out the work for \$500,000, and spends the full amount of the award....

We still need to know where the other \$500,000 went....AND

The Grantee can still be charged for false claims associated with the other \$ ½ million

NOTE ON EMAIL COMMUNICATIONS

Sometimes it is not what a grantee/PI says, but instead, what the grantee/PI writes, that could cause some trouble.

Examples....

HOW TO AVOID TROUBLE:

1. Read and know the applicable grant conditions, rules and regulations when receiving federal grant funds:
 - Provide and Document Training (Mandatory)
2. Maintain (during, not after the fact) adequate documentation to support all expenditures, including cost share
3. Ensure your financial reporting matches your financial records
4. Do not expend award funds post-expiration or for purposes unrelated to the award
5. Do not provide inaccurate information or false certifications to Grantee institution or Federal Agency

**QUICK QUIZ:
LESSONS LEARNED**

MULTIPLE CHOICE QUESTION 1

You receive an IG Subpoena requesting all time sheets for an expired NSF Award.

- A. Because you didn't maintain any time sheets during the award period, you create new ones, back date them and submit them in response to the IG subpoena?
- B. You had maintained two sets of time sheets for the same time periods that you charged to two separate federally funded projects. You respond to the subpoena by only producing one set of timesheets.
- C. You had maintained timesheets, but you had a policy of charging time to projects based not on the work that was performed, but instead, on how much money was available in each project account. You submit those timesheets in response to the IG subpoena with a representation that they reflect actual work performed.
- D. None of the above.

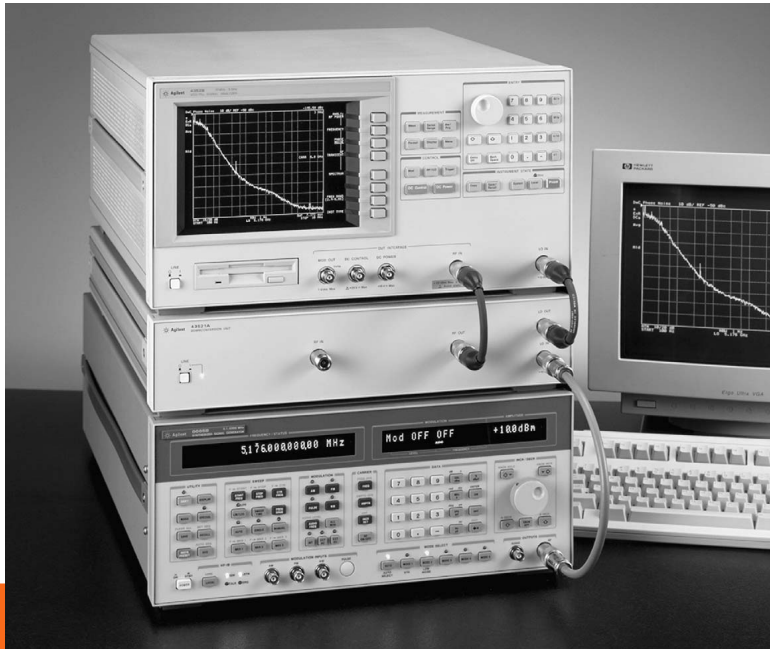
MULTIPLE CHOICE QUESTION 2:

You work in the Office of Sponsored Programs and are responsible as one of several signatories on purchase orders for Equipment . You receive a purchase order that only contains an order product number, with no description.

- A. You sign the purchase order because two other people including the department chair signed off on it first.
- B. You sign the purchase order because you believe it is for equipment, and there is still funding available in the budget for equipment.
- C. You sign the purchase order because you believe the PI is responsible for and can be trusted to ensure that whatever is being ordered is related to the grant.
- D. None of the above.

NSF Award Budget includes the purchase of Engineering Equipment, but Cameras purchased instead:

Agilent Technologies
Signal Analyzer
\$67,970



Dodd Camera and Video
Sinar P3 Camera + accessories
\$44,346



MULTIPLE CHOICE QUESTION 3:

You receive a written request by an OIG to produce a General Ledger to document expenditures on an NSF award:

- A. As a PI for an SBIR Phase I award, you didn't actually account for your \$149,000 Phase I award during the award period. But to respond to the OIG request, you create a GL that you produce to OIG. Because some of the money was spent on personal expenses, you eliminate any reference to those expenditures, and create new expenditures for office expenses.
- B. As an administrator at a university, you realize that expenditures were not well documented or supported. So you produce three different GL's to OIG in hopes that one of them suffices.
- C. You work at a non-profit company that has the practice of comingling federal and non federal funds in one project account, without discretely accounting for federal award funds. In addition, your company charges all project expenses to the commingled funds whether or not permissible under federal award conditions. Because you can't demonstrate how federal award funds were spent, you submit documentation for all project expenses.
- D. None of the above.

OIG REQUESTS GENERAL LEDGER FOR A CLOSED COOPERATIVE AGREEMENT

Cooperative agreement: \$2,494,078

Initial response: \$2,201,728

During site visit: \$2,533,078

Response to IG subpoena: \$2,494,078



CASE STUDIES

HOT OFF THE PRESS: RECENT CASES

University PI Indicted, Pled Guilty and Sentenced for Theft of Federal Program Funds

- For using grant funds to purchase photography equipment for personal use, instead of engineering equipment as proposed: Home Confinement, Restitution and Probation
- For diverting federal grant funds for personal travel, billing as business conferences and submitting false registrations and receipts: Restitution, Fine and Probation

STTR/SBIR PI 's Indicted for Wire Fraud and Obstruction

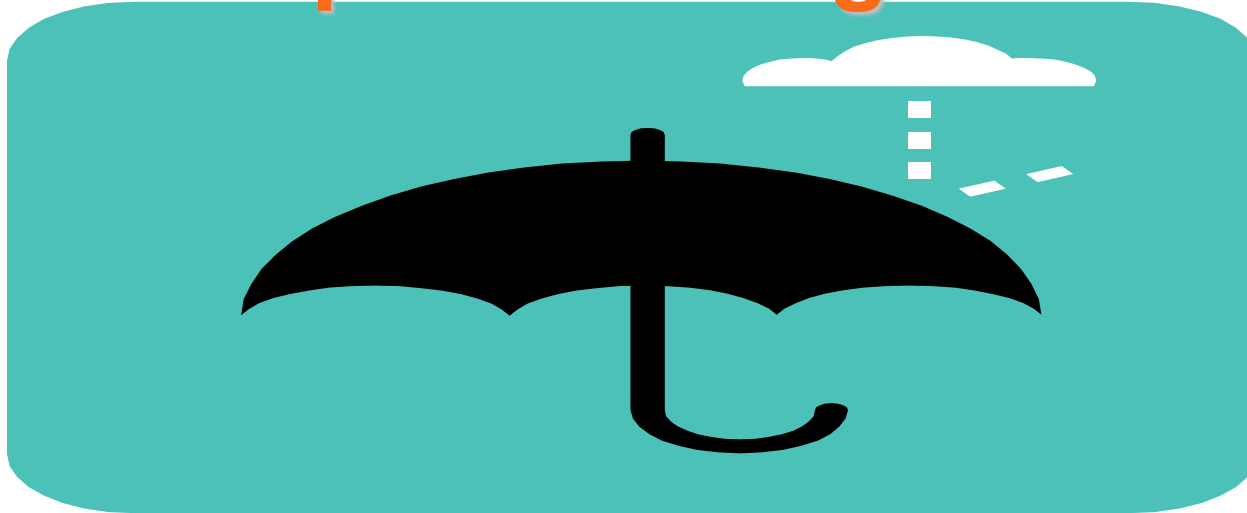
- For diverting federal grant funds for personal credit card debt and mortgage, and falsely certifying eligibility requirements for the small business award and creating fake expenditure
- For falsely certifying primary employment and diverting \$100,000 for personal credit cards
- For falsely certifying no overlapping funding and primary employment

Grantees Settle Civil Cases with Federal Government and enter into Mandatory Compliance Plans

- In FCA Cases:
 - University failed to maintain adequate documentation and reallocated certain costs without required prior written approval
 - University employee misused grant funds intended for students
- In Common Law Case: Financial accounting system unable to demonstrate that expenses charged to federal funds were allowable, reasonable and allocable

KEY TO PREVENTION?

Compliance Programs



Government

Institution/University

Researcher

COMPLIANCE PROGRAM

A SYSTEM OF RESPONSIBLE ADMINISTRATIVE, FINANCIAL AND RESEARCH MANAGEMENT AND OVERSIGHT, CREATING AN ENVIRONMENT IN WHICH EMPLOYEES CAN OPERATE WITH INTEGRITY

Compliance Programs can be implemented voluntarily or mandated as part of negotiated resolution

Compliance Programs Require:

Leadership - commitment to do the right thing

Management - ethical environment

- Focus on high risk areas
- Provide systematic monitoring, auditing, oversight

Training - Communicate facts and expectations

Action - Early detection and correction problems

Reporting – Relay information regarding wrongdoing

ELEMENTS OF AN EFFECTIVE COMPLIANCE PROGRAM

1. Reasonable Compliance Standards and Procedures
2. Specific High-Level Personnel Responsible
3. Due Care in Assignments with Substantial Discretionary Authority
4. Effective Communication of Standards and Procedures
5. Establish Monitoring and Auditing Systems and Reporting Systems (whistleblowing without fear of retaliation)
6. Consistent Enforcement of Standards
7. Respond Appropriately to the Offense (reporting to law enforcement, modify program, prevention)

* Federal Sentencing Guidelines U.S.S.G. 8B2.5(f) & 8D1.4(c)(1) (11/1/04)

BENEFITS OF COMPLIANCE PROGRAMS

- Demonstrates commitment to ethical conduct
- Ensures Accountability
- Minimizes or detects criminal conduct
- Encourages reporting
- Creates awareness through training
- Prevents improper expenditures; improves grant administration
- May help avoid the filing of legal actions
- Mitigation, e.g., may reduce penalty or administrative actions

HOW COMPLIANCE PROGRAMS ARE DEVELOPED

VOLUNTARY

Many universities and non-profits voluntarily creating compliance programs

- They recognize the benefits
- They see it as the right thing to do

CoGR June 2005 Guidance

- Encourages voluntary compliance programs as means for institutions to meet compliance obligations

AND “NOT SO VOLUNTARY”

Trend: DOJ incorporates mandatory compliance plans into settlements with grantees for:

- Overcharging IDC
- Misusing federal grant funds
- Creating false cost-share certifications
- Double billing
- Maintaining false time and effort reports
- Failing to discretely account for federal award expenditures or maintain adequate documentation

These mandatory compliance plans generally 5 years, require annual compliance audits, and provide monitoring by federal agency.

WHAT'S NEW?

THE OMB

OMNICIRCULAR...

WHAT'S THAT?

PFCRA,

What do those
letters stand for?

QUESTIONS



WANT TO LEARN MORE?

Surf Our Website:
www.nsf.gov/oig

NSF OIG Brochures
NSF OIG Semiannual
Reports
NSF OIG Outreach
Presentations
NSF OIG Case
Closeouts

CONTACT INFORMATION

Anonymous Communications:

Hotline:1-800-428-2189 OR www.nsf.gov (click on IG Hotline)

Confidential Communications

E-mail: oig@nsf.gov

Mail: NSF—ATTN: OIG HOTLINE
4201 Wilson Boulevard; II-705
Arlington, VA. 22230

Fara Damelin, Investigative Attorney, OIG/NSF

fdamelin@nsf.gov

703/292-8873

CRIMINAL GRANT FRAUD WEBINAR: IDENTIFYING VICTIMS AND FINDING JURY APPEAL

1

Pamela Van Dort, Investigative Attorney, NSF OIG,
Mike Pritchard, Senior Special Agent, NSF OIG
Fara Damelin, Director, Office of Investigations
Legal Division, NSF OIG

Agenda

- ▶ Overview of Grants
 - ▶ Regulations/Policies
 - ▶ Documents/Certifications
 - ▶ Key Grant Fraud Schemes to Pursue
 - ▶ Identifying Victims
 - ▶ Calculating Loss
 - ▶ Most Common Defenses
- ▶ Case Studies

FY14 Federal Spending

Total \$3.77 T.

Grants \$590.7 B.

Contracts \$445.3 B.

Loans \$6.4 B.

Agency	Grant Dollars
Health and Human Services	\$381.5 B.
Transportation	\$60.7 B.
Education	\$43.2 B.
Agriculture	\$33.0 B.
Housing and Urban Development	\$12.1 B.
USAID	\$9.7 B.
Labor	\$8.8 B.
Homeland Security	\$8.7 B.
National Science Foundation	\$6.4 B.
Defense	\$5.5 B.
Environmental Protection Agency	\$4.5 B.
Energy	\$3.9 B.
Interior	\$3.8 B.
Justice	\$2.1 B.

Overview of the Federal Grant Process

Pre-Award

Solicitation
Application / Proposal
Budget
Certified Assurances
Eligibility Certification
Accept Grant Conditions

Post-Award

Formal Award
Grantee Performance
Financial Certifications
Claims for Reimbursement
Narrative Progress Reports
Grantor Monitoring / Audits

INTEGRITY BASED SYSTEM

**Grantor Agency Policies/
Award Conditions**

Today's focus: Two Types of Federal Grantees

- ▶ Non-Profit
 - ▶ State/Local Govt.
 - ▶ Educational Institutions
 - ▶ Hospitals
- ▶ Subject to Uniform Guidance (Formerly to Multiple OMB Circulars)
 - ▶ 2 C.F.R. Part 200
 - ▶ Effective 12/26/2014
 - ▶ Mandatory Disclosure
 - ▶ Required certifications
- ▶ Small Businesses
- ▶ Subject to:
 - ▶ SBA Policy Directives for Set Aside Programs
 - ▶ Agency Solicitations and Grant Conditions
 - ▶ Lifecycle Certifications
 - ▶ Eligibility criteria
 - ▶ Compliance with award conditions
 - ▶ Technical and Financial Reports

FAR 52.203-13, Contractor Code of Business Ethics and Conduct

...timely disclosure in writing to the agency Office of the Inspector General, with a copy to the Contracting Officer, whenever in connection with award, performance, or close-out of this contract or any subcontract thereunder, the contractor has **“credible evidence”** that a principle, employee, agent, or subcontractor of the contractor has committed **a violation of federal criminal law involving fraud, conflict of interest, bribery or gratuity or violation of the civil False Claims Act.”**

Also see: FAR Part 52.209-5
Certification Regarding Responsibility Matters

Uniform Guidance 2 CFR § 200.113 Mandatory Disclosures

Must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all **violations of Federal criminal law** involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Failure to make required disclosures can result in any of the remedies described in §217.200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR Part 180 and 31 U.S.C. 3321).

No Credible evidence standard; no reports to OIGs; no False Claims Act citation

Certifications:

- ▶ 2 C.F.R. 200.415
- ▶ “By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).”

Finding the Documents and Certifications:

- Proposals and budgets (Refer back to solicitations)
- Panel reviews
- Award documents: Letters, Grant Conditions, Policy and Procedures Guides
- Training Materials
- Correspondence
- Interim reports and certifications
- Final reports and certifications
- Financial Draw Downs and certifications

Common Grant Fraud Schemes:

- ▶ Fraudulent use of grant funds
 - ▶ Embezzlement and diversion of funds for personal use
- ▶ Fraud in the inducement
 - ▶ Making material false statements in the proposals that result in grants that would otherwise not have been made to you
- ▶ Duplicate funding
 - ▶ Getting more than one agency to fund the same work
 - ▶ Double/triple billing out the work

Identifying Victims and Loss:

- ▶ Victims beyond the Federal Government/Taxpayer
 - ▶ Students
 - ▶ Colleagues/former collaborators
 - ▶ Family members
 - ▶ Other prospective grantees whose awards are not funded due to the defendant's lies
- ▶ Loss
 - ▶ A challenge in some of our cases where some work was performed and research reports produced
 - ▶ Presumptive loss in set-aside programs

Criminal Statutes Implicated: Beyond Mail and Wire Fraud

- Theft of Federal Program Funds: 18 U.S.C. § 666
- Aggravated Identity Theft, 18 U.S.C § 1028A
 - Listing people in proposals who have no affiliation with company or work
 - Falsified letters of support
- Falsification of Records, 18 U.S.C. § 1519
- False claims, 18 U.S.C. § 287
- Conspiracy, §§ 371, 286, 1349
 - Almost always takes more than one person to commit these fraud schemes

Most Common Defenses:

- ➡ But I did the work!
- ➡ The government rules are too confusing; I did not mean to do anything wrong.

United States v. Collins

13

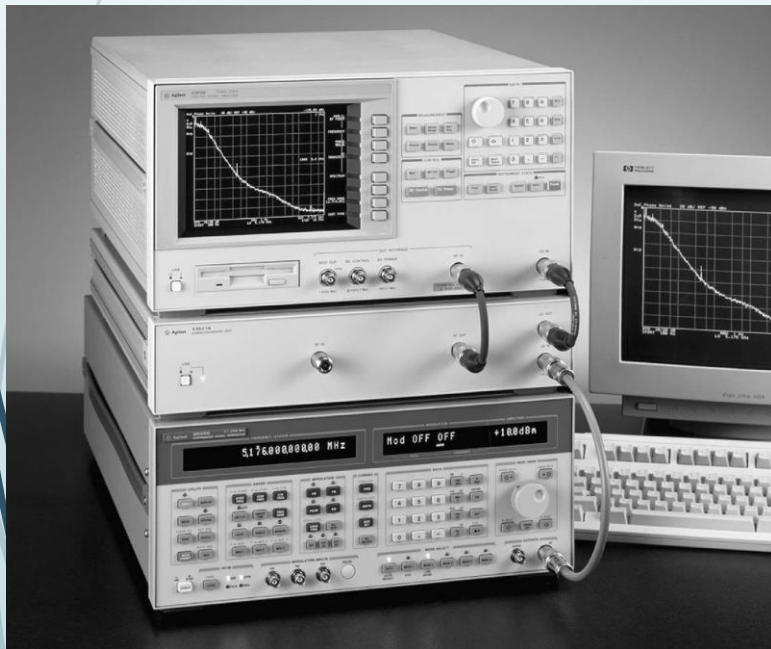
Northern District of Indiana

Case overview

- ▶ University referred the case after having caught the fraud and conducted its own investigation and interviews
- ▶ Two NSF Grants implicated, plus university cost share
 - ▶ Intent of one award was to fund engineering equipment
 - ▶ Total equipment budgets of \$286,000
- ▶ Scheme: tenured professor used federal grant funds and university cost share funds to purchase unauthorized equipment

Engineering equipment?

Agilent Technologies
Signal Analyzer
\$67,970



Dodd Camera and Video
Sinar P3 Camera +
accessories
\$44,346



Dotworkz
Axis Network camera
\$2,604



Dodd Camera and
Video
Leaf Aptus 75 +
accessories
\$46,526

Epson Stylus Pro Printer
\$10,852



Results



- ▶ Seven count indictment
 - ▶ 4 counts of Mail Fraud (18 USC § 1343)
 - ▶ University Checks sent out to pay vendors for cameras
 - ▶ 3 counts Theft (18 USC § 666)
- ▶ Guilty plea to one count of 18 U.S.C. § 666
 - ▶ Sentenced to 6-months home confinement
 - ▶ 18-months probation
 - ▶ Restitution
- ▶ 10-year debarment with credit for suspension period, until Feb. 28, 2021

United States v. Grimes

18

Middle District of Pennsylvania

Grimes

- ▶ Multi-agency: NSF OIG, DOE OIG, HHS OIG, and IRS CI
- ▶ Proactive review – duplication
- ▶ Grants to Pennsylvania State University from:
 - ▶ National Science Foundation – February 13, 2009
 - ▶ Dept. of Energy, Adv. Research Projects Agency – Energy (ARPA-E) – August 26, 2009

ARPA-E Proposal

Other funding, from any source, which support the substance of proposed work.

None.

Has substance of this work been previously submitted to DOE

No.

Pending funding, any source, with any overlap to proposed work.

None.

Grimes

- ▶ Sentech / Sentech Biomed
 - ▶ Grimes and his wife's company
 - ▶ >\$2 million in SBIR funding between 2002 – 2009
- ▶ NIH Phase II award
 - ▶ Proposal and reports indicated Hershey Medical Center would conduct clinical trials and receive ~\$500,000

Grimes - Information

- ▶ **Wire Fraud** (18 U.S.C. § 1343)
 - ▶ NIH SBIR Phase II Progress Report

- ▶ **False Statements** (18 U.S.C. § 1001)
 - ▶ ARPA-E proposal

- ▶ **Money Laundering** (18 U.S.C. § 1957)
 - ▶ \$24,000 business check deposited into personal bank account

Grimes - Outcome

- ▶ Entered guilty plea February 21, 2012
 - ▶ 10 year voluntary exclusion
- ▶ Sentenced November 30, 2012:
 - ▶ 41 months in prison
 - ▶ \$640,660.37 in restitution

United States v. Aldissi and Bogomolova

24

Middle District of Florida

Aldissi

- ▶ Multi-agency: NSF OIG, NASA OIG, DCIS, Army CID, EPA OIG, DOE OIG, DHS OIG, DOE OIG
- ▶ Proactive review – facilities
- ▶ Fraud in the inducement – Misrepresentations in proposals including:
 - ▶ Eligibility
 - ▶ Facilities
 - ▶ Endorsements / Subcontractors / Consultants

54B-003

Not a 2500
sq. ft. lab



Not a fully
equipped
lab

Room
8



Opto Semiconductors

OSRAM

May 23, 2010

Dr. Matt Aldissi

May 23, 2010

Dr. Matt Aldissi

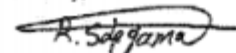
Dear Matt:

As you know, Osram Opto Semiconductors Inc. has been active in lighting and display applications. We recently completed a program that targeted organic species. We have a keen interest in any new development that would benefit our company with respect to polymer and organic electronics including photovoltaic technology.

Your approach which consists of the development of polymer systems that can support electron and hole transport efficiently is of great interest to us. If funded, your Phase I program has the potential to advance polymer-based photovoltaic technology, particularly that of bulk heterojunctions, and we would be interested in following up on your progress. We would also be interested in collaboration with you, particularly during the Phase II program to enhance the chances for commercialization of the organic thin film photovoltaic technology.

If you or your sponsor has any questions, I can be reached at 408-456-4165.

Sincerely,



Reza Stegamat, Ph.D.

Reza Stegamat, Ph.D.

This is to certify that this is a true copy of the record which is on file in the Pennsylvania Division of Vital Records in accordance with Act 66, P.L. 304, approved by the General Assembly, June 29, 1953.

WARNING: It is illegal to duplicate this copy by photostat or photograph.

Calvin E. Johnson
 Calvin E. Johnson, M.D., M.P.H.
 Secretary of Health



Frank Yezajoll
 Frank Yezajoll
 State Registrar

4144236

SEP 20 2007

COMMONWEALTH OF PENNSYLVANIA • DEPARTMENT OF HEALTH • VITAL RECORDS
CERTIFICATE OF DEATH
 (See instructions and examples on reverse)

4. Date of Death (Month, day, year)
AUGUST 9, 2007

COMMONWEALTH OF PENNSYLVANIA - DEPARTMENT OF HEALTH - VITAL RECORDS
CERTIFICATE OF DEATH
 (See terms of use and examples on reverse)

1. Name of Decedent (Last, first, middle initial)
REZA STEGHANAT

2. Sex
MALE

3. Social Security Number
618 - 25 - 6656

4. Date of Birth (Month, day, year)
AUGUST 9, 2007

5. Age at Death (Month, day, year)
47

6. Date of Death (Month, day, year)
SEPTEMBER 14 1959

7. Place of Birth (City, State, Country)
SHEHAR, IRAN

8. Race
WHITE

9. Marital Status
MARRIED

10. Spouse's Name (Last, first, middle initial)
MALIKA DAADI

11. Decedent's Usual Residence (City, State, Country)
4937 OAKMOUNT AVENUE GIBBSBORO, PA 19044-8293

12. Decedent's Usual Residence (City, State, Country)
4937 OAKMOUNT AVENUE GIBBSBORO, PA 19044

13. Decedent's Usual Residence (City, State, Country)
SHEHAR, IRAN

14. Decedent's Usual Residence (City, State, Country)
SHEHAR, IRAN

15. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

16. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

17. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

18. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

19. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

20. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

21. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

22. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

23. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

24. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

25. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

26. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

27. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

28. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

29. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

30. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

31. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

32. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

33. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

34. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

35. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

36. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

37. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

38. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

39. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

40. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

41. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

42. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

43. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

44. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

45. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

46. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

47. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

48. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

49. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

50. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

51. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

52. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

53. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

54. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

55. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

56. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

57. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

58. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

59. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

60. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

61. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

62. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

63. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

64. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

65. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

66. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

67. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

68. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

69. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

70. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

71. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

72. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

73. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

74. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

75. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

76. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

77. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

78. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

79. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

80. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

81. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

82. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

83. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

84. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

85. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

86. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

87. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

88. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

89. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

90. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

91. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

92. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

93. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

94. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

95. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

96. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

97. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

98. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

99. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

100. Decedent's Usual Residence (City, State, Country)
6111 P.M. AUGUST 9, 2007

Aldissi – Indictment (and superseding indictment)

- **Conspiracy to commit wire fraud** (18 U.S.C. § 1349)
- **Wire fraud** (18 U.S.C. § 1343)
- **Aggravated identity theft** (18 U.S.C. § 1028A)
- **Falsification of records** (18 U.S.C. § 1519)

Aldissi – Trial & Outcome

- ▶ **TRIAL:** 56 witnesses testified for the government:
 - ▶ SBIR program directors
 - ▶ Government program officers and COTRs
 - ▶ Proposal evaluators
 - ▶ Identity theft victims
 - ▶ Unindicted co-conspirator
- ▶ **Defenses:**
 - ▶ Fixed price
 - ▶ Performance
- ▶ **CONVICTION:** Both defendants found guilty on all counts
- ▶ **SENTENCING:**
 - ▶ Aldissi – 15 years prison
 - ▶ Bogomolova – 13 years prison
 - ▶ Forfeiture money judgment: \$10,654,969
 - ▶ Restitution: \$10,654,969

United States v. Gamble

32

Northern District of Georgia

Gamble

- ▶ NSF OIG, with assistance from FBI
- ▶ State Audit – Purchase card misuse
- ▶ Research Center Grants to Georgia Tech
 - ▶ Gamble worked as a Center Accountant
 - ▶ Identified in audit as having purchased a large volume from internet vendors

A dark blue arrow points to the right at the top left. Below it, several thin, curved lines in shades of blue and grey sweep across the left side of the slide.

Computer files obtained by Georgia Tech Internal Audit

- ▶ GA Tech computer use policy resulted in obtaining key electronic evidence:
 - ▶ E-mails from Internet vendors shipping goods to the Gamble's home,
 - ▶ Copies of templates for various Internet vendor invoices, One template had been altered 64 times,
 - ▶ Pictures...



Tracking the Evidence

	DESCRIPTION	CHARGED	VENDOR
001	Security First JCS-552/27A 5 " Rear View Camera System	\$249.99	Buy. COM
002	Draper 207010 4:3 Manual Wall Projection Screen	\$151.14	Amazon. COM
003	RV Air Conditioner, Complete (13.5K / Cool Only / Non-Ducted) - Color - White	\$518.99	Amazon. COM
004	RV Air Conditioner (15K - Heat/Cool) - Complete Assembly - Color - Ivory	\$639.00	Amazon. COM
005	Carefree Fiesta 14' Vinyl Awnings - Color - Ocean Blue	\$648.99	Amazon. COM
007	InFocus X2 Multimedia DLP Projector	\$794.99	Amazon. COM
008	Igloo AUDIO CO AU College Audio Cooler - Auburn University	\$83.94	Amazon. COM
009	Classic Check Oilcloth Table Cloth - Orange (48 x 108)	\$30.00	Amazon. COM
010	4 - NCAA Auburn Tigers Orange Adult Chair	\$183.45	Amazon. COM
011	4 - Byre of Maine Folding Table (16" x 16" x 16.5")	\$161.97	Buy. COM
012	Auburn Tigers Tailgater Mat	\$181.93	Amazon. COM
013	Coleman Road Trip Grill	\$210.40	Amazon. COM
014	Auburn White Canopy by Logo Chair	\$291.95	Amazon. COM
015	Auburn Color Canopy by Logo Chair	\$311.95	Amazon. COM
016	NCAA Auburn Tigers logo XL 5 X 8 Tailgate Rug	\$129.99	Amazon. COM
017	Auburn Tigers 11"x15" Garden Flag	\$16.99	Amazon. COM
018	PAYPAL - Purchase (utility trailer)	\$550.00	Pay Pal
020	Optronics TLL-56RK Waterproof LED Trailer Light Kit	\$54.98	Buy. COM
021	NCAA Auburn Tigers 20" Double Level Ribbon Pinwheel - Team Sports America	\$30.48	Amazon. COM



003

004

015

002

005

014

001



009

013

007

010

010

018

020

008



011

012

010

018

016

017

021





OIG & Internal Audit Found

- ▶ Over 3,800 personal purchases made from more than 15 different vendors over 5 years
- ▶ Over 1,900 transactions through the institution's financial system
- ▶ Over 30 different accounts (NSF/State/Private) fraudulently charged
- ▶ Over \$316,000 fraudulently diverted

A dark grey arrow points to the right from the left edge of the slide. Several thin, curved lines in shades of blue and grey originate from the left side and sweep across the slide towards the right.

Concealment of Fraudulent Activities

- Majority of items shipped to home address
- Forged her supervisor's signature on P-Card statement review documents
- Created false invoices
- Manipulation of the institution's accounting system

Specific Items over \$1000





Manipulation of accounting system

- ▶ Poulan Lawn Tractor - \$1099 – transferred 3 times in 3 months
- ▶ HP Pavilion Notebook PC - \$1023 – transferred 3 times in 4 months
- ▶ BUNN Ultra-2 Drink System - \$2134 – transferred 3 times in 4 months
- ▶ Portable RV Refrigerator/Freezer - \$1029 – transferred 5 times in 4 months

Fake Receipt



- My Account
- Send Money
- Request Money
- Merchant Tools
- Auction Tools
- Overview
- Add Funds
- Withdraw
- History
- Resolution Center
- Profile

Transaction Details

eBay Payment Sent (ID # 546546sd4f64e643df13se5)

Total Amount: \$1300.00 USD

Date: 6/07/2006

Item #	Item Title	Qty	Price	Subtotal
6572837255	Bioengineering Books - Hardcover	1	\$1300.00 USD	\$1300.00 USD
	Shipping & Handling via UPS Next Day Air (includes any seller handling fees)			\$.00 USD
	Shipping Insurance :			--
			Total:	\$1300.00 USD

Status: Completed



YAMAHA
GA 082 KP

YAMAHA

Wave Runner

5079



Results



- 22 count indictment
 - 17 counts of Mail Fraud (18 U.S.C. § 1343)
 - 5 counts of Theft (18 U.S.C. § 666)
- Guilty plea to all counts
 - Sentenced 32 months prison/3 years probation
 - \$316,000 restitution/\$2200 fines-assessment
 - 250 hours of community service
- 5 year debarment

United States v. Klentschy

45

Southern District of California

Klentschy

- ▶ NSF OIG, DoED OIG
- ▶ Tennessee auditor discovered duplicate travel reimbursements
- ▶ NSF and DoED grants to El Centro Elementary School District (ECESD)
 - ▶ Klentschy served as ECESD's Superintendant
 - ▶ Well known advocate of "Hands On Science" learning



Initial Investigative findings

Klentschy failed to disclose various outside activities & payments:

- ▶ TSU payments for salary & travel related to CA research site from NSF grant
- ▶ Travel, honoraria, consulting payments for speaking and outside education activities
- ▶ SDSU payments from various grants & sub-awards from school district



Undisclosed Consulting and Duplicate Travel Payments

- ▶ 68 duplicate payments to the superintendant all charged to ECESD which duplicated TSU, and 26 other institutions
- ▶ 11 duplicate payments to his Science Center staff, all cash returned him
- ▶ \$60,000 in duplicate travel payments
- ▶ \$70,000 in consulting/speaking fees

04/29/07 to 05/01/07- Raleigh, NC

Provided to ECESD

Provided to TSU

RR 571478460 #01
MICHAEL
KLENTSCHY

VEHICLE: 01492 / 3613155
 07NAVS LIC: NC VVP1454
 FUEL: 8/8 OUT 8/8 IN
 CDP: 195328 - ELCENTRO SCHOOL DISTRICT
 FF: COBA328588
 RES: D5893262216 / 0501A / F
 COMPLETED BY: 3063 / NCRAL11

RENTED: RALEIGH-DURHAM A/P
 RENTAL: 04/29/07 17:18
 RETURN: 05/01/07 14:58

PLAN IN: 0501A RATE CLASS: F
 PLAN OUT: 0501A

MILES IN: 8564 TR-X MILES
 MILES OUT: 8427 MILES ALLOWED
 MILES DRIVEN: 137 MILES CHARGED

DAYS	2 @ \$ 70.75 / DAY	\$	141.50
SUBTOTAL 1		\$	141.50
DISCOUNT -	R 20%	\$	28.30
SUBTOTAL 2		T\$	113.20
CONCESSION FEE RECOVERY		T\$	11.32
FF SURCHARGE		T\$	1.00
LDW	DECLINED		
LIS	DECLINED		
PAI, PEC	DECLINED		
TAX 14.500% ON	125.52	\$	15.20
NET DUE		\$	143.72
PAID BY	VISA XXXXXXXXXXXXX1010		

FF: COBA328588 - 100 MILES
 AWARDED

RR 571478460 #02
MICHAEL
KLENTSCHY

VEHICLE: 01492 / 3613155
 07NAVS LIC: NC VVP1454
 FUEL: 8/8 OUT 8/8 IN
 CDP: 195328 - ELCENTRO SCHOOL DISTRICT
 FF: COBA328588
 RES: D5893262216 / 0501A / F
 COMPLETED BY: 3063 / NCRAL11

RENTED: RALEIGH-DURHAM A/P
 RENTAL: 04/29/07 17:18
 RETURN: 05/01/07 14:58

PLAN IN: 0501A RATE CLASS: F
 PLAN OUT: 0501A

MILES IN: 8564 TR-X MILES
 MILES OUT: 8427 MILES ALLOWED
 MILES DRIVEN: 137 MILES CHARGED

DAYS	2 @ \$ 70.75 / DAY	\$	141.50
SUBTOTAL 1		\$	141.50
DISCOUNT -	R 20%	\$	28.30
SUBTOTAL 2		T\$	113.20
CONCESSION FEE RECOVERY		T\$	11.32
FF SURCHARGE		T\$	1.00
LDW	DECLINED		
LIS	DECLINED		
PAI, PEC	DECLINED		
TAX 14.500% ON	125.52	\$	18.20
NET DUE		\$	143.72
PAID BY	VISA XXXXXXXXXXXXX1010		

FF: COBA328588 - 100 MILES
 AWARDED



Klentschy's Conspiracy with SDSU IVC Personnel

- ▶ Initiated DoED grant payments to an educational consulting company totaling \$395,000
- ▶ Company was owned by SDSU IVC Assistant Dean Olga Amaral, and involved another Professor, Leslie Garrison
- ▶ Amaral and Garrison performed external evaluation receiving \$152,250 each
- ▶ Klentschy was paid \$90,000 by Amaral through the company as “Assistant Researcher”
- ▶ Company invoices, approved by Klentschy as PI on DoED Grant, stated that the \$90,000 was paid to an unnamed Assistant Researcher

Data Submitted to TSU Under the Research Grant

- Between 2006 and 2008, \$2,095,596 was expended by TSU on the NSF Research Grant.
- In 2006, Klentschy, as the CA Site Director, provided to TSU 2004-2005 student data.
- In April 2007, student data was published claiming that Klentschy's special Hands-on-Science method produced the highest gains in state student test scores, above the state proficiency level.
- Klentschy had altered or fabricated 75% of the test score data



Indictments



- ▶ Klentschy alone was indicted on 32 counts: Mail Fraud, Wire Fraud and Theft of Federal Program Funds for the submission of duplicate travel vouchers and submitting false student test scores to receive fraudulent salary payments from the TSU Research Grant
- ▶ Klentschy, Amaral, and Garrison were indicted on 16 counts: Conspiracy, Mail Fraud, and Theft related to the false “Assistant Researcher” salary payments

Convictions and Sentencing

- ▶ Klentschy pled guilty to two counts of Mail Fraud
- ▶ Sentenced to 10 months imprisonment, 3 years supervised release, and ordered to pay \$325,000 in restitution.

- ▶ Amaral and Garrison pled guilty to submitting False Statements
- ▶ Sentenced to 5 years probation

To Learn More About Criminal Grant Fraud cases:

- ▶ Financial Fraud Enforcement Task Force's Grant Fraud Working Group:
 - ▶ Lead by DOJ Inspector General Michael Horowitz
- ▶ AUSA Grant Fraud POC List
- ▶ NSF OIG Grant Fraud Case Digest
 - ▶ Case Summaries
 - ▶ Links to all key case documents: Indictments, Plea Agreements, Press Releases
 - ▶ Names of the AUSAs who prosecuted the cases
- ▶ NSF OIG CD of Proactive Materials

Contact Information

Fara Damelin

Director, Office of
Investigations Legal Division

NSF OIG

fdamelin@nsf.gov

(703) 292-8873

Mike Pritchard

Senior Special Agent

NSF OIG

mpritcha@nsf.gov

(703) 292-7533

Pamela Van Dort

Investigative Attorney

NSF OIG

pvandort@nsf.gov

(703) 346-2517

FRAUD AND WASTE IN THE SBIR/STTR PROGRAM May 6, 2014

Michael Pritchard, Special Agent, NSF OIG
Fara Damelin, Investigative Attorney, NSF OIG

SBIR/STTR FRAUD INVESTIGATIONS

- ▶ Background & Purpose of SBIR/STTR Programs
- ▶ Eligibility Requirements
- ▶ Relationship with Universities
- ▶ Common Types of Abuse
 - Facilities
 - Primary Employment
 - Overlapping/Duplicative funding
 - Subcontracts
- ▶ Investigative Outcomes
 - Indictments for false statements/false claims/theft of federal program funds/mail fraud/wire fraud
 - Civil Complaints, False Claims Act
 - Government-wide suspension and debarment

Program Background

- ▶ **Small Business Innovation Research (SBIR)**
 - Enacted in 1982, as part of the Small Business Innovation Development Act
 - 2.5% of research budgets of agencies with extramural R&D budgets over \$100M
- ▶ **Small Business Technology Transfer (STTR)**
 - Established by the Small Business Technology Transfer Act of 1992
 - 0.3% of research budgets of agencies with extramural R&D budgets over \$1B

Program Goals

- ▶ **Develop intellectual capital** – Make awards for research that build upon recent discoveries in basic sciences and engineering and provides opportunities for individuals who have, or are working toward, advanced scientific, engineering, or education degrees.
- ▶ **Strengthen the physical infrastructure** – Make awards that lead to development of new scientific, engineering, and education capability through commercialization of advanced instruments, new processes, and innovative software, etc.
- ▶ **Integrate research and education** – Encourage awardees to disseminate research findings through scholarly journals and professional meetings.
- ▶ **Promote partnerships** – Encourage awardees to engage in cooperative activities involving industry, government (state, local, Federal), and academia.

(www.nsf.gov)



Participating Agencies

SBIR:

1. USDA (G)
2. Commerce (C)
3. DOD (C)
4. Education (C/G)
5. Energy (G)
6. DHS (C)
7. HHS (C/G)
8. Transportation (C)
9. EPA (C)
10. NASA (C)
11. NSF (G)

STTR:

1. DOD (C)
2. Energy (G)
3. HHS (C/G)
4. NASA (C)
5. NSF (G)

SBIR/STTR Award Structure

- ▶ 3 Phases – Companies **must** have a successful Phase 1 to receive a Phase 2 award!
- ▶ Phase 1:
 - Feasibility Study
 - 6 months
 - Up to 150K
 - Phase IB: Matching program requiring outside investment
- Phase 2:
 - Expansion/Development
 - 2 years
 - \$300K–\$1M
 - Phase IIB: Matching program requiring outside investment
- Phase 3:
 - Commercialization
 - Private or Non-SBIR Federal funding

ELIGIBILITY REQUIREMENTS

- ▶ U.S. small business as defined by SBA
 - Principal place of business is in the U.S.
 - At least 51% U.S. owned
 - Maximum 500 employees
- ▶ Cannot receive funding for duplicate work (disclosure of related overlapping work is required)

MORE ELIGIBILITY REQUIREMENTS

- ▶ Work performed by the Company:
 - Phase 1 – SBIR minimum 2/3 research done by company; STTR at least 40% company, 30% partner
 - Phase 2 – SBIR minimum 1/2 research done by company; STTR at least 40% company, 30% partner
- ▶ Amount of Effort by Principal Investigator
 - Generally, one month per 6 months of award period
- ▶ Primary employment of Principal Investigator (PI) is with the company
 - Means that separate and distinct from required months of effort by PI, the PI must ALSO work at least 51% time with the small business
 - Cannot be PI for SBIR/STTR and work full-time or even 50% for a University or other employer

MORE ABOUT STTR AWARDS

- ▶ Goal of this program is to support collaboration between a small business and a collaborating research institution
- ▶ 30% of the STTR budgets (all phases) are required to go to the collaborating research institution
- ▶ STTR awards would not be made but for this budgeted collaboration

LIFE CYCLE CERTIFICATIONS

- ▶ These eligibility requirements are not merely technicalities.
 - If you do not meet these requirements, you are not eligible for the award.
 - False Statements and omissions that affirm that you meet one or more criteria when you do not, constitute criminal violations.
- ▶ Certifications serve as the basis for many of the SBIR/STTR investigations conducted by OIGs.
- ▶ SBIR/STTR grantees must certify that these eligibility requirements multiple times.
 - Companies self-certify that they meet the program eligibility requirements and that they completed work as proposed while following all the rules
 - In proposals, requests for payments, interim and final project reports

MORE ABOUT CERTIFICATIONS

- ▶ Know your agency's certification language
 - Certification language differs slightly across agencies, but standardized language is currently being developed
- ▶ Certifications expressly notify the certifier that provision of false information is a violation of criminal law
 - "I certify that to the best of my knowledge...the statements herein are true and complete...I understand that the willful provision of false information or concealing a material fact in this report or in any other communication submitted to NSF is a criminal offense (U.S. Code, Title 18, Section 1001).
 - Not just in proposals and reports, but also in emails communicating with NSF program and financial personnel.

AGENCY SPECIFIC REQUIREMENTS

- ▶ Agencies can make **more specific** requirements on SBIR/STTR research, mandating that all research pertaining to an award be conducted in the **United States**
- ▶ Know your award documents
 - Award Letter, Solicitation, Grant Condition
- ▶ Coordinate with program office to determine your agency's specific regulations
 - E.G., No funds can be used for sales and marketing
 - Pre-award costs

Agency Specific Controls to Prevent Fraud (or make it easier to prosecute).

- ▶ NSF provides mandatory paid training regarding these requirements.
 - Grantees are expected to read and know the provisions of the applicable grant conditions cited in SBIR/STTR award letter.
- ▶ NSF requires financial capability reviews prior to issuance of Phase II SBIR and STTR awards.

Value Of Mandatory Training

- ▶ SBIR Grantees Conference
 - Puts Grantees On Notice Of Program Requirements
 - Demonstrates Knowledge
- ▶ Notifies Grantee Of Eligibility Criteria
 - Importance Of Certifications
 - Consequences Of Not Following The Rules
- ▶ Funded By NSF
 - Mandatory Part Of Phase I Budget

SBIR/STTR Fraud Indicators

- ▶ Duplicate proposals/awards from same or multiple agencies for same work
- ▶ Fraud in inducement of awards – e.g. fake investment
- ▶ Exaggerating capabilities
- ▶ Disallowed subcontracting
- ▶ Misuse or diversion of funds
- ▶ Proposed vs. actual work
- ▶ Plagiarism
- ▶ Geographical improbabilities
- ▶ Suspicious PI or company presidents
- ▶ Sham websites, e-mails
- ▶ No real U.S. presence
- ▶ Front companies
- ▶ Employee Misconduct

Are foreign-based firms eligible for SBIR awards?

- ▶ To be eligible for award of SBIR funding agreements, a small business concern has to meet the following qualifications:
 - be independently owned and operated principal place of business is located in the United States at least 51 percent owned or in the case of a publicly owned business, at least 51% of its voting stock is owned by United States citizens or lawfully admitted permanent resident aliens.

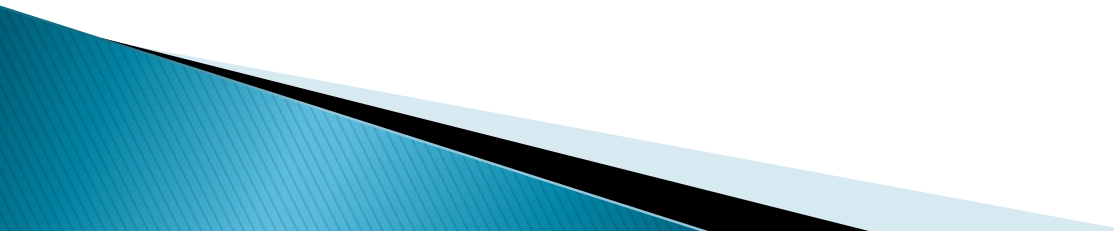
It's All in the Family And Other Conflicts of Interest

- ▶ Subawards To Entities For Which They Have A Conflict
 - To themselves at a university
 - To a company that they own, or owned by family members
- ▶ SBIR/STTR Grantees who pay family members without disclosing payments to agency
 - Spouse or minor child with different last name

Proactive Investigations

- ▶ Proactive investigative reviews generate more cases than complaints in this arena
- ▶ Identify a problem and see if there is a pattern
 - Businesses located at home
 - Facilities do not exist
 - Primary employment violations
 - Fake Investments
 - Overlapping funding

Frequently Used Statutes

- ▶ False Statements (18 U.S.C. 1001)
 - ▶ False Claims (18 U.S.C. 287)
 - ▶ Civil False Claims (31 U.S.C. 3729)
 - ▶ Embezzlement or Conversion (18 U.S.C. 641)
 - ▶ Mail Fraud (18 U.S.C. 1341)
 - ▶ Wire Fraud (18 U.S.C. 1343)
 - ▶ Export Violations
- 

ADMINISTRATIVE TOOLS TO PROTECT FEDERAL FUNDS

- ▶ Government-wide suspension and debarment
 - Can make this recommendation while matter is in referral to DOJ
 - Always Coordinate with USAO
 - Distinctions between suspensions and debarments
- ▶ Suspension or termination of existing grants or contracts
 - To protect current/existing award funds not protected by Govt. Wide Suspension and Debarment

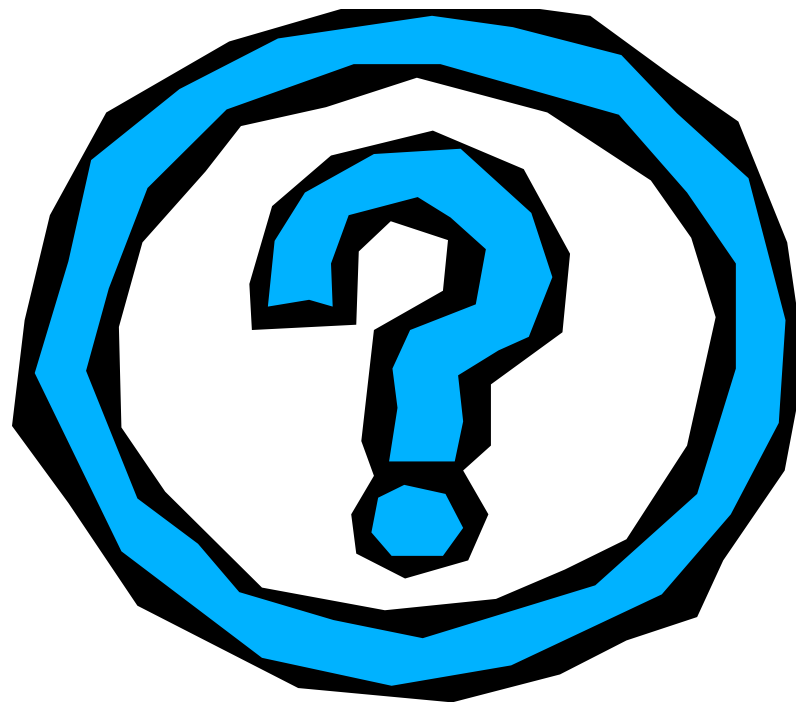
RECENT CASES –

- ▶ SBIR/STTR Grantees Indicted
 - For falsely certifying primary employment
 - For Diverting grant funds
 - Fake Investments
 - Obstruction
- ▶ PIs and Small Companies suspended government-wide pending SBIR/STTR fraud investigations
 - For lying about primary employment – PI had university appointment; 50% and up breaks the rules!
 - For lying about outside investment funds – False representations made to NSF to obtain supplemental Phase IB funding.
 - For lying about overlapping funding
 - For providing false information about time and effort expended on Phase II award – NSF requires and reviews milestone charts on project reports and relies on representations in those milestone charts before releasing funding, so they must contain accurate information.
 - For misuse of NSF award funds – Paying your mortgage or transferring large portions of award funds directly to your personal account is not OK.

WANT TO LEARN MORE ?

- ▶ GAO Reports
- ▶ OIG Reports
- ▶ Semiannual Reports
- ▶ Outreach Presentations
- ▶ SBIR National Conference
- ▶ NSF Grantees Conference

QUESTIONS



Contact Information

- ▶ **Michael Pritchard, Special Agent, mpritcha@nsf.gov**
 - (703) 292-7533
- ▶ **Fara Damelin, Investigative Attorney, fdamelin@nsf.gov**
 - (703) 292-8873

Confidential Communications

E-mail: oig@nsf.gov

Mail: NSF—ATTN: OIG HOTLINE
4201 Wilson Boulevard; II-705
Arlington, VA. 22230

Anonymous Communications: Hotline:1-800-428-2189
www.nsf.gov click on IG Hotline

Legal Tools and Requirements Cooperation and Coordination of Remedies

IG Criminal Investigator Academy

CGFTP

December 7, 2017



Course Instructor
Fara Damelin, NSF OIG

Civil, Criminal & Administrative Remedies

- Overview
- Parallel Proceedings
- Investigative Tools

Key Take Away Points

- ▶ Consider Multiple Avenues for Every Investigation
 - If we do this right, our substantiated fraud cases can and should result in:
 - Criminal conviction and sentence
 - Civil restitution and triple damages
 - Termination of active contracts and grants
 - Fact-Based Govt. wide suspension to prevent future awards during the investigation
 - Govt. wide debarment

Key Take Away Points

- ▶ **Coordinate**
 - With your agency, other OIGs, DOJ, Other LE and State Entities
- ▶ **Communicate**
 - Who to call?
 - For what documents and information?
 - No need to recreate the wheel
 - Go-bys
- ▶ **Share Lessons Learned and Best Practices**

Practical Reality

It's all about the People

- ▶ We make or break our cases when we pick up the phone to call DOJ
 - Check out the AUSA POC List
- ▶ No matter what the policies are, the key is educating and selling ideas to people who make the decisions

Practical Reality

It's all about the People

- ▶ Outreach and collaboration are key
 - S&D officials
 - DOJ Criminal and Civil
 - Agency OGC
 - Interagency Working Groups/multiagency investigations
 - What can other agencies do for your investigations?

Oversight.gov

- ▶ Check it out!
- ▶ Another source of IG information in one location
- ▶ Good for proactive initiatives
- ▶ Search functions
 - State
 - Year
 - OIG
 - Keyword

Parallel Proceedings

**Civil, administrative, and criminal
enforcement for same or related conduct
*at the same time***

Parallel Proceedings

- ▶ Consider multiple avenues for every case
 - Criminal Referral to DOJ
 - Civil Referral to DOJ
 - Recommendation for Govt. Wide Suspension/Debarment

Parallel Proceedings

- ▶ Consider multiple avenues for every case
 - Recommendation for administrative action
 - Suspension/Termination of Grant
 - Stop Work Order on Contract
 - IPERA Recovery
 - Program Fraud Civil Remedies Act
 - HHS: Other Administrative Remedies

AG Holder Memo

- ▶ Prosecutors, Civil, Agency Attorneys must Communicate and Cooperate, *early and often*
- ▶ Proceed in a manner that allows information to be shared to the fullest extent
- ▶ Consider impact on other proceedings at *every* stage:
 - “From the moment” of intake, a case referral from any source is a referral for all purposes
 - During investigations, plan for grand jury and discovery issues

Parallel Proceedings

▶ Why Parallel Proceedings?

- To protect current and future federal funds
- Attorney General Holder Memo (Jan. 30, 2012)
 - Criminal, civil sections to communicate, coordinate and cooperate, early and often
- CIGIE Quality Standards for Investigations: Due Professional Care - Thoroughness, p. 7 “All investigations must be conducted in a diligent and complete manner, and reasonable steps should be taken to ensure pertinent issues are sufficiently resolved and to ensure that all appropriate criminal, civil, contractual, or administrative remedies are considered.”
- Ability to use information obtained from civil/administrative investigations freely between both civil and criminal cases
- Encourages quicker resolution to avoid defending multiple government actions

Yates Memo, September 2015

- ▶ Deputy Attorney General addresses Individual accountability for corporate wrongdoing
- ▶ Has anybody seen “The Big Short”?

Yates Memo, September 2015

- ▶ Six key steps to strengthen pursuit of individual corporate wrongdoing, including:
 - Focus criminal and civil investigations on individual wrongdoings from inception
 - Criminal and Civil AUSAs should coordinate and communicate
 - Don't give individuals a pass when settling with corporation
 - Individual cases should be addressed
 - Civil attorneys should also focus on individuals, based upon considerations beyond ability to pay

Parallel Proceedings

Challenges

- ▶ Requires good, clear, and regular communication
- ▶ Do not misuse administrative proceedings solely to advance criminal case
- ▶ Be clear with target if investigation is criminal; give appropriate warnings; follow your agency policies

EXAMPLE 1

- ▶ Criminal trial results in felony convictions on false claims/wire fraud, BUT at sentencing, judge does not order sufficient restitution or find in favor of government on loss amount
 - Refer matter under Civil FCA
 - Summary judgment
 - Double or triple damages assessed plus penalties

EXAMPLE 2

- ▶ Criminal referral results in pre-trial diversion, and ½ money back
 - Refer matter under Civil FCA
 - Consider government wide suspension/debarment
 - Other administrative ways to seek recovery?

CHECKLIST: CONSIDER ALL OPTIONS

- ▶ Subpoenas (IG....RFPA...GJ)
- ▶ Interviews (Preferably Recorded)
- ▶ Mail Covers
- ▶ Trash Runs
- ▶ Preservation Requests and Warrants
 - Email and physical locations
- ▶ Referrals:
 - DOJ: Criminal/Civil – CIDs., Search/Seizure Warrants
 - Suspension/debarment
 - PFCRA
 - Other Administrative Actions

Investigative Tools

IG Administrative Subpoenas

Section 6(a)(4) of the IG Act

Investigative Tools

Why Use IG Administrative Subpoenas?

- ▶ May use as many as you need for IG audits, inspections, civil, criminal, and administrative investigations
- ▶ Information obtained via IG subpoena may be used for criminal, civil, and administrative enforcement actions. No grand jury secrecy rules!
 - Also no gag order authority

Investigative Tools

- ▶ What types of documents can you obtain?
 - Corporate Records
 - Financial Records
 - Electronic accounting data (QB Files/Passwords)
 - Business Tax Returns
 - Wage Withholding Reports
 - Employment Records
 - Contracts/Subcontracts
 - Payroll Records
 - Business Bank Records (But Beware!)
 - State Department of Labor Records (Some OIGs obtain these via written requests)

Investigative Tools

Limitations of IG Subpoenas

- ▶ Cannot subpoena another federal agency
 - Own agency: IG Act, section 4
 - Other agencies: (b)(7) letter
- ▶ Enforcement requires a separate court proceeding
- ▶ Difficult to keep investigation covert (NOT ALWAYS)
- ▶ Cannot compel testimony (Even with IGEA)
- ▶ Cannot compel creation of documents
 - But sometimes folks create documents on their own...
 - And sometimes they even falsify and backdate them...leading to obstruction charges

Investigative Tools

IG Subpoena Enforcement

- ▶ OIG subpoenas are given much deference, so long as (1) issued for inquiry within OIG authority; (2) reasonably relevant to inquiry; and (3) not unduly burdensome
- ▶ DOJ will enforce, with assistance from your OIG Counsel (the earlier the notice to counsel, the better)

Investigative Tools

Other Statutes Affecting IG Subpoenas and Access to Records

Investigative Tools: Practical Considerations

- ▶ Some entities challenge IG subpoenas for email records, even those with private servers
- ▶ Some USAOs don't want to take any chances
 - Require warrants even if technically not required
 - "Tape it up and send it back!"
 - Err on side of a warrant
- ▶ Preservation Requests
 - Easy and no notice requirements
 - 90-day increments
 - Some will challenge more than one extension

Investigative Tools

Other Statutes Affecting IG Subpoenas

Right to Financial Privacy Act (RFPA) 12 U.S.C. §§ 3401–3421

- ▶ No government authority may access or obtain info contained in the financial records of any customer from a financial institution without first obtaining one of the following mechanisms:
 - Customer authorization
 - Administrative subpoena
 - Search Warrant
 - Judicial Subpoena
 - Formal written request

Investigative Tools

Other Statutes Affecting IG Subpoenas RFPA Applicability

▶ Financial Institution

- Any office of a bank, thrift, credit union, or credit card issuer (not credit bureaus or pawnshops) (see USAM)

▶ Where subject is a Customer

- individual customer; or
- a partnership of five or fewer individuals (corporations are not covered)
- a non-customer target IS NOT a “customer” (see USAM)

▶ Financial Records

- Bank records
- Credit records
- Loans

Investigative Tools

Other Statutes Affecting IG Subpoenas

RFPA Exceptions – §§ 3413–14

- ▶ **RFPA Restrictions do not apply if:**
 - Grand jury subpoena
 - Emergency access
 - Basic account identifying information

Investigative Tools

- ▶ Records CAN be successfully obtained using the RFPA!
 - If you follow the rules/notice requirements, you can obtain personal bank and credit card records
 - Go-bys
 - Few challenges, so why not ask?

Investigative Tools

CIVIL INVESTIGATIVE DEMAND (CID)

Similar to a Subpoena: Used when the Attorney General believes that someone may be in possession, custody, or control of documents or information relevant to certain civil investigations

CIDs are an important power that goes beyond just getting documents!

- IG subpoenas can't demand testimony or the creation of new documents (so no lists, summaries, etc.)
 - A CID can demand answers to DOJ's interrogatories
 - The target can respond via oral testimony (but can refuse to answer questions under 5th amendment.)
- Can be enforced by appropriate district court
- Like a super-subpoena, but can only be used in civil cases

Civil & Administrative Remedies

- ▶ Civil Fraud Cases: Qui Tam & FERA update
- ▶ Common Law Civil Claims
- ▶ Government–Wide Suspensions and Debarments
- ▶ Suspension and Termination of Existing Awards
- ▶ Suspension/termination of grants/stop work orders

Civil & Administrative Remedies

False Claims Act

31 U.S.C. § 3729 – 3733

- ▶ The civil False Claims Act establishes liability for false claims in **addition to, or instead of**, resorting to criminal sanctions
 - ▶ Through such actions, the Government can recover assets lost through fraud
 - ▶ Knowingly submitting a false claim to the Government can make an individual or company liable to the Government, **both criminally and civilly**
 - (a) actual knowledge of the falsity,
 - (b) acts in deliberate ignorance of the truth or falsity, or
 - (c) acts in reckless disregard of it
- Note: no specific intent required!



Civil & Administrative Remedies

False Claims Act

31 U.S.C. § 3729 – 3733

- ▶ *U.S. ex rel. Escobar v. Universal Health Services, Inc.* , June 2016
- ▶ Implied Certifications: Affirmed FCA case based upon implied certifications if certain conditions apply
 - Submission of invoice and failure to disclose non-compliance with a material provision of the agreement/bargain
- ▶ Materiality
 - whether the violation has the “natural tendency” to influence, or is capable of influencing, the payment or receipt of money or property.
- ▶ Government’s administrative response important to question of materiality

Materiality – Summary

Factors:

- ▶ Does Gov't identify requirement as condition of payment (relevant but not dispositive)?
- ▶ Does violation goes to the “essence of the bargain” (i.e., would a reasonable man attach importance)?;
- ▶ Was violation important/pervasive or minor/limited?
- ▶ What were Gov't actions after learning of the violation?
- ▶ Did the defendant know or have reason to know that the Gov't would consider it to be important? For example, had the defendant been notified of importance? Did the defendant try to conceal the violation?

Civil & Administrative Remedies

False Claims Act

31 U.S.C. § 3729 – 3733

- ▶ What is “Reckless Disregard”?
 - Legislative history: persons making claims for payment to the Government must make “at least some inquiry,” to be reasonably certain they are entitled to be paid
 - Due Diligence: quality controls in place, review of underlying documents/ internal procedures, training personnel involved in submitting claims or submissions
 - Inquiry can be limited, but should be “reasonable and prudent under the circumstances”
 - Mere negligence probably not enough:
 - Reckless disregard may be considered the equivalent of aggravated form of gross negligence, or gross negligence-plus”
 - “A defendant's good faith interpretation of a regulation does not give rise to liability”

Civil & Administrative Remedies

False Claims Act

31 U.S.C. § 3729 – 3733

- ▶ Mandatory Treble damages (3x damages)
- ▶ Penalties per claim recently increased for inflation to between \$10,781 and \$21,563
- ▶ Long Statute of Limitation:
 - Six years after false claim or
 - Three years from the “date when facts material to the right of action are known or reasonably should have been known by official of the United States charged with responsibility to act in the circumstances” – not to exceed 10 years

Examples

- ▶ Public Broadcasting Company that comingles federal and non-federal funds and cannot tell you how the federal funds are expended
- ▶ Small business that fails to keep mandated timekeeping and other records, and reports out expenditures with no source documentations to support
- ▶ University that expends scholarship funds on unallowable expenditures or can't support financial reports

Civil & Administrative Remedies

- ▶ *qui tam pro domino rege quam pro se ipso in hac parte sequitur*
 - "[he] who sues in this matter for the king as well as for himself."
- ▶ The Act may be enforced by the federal government OR private plaintiffs: qui tam relators
- ▶ Who can be a relator?
 - "Original source" / Public disclosure bar
31 U.S.C. § 3730(e)(4)

Civil & Administrative Remedies

False Claims Act

Qui Tam Actions: 31 U.S.C. § 3730

- Qui Tam Investigation:
 - Filed under seal and the government is given 60 days to investigate the relator's claims. (extensions granted)
 - The relator is required to file a written disclosure of substantially all material evidence
 - The relator must also voluntarily disclose his or her allegations to the government before filing suit.

Civil & Administrative Remedies

False Claims Act (FCA):

Qui Tam Actions: 31 U.S.C. § 3730

After Qui Tam Investigation

- Based on investigation, DOJ will decide whether to:
 - Intervene (take over the case and litigate)
 - decline to intervene; relator can proceed with qui tam action (Government can opt to intervene later)
 - dismiss qui tam action
- Relators share: can receive all or part of any penalty imposed; at minimum 15–30% of proceeds of case

Civil & Administrative Remedies

Program Fraud Civil Remedies Act

31 U.S.C. §§ 3801–3812

- Permits agencies to administratively pursue false claims and false statements valued up to \$150,000 per claim
- Modeled on the FCA – PFCRA does not create new violations
- Administrative penalties appx. \$10,781 (recently adjusted for inflation) for each false claim or statement (See agency specific regulations); Damages may be assessed at 2x amount of provable loss
- Dollar recoveries collected from PFCRA cases are returned to the General Fund of the U.S. Treasury
- The PFCRA process codified in Agency's regulations

Civil & Administrative Remedies

Program Fraud Civil Remedies Act (PFCRA) (the “mini” False Claims Act)

General Process

- ▶ **Investigating Official** – OIG initiates investigations of false claims or allegations
- ▶ **Reviewing Official** – Generally, the agency General Counsel reviews the OIG’s findings and forwards the case to DOJ for approval
- ▶ **DOJ** – must approve
- ▶ **Presiding Official** – A PFCRA–authorized presiding official authorized (usually an ALJ) presides over the hearing and decides the outcome case and the penalty and/or assessment imposed.

Civil & Administrative Remedies

Program Fraud Civil Remedies Act (PFCRA) (the “mini” False Claims Act)

▶ When to Consider PFCRA?

- False claims with value under \$150,000
 - Inflated employee travel claims
 - Time and attendance fraud
 - Travel card, procurement card fraud
 - Small Business Fraud

▶ CIGIE Resources

- Program Fraud Civil Remedies Act Working Group: “Program Fraud Civil Remedies Act Practitioner’s Guide.” Approved Nov. 19, 2013. Available business side of IGMET.

Civil & Administrative Remedies

Suspension and Debarment

- ▶ A Federal agency uses suspension and debarment to exclude from Federal programs persons who are not “presently responsible”
 - Procurement contracts – goods and services (FAR Subpart 9.4)
 - Non–procurement transactions – grants, loans, scholarships, and other “non–procurement transactions” (2 CFR Part 180)

- ▶ Protect taxpayer dollars against fraud, waste, abuse, & poor performance
- ▶ Promote socio–economic policies

NOT:

- ▶ Punishment
- ▶ To coerce guilty pleas and civil settlements
- ▶ To embarrass or harass

Civil & Administrative Remedies

Suspension and Debarment

	Suspension	• Debarment
Duration	<ul style="list-style-type: none"> • Temporary measure • Generally one year, but up to 18 months 	<ul style="list-style-type: none"> • Generally three years • 5 to 10 in appropriate circumstances
Grounds	<ul style="list-style-type: none"> • when immediate action is needed to protect the Government's interest • filing of a FCA complaint • upon <i>adequate evidence</i> that any of the causes for debarment have been triggered 	<ul style="list-style-type: none"> • conviction or civil judgment for certain offenses • Serious violations of the terms of a public agreement • Certain eligibility issues • Anything so serious it affects present responsibility
Standard	<ul style="list-style-type: none"> • Adequate evidence 	<ul style="list-style-type: none"> • Preponderance of evidence

Civil & Administrative Remedies

Suspension and Debarment:

- ▶ For more information:
 - “Don't Let the Toolbox Rust: Observations on Suspension and Debarment, Debunking Myths, and Suggested Practices for Offices of Inspectors General” (Suspension and Debarment Working Group, September 20, 2011, and Update, November 19, 2013)
 - <http://www.ignet.gov/pande/inv1.html#reports>
 - November 18, 2016 S&D Workshop

Examples

- ▶ Post indictment/criminal complaint government wide suspension
- ▶ Fact-based government wide suspension
 - Civil and criminal cases
 - Enough information to present “adequate evidence” that cause for debarment exists
- ▶ Conviction based debarment
- ▶ Fact-Based Debarment

Case studies



University Fraud Case Overview

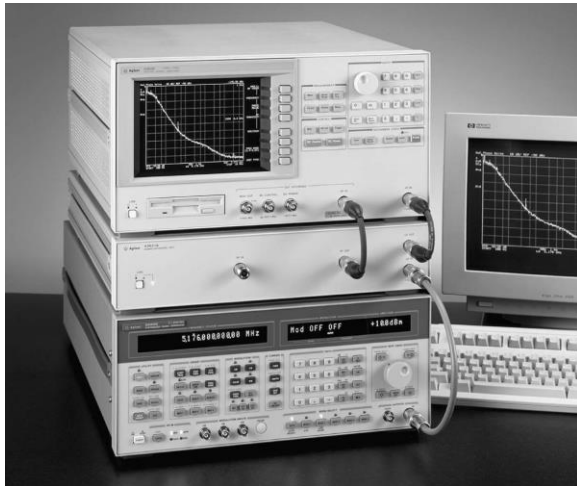
- ▶ Indiana university referred the case after having caught the fraud and conducted its own investigation and interviews
- ▶ Allegations: University tenured professor bought very nice cameras with federal grant money and shipped them to his home in NY
- ▶ Two NSF Grants implicated, plus university cost share
 - Intent of one award was to fund engineering equipment
 - Total equipment budgets of \$286,000

Administrative Action

- ▶ Tenured professor terminated
- ▶ Started a new small business
- ▶ Sought funding from.....
- ▶ Fact-Based Government Wide Suspension

Engineering equipment?

Agilent
Technologies
Signal Analyzer
\$67,970



Dodd Camera and Video
Sinar P3 Camera +
accessories
\$44,346



Dotworkz
Axis Network camera
\$2,604



Dodd Camera and Video
Leaf Aptus 75 +
accessories
\$46,526

Epson Stylus Pro Printer
\$10,852

Criminal Disposition

- ▶ Seven count indictment
 - 4 counts of Mail Fraud (18 USC § 1343)
 - University Checks sent out to pay vendors for cameras
 - 3 counts Theft (18 USC § 666)
- ▶ Guilty plea to one count of 18 U.S.C. § 666
 - Sentenced to 6-months home confinement
 - 18-months probation
 - Restitution
- ▶ 10-year debarment with credit for suspension period, until Feb. 28, 2021

Small Business Fraud Case

- ▶ Proactive review of small business awards based upon the undisclosed use of home/residential address as business address
- ▶ 2 NSF awards issued and one was declined based upon financial concerns of preaward audit
- ▶ PI of small business had full time job at a university, per public records
- ▶ One of the awards was contingent on outside investment of \$100,000, but the money never appeared in bank account according to preaward audit



ATRC's Phase I Project Description

have published numerous peer-reviewed papers in highway alignment and design optimization, including two books entitled "Intelligent Road Design" and "Fundamentals of Road Design." Dr. Jha is the President and Chief Executive Officer (CEO) of ATRC, Inc. and also Associate Professor of Civil Engineering at the Morgan State University. Prior to joining Morgan State University, Dr. Jha worked for over seven years at the Maryland State Highway Administration (MSHA), most of which was spent in the highway design division. In order to carry out the project in an efficient manner an ambitious 8 member team with three senior personnel is formed (see, Fig. 5). The team members are who's who in their respective fields. Figure 6 shows the project milestones, including role of the team members. **Dr. Jha will get release time or negotiate other leave options (such as sabbatical leave) with the university to spend time at ATRC, to complete the project. It will be ensured that all NSF funding requirements are met to spend appropriate time on the project for the successful development of the product. Please see his Chair, Dr. Reginald Amory's letter affirming this in the attachments.**

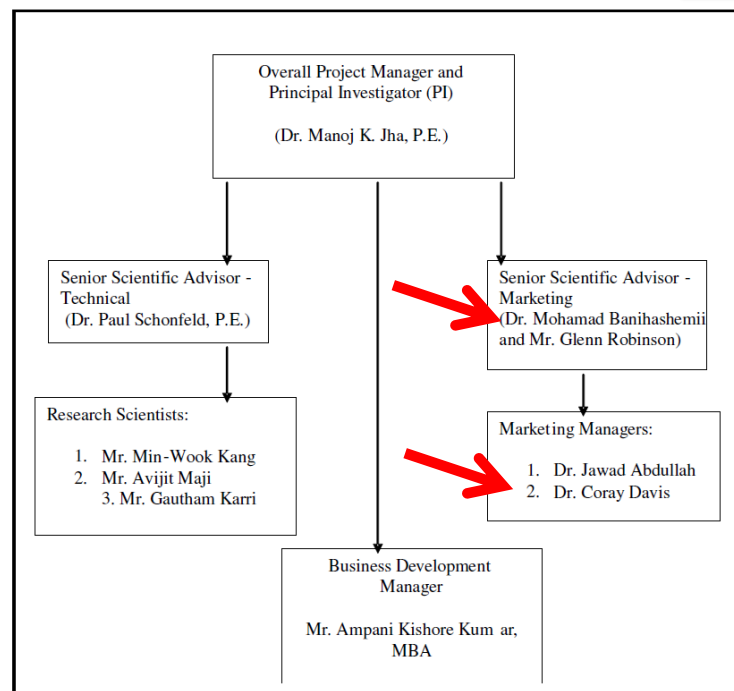
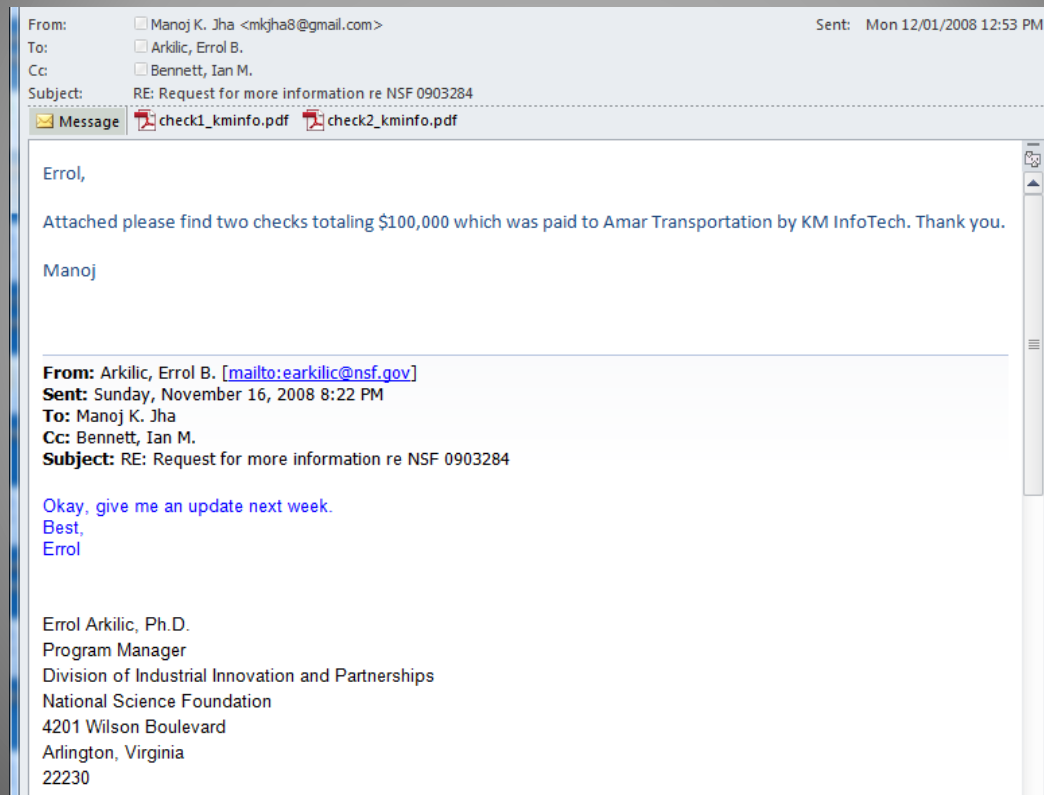


Figure 5. Team Members and their Roles

ATRC Phase IB Emails



Phase IB Emailed Checks

KM Infotech, Inc
305 Timberbrook Ct
Odenton MD 21113

88-999/312/1111

Check No. 185

Date 11/26/2008

Pay to the
Order of Amar Transportation Research and Consulting Inc

Twenty-Five Thousand and 00/100***** Dollars

Bank of America

Memo Investing in ATRC *Misc*

⑈000185⑈

KM Infotech, Inc
305 Timberbrook Ct
Odenton MD 21113

88-999/312/1111

Check No. 186

Date 11/30/2008

Pay to the
Order of Amar Transportation Research and Consulting Inc

Seventy-Five Thousand and 00/100***** Dollars

Bank of America

Memo Misc *Misc*

⑈000186⑈

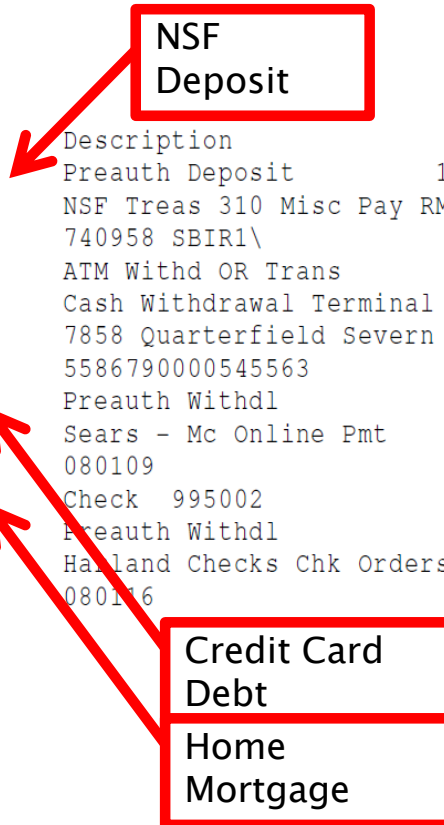
The Bank Records

Transaction Detail			
Date	Amount	Description	Balance
Jan 4	100,000.00+	Preauth Deposit 101036151388388	100,009.70
		NSF Treas 310 Misc Pay RMT*IV*0 740958 SBIR1\	
Jan 8	100.00	ATM Withd OR Trans 00000012660000 Cash Withdrawal Terminal S62093 7858 Quarterfield Severn MD 5586790000545563	99,909.70
Jan 9	5,420.00	Preauth Withdl 67010901206272 Sears - Mc Online Pmt 080109	94,489.70
Jan 16	20,000.00	Check 995002 00000071884780	
Jan 16	36.75	Preauth Withdl 91000011912237 Halland Checks Chk Orders 080116	74,452.95

NSF Deposit

Credit Card Debt

Home Mortgage



ATRC's Expenditure Ledger

Amar Transportation Research & Consulting, Inc.

Expenditure Ledger Details for NSF Project 0740958 for the period 1/1/08-6/30/09*

(*Note: payroll charges appeared through 9/10/2009)

Category	Date	Memo	Amount
Indirect Cost (Overhead)	1/8/2008	New Check Order	36.75
Indirect Cost (Overhead)	4/1/2008	Attorney Fee	3,540.00
Travel	4/1/2008	PI Travel to the Grantee Workshop, VA	550.00
Materials and Supplies	4/15/2008	Office Supplies	800.00
Indirect Cost (Overhead)	4/22/2008	State Tax Filing Fee	300.00
Indirect Cost (Overhead)	4/24/2008	Immigrant visa filing fee for employee	320.00
Indirect Cost (Overhead)	4/24/2008	Immigrant visa filing fee for employee	500.00
Indirect Cost (Overhead)	4/24/2008	Immigrant visa filing fee for employee	300.00
Salaries and Wages	4/29/2008	Payroll-Manoj Jha	946.83
Indirect Cost (Overhead)	4/29/2008	Secretarial Assistance, Payroll-A. Kaur	946.83
Salaries and Wages	5/5/2008	Payroll-Manoj Jha	946.83
Indirect Cost (Overhead)	5/5/2008	Secretarial Assistance, Payroll-A. Kaur	946.83
Salaries and Wages	5/8/2008	Payroll Tax Payment to IRS	468.46
Salaries and Wages	5/22/2008	Payroll-Manoj Jha	946.83
Indirect Cost (Overhead)	5/22/2008	Secretarial Assistance, Payroll-A. Kaur	946.83
Indirect Cost (Overhead)	5/28/2008	Bank Fee	9.99
Salaries and Wages	6/6/2008	Payroll-Manoj Jha	946.84
Indirect Cost (Overhead)	6/6/2008	Secretarial Assistance, Payroll-A. Kaur	946.84
Salaries and Wages	6/19/2008	Payroll-Manoj Jha	946.83
Indirect Cost (Overhead)	6/19/2008	Secretarial Assistance, Payroll-A. Kaur	946.83
Indirect Cost (Overhead)	6/25/2008	Bank Fee	9.99
Computer	6/30/2008	Computer Purchase	1,882.00
Salaries and Wages	7/2/2008	Payroll-Manoj Jha	946.83
Indirect Cost (Overhead)	7/2/2008	Secretarial Assistance, Payroll-A. Kaur	946.83

Where's the mortgage payment?

Where's the receipt?

“ATRC has a policy of retaining receipts for expenses up to \$1,000 for the period of one year and for expenses between \$1,000 to \$2,000 for the period of two years.”

From: Manoj K. Jha [manoj.jha@morgan.edu]
Sent: Thursday, February 18, 2010 11:06 AM
To: [REDACTED]
Subject: stipend check

Dear [REDACTED]

Please pick up the stipend check today if it's ready and bring your check book. Thanks.

MJ

From: Manoj K. Jha [manoj.jha@morgan.edu]
Sent: Thursday, May 13, 2010 1:47 AM
To: [REDACTED]
Subject: can we meet today

Dear [REDACTED]

Please let me know if we can meet today at 4:00 p.m. I processed a stipend for you from my research grant in the amount of \$2,000. You will keep \$1,000 and pay me back \$1,000. The check should be ready early next week. Please check with the bursar's office. Thanks.

MJ

Criminal Disposition

- ▶ INDICTMENT
- ▶ 5 counts of wire fraud: 18 U.S.C. § 1343
- ▶ 1 Count of theft 18 U.S.C. . § 666
- ▶ 1 count of mail fraud: 18 U.S.C. § 1341
- ▶ 1 count of falsification of records: 18 U.S.C. § 1519
- ▶ 2 WEEK TRIAL
- ▶ 7 FELONY COUNT CONVICTION
- ▶ 3 YEARS IMPRISONMENT AND RESTITUTION
- ▶ 5 YEAR DEBARMENT FOLLOWING SUSPENSION

Questions?

- ▶ Fara Damelin
Director, Office of Investigations Legal Division
NSF OIG
fdamelin@nsf.gov
703-292-8873

THANK YOU!

Leading Practices and Ideas for Protecting COVID-Related Grants from Fraud, Waste and Abuse

INTERNATIONAL PUBLIC SECTOR FRAUD FORUM, JULY 28, 2020



Accept that there is an inherently high risk of fraud,
and it is very likely to happen.

➤ Use Professional Skepticism

➤ DO NOT TRUST – JUST VERIFY

➤ Goals

- Preventing fraud
- Detecting fraud when it happens
- Making it easier to prosecute fraud and recover funds

➤ Obtain as much information as possible from Award Applicant/Recipient

- Eligibility Criteria
- Present Responsibility
- Mandate Submission of Key Documents

➤ Impose LIFE CYCLE Requirements

- Including Certifications

➤ Share Verification Plans and Certification Requirements Up Front to Help Deter Fraud

Man Indicted for COVID-19 Related Loan Fraud

NEWPORT NEWS, Va. – A federal grand jury returned an indictment today charging a Norfolk man with submitting fraudulent disaster-related loan applications in connection with the COVID-19 outbreak that resulted in the disbursement of over \$190,000 in proceeds.

According to the indictment, from at least March 2020 to May 2020, Joseph Cherry II, 39, allegedly engaged in a scheme to fraudulently obtain disaster-related loan benefits in the form of United States Small Business Administration (SBA) sponsored Economic Injury Disaster (EIDL) loans and a Paycheck Protection Program (PPP) loan. These SBA programs, initiated and expanded under The CARES Act, are designed to provide support for small businesses for expenses related to the COVID-19 outbreak.



According to the indictment, Cherry, who was serving a term of federal supervised release, allegedly submitted applications for these loans that contained false statements and misrepresentations related to his income, employment, claimed business entities and prior criminal record. The indictment alleges that Cherry fraudulently obtained proceeds of over \$190,000 in April 2020. Further, in a few day period, Cherry converted to cash or a cashier's check approximately \$140,000 of these proceeds.

PRIOR CONVICTION



Integrate fraud control resources (personnel) into the policy and process design to build awareness of fraud risks

➤ Pre-Award Ideas for Prevention

- Mandatory anti-fraud training – document attendance
- Financial management survey
- Quick Low-Cost Data Matching/Verification

➤ Include Key Controls in Award Conditions

➤ Mandatory Disclosure

- Shifting responsibility to those in best position to identify fraud
- A failure to meet this requirement could lead to suspension/debarment and other potential legal consequences

➤ Life Cycle Certifications

➤ Implement Low Cost/High Impact Data Matching

- At every phase of funding

➤ Know the available data

➤ Limitations and reliability

- Documents can be altered, fabricated, falsified
- Focus on the source of the data and how to verify

➤ Determine what Data Sets to Compare

➤ How to obtain, compare and automate

➤ Key: Find reliable data sources

- Records that don't lie

Detroit Resident Charged In COVID-19 Wire Fraud Scheme

A Detroit resident was charged in a criminal complaint for his alleged role in a scheme to obtain \$590,900 from the Payroll Protection Program for a non-functioning business, announced United States Attorney Matthew Schneider.

As alleged in the complaint, Baker applied for and obtained a \$590,000 Payroll Protection Program Loan on behalf of a purported business that he owns, called "Motorcity Solar Energy, Inc." The Paycheck Protection Program is a program managed by the Small Business Administration (SBA) that provides loans to help businesses keep their workforces employed during the Covid-19 crisis. The SBA will forgive the loans if all employees are kept on the payroll for eight weeks and the money is used for payroll, rent, mortgage interest, or utilities. The Payroll Protection Act loans are funded from participating banks, in this case Customers Bank in Pennsylvania.



The complaint further alleges that Baker submitted paperwork with his loan application representing that Motorcity Solar Energy Inc. had 68 employees and, in 2019 paid wages, tips, and other compensation totaling \$2.8 million. In fact, the state of Michigan had dissolved Motorcity Solar Energy Inc.'s status as a corporation in July 2019. All of Motorcity's purported business locations were either empty suites or single-family residences, with no evidence of business activity. And Motorcity never established any account with the State of Michigan's unemployment insurance program, which is a prerequisite for any valid employer in the state.

FABRICATION OF DOCUMENTS

MANDATORY DISCLOSURE

The recipient **shall timely disclose in writing**, to the agency Office of the Inspector General (OIG), with a copy to the Contracting, Grants or Loan Officer, whenever, in connection with award, performance, or closeout of this financial assistance or any subrecipient thereunder, the recipient has **credible evidence** that a principal, employee, agent, or subcontractor of the recipient has committed a **violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations or a violation of the civil False Claims Act.**

See Federal Acquisition Regulation (FAR) at Part 52.203-13, Contractor Code of Business Ethics and Conduct.

Life Cycle Certifications

Information they provide must be truthful under penalty of criminal or civil prosecution.

- May help deter some fraud
- Helps educate awardees of seriousness of the requirements and the need to be truthful
- Has proven key to successful prosecutions

Types of information to certified

- Current and Pending Support
- Reversionary Interest
- Disclosure of Conflicts/Related Parties
- Pending Applications and Overlapping Funding
- Financial Reporting – How Funds Spent
- Eligibility Criteria
- Present Responsibility

These certifications should attach AT ALL PHASES:

- Application
- Interim and final progress reports
- Financial reporting
- When funds are drawn down

LIFE CYCLE CERTIFICATION EXAMPLES AT APPLICATION STAGE

I am an officer of the business concern authorized to represent it and sign this certification on its behalf. By signing this certification, I am representing on my own behalf, and on behalf of the business concern that the information provided in this certification, the application, and all other information submitted in connection with this application, is true and correct as of the date of submission. I acknowledge that any intentional or negligent misrepresentation of the information contained in this certification may result in criminal, civil or administrative sanctions, including but not limited to: (1) fines, restitution and/or imprisonment under 18 U.S.C. §1001; (2) treble damages and civil penalties under the False Claims Act (31 U.S.C. §3729 *et seq.*); (3) double damages and civil penalties under the Program Fraud Civil Remedies Act (31 U.S.C. §3801 *et seq.*); (4) civil recovery of award funds, (5) suspension and/or debarment from all Federal procurement and nonprocurement transactions (FAR Subpart 9.4 or 2 C.F.R. part 180); and (6) other administrative penalties including termination of SBIR/STTR awards.

Certification Examples

Financial Reports and Draw Downs

“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).”

See Uniform Grant Guidance, 2 C.F.R. 200.415

By submitting this electronic request for cash disbursement, I certify to the best of my knowledge and belief that the expenditures, disbursements, and cash receipts associated with this request for payment are for the purposes and objectives set forth in the solicitation, proposal, and award letter, and comply with the terms and conditions of the award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact in NSF proposals, reports, and any other communication submitted to NSF, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (See, e.g., U.S. Code Title 18, Sections 287, 1001 and 1343; Title 31, Sections 3729-3730 and 3801-3812).

National Science Foundation Requirement



The business and fraud control should work together to **implement low friction counter-measures** to prevent fraud risk where possible

EXAMPLES OF COMMON FRAUD SCHEMES TO IDENTIFY AND COMBAT

1. Overlapping Funding

- Duplicate Billing

2. Small Business Fraud

- Sham companies
- Conflicts of Interest –Self Dealing
- One Company Operating Under Multiple Names

3. Identity Theft

- Deceased, Elderly, Veterans, Children

Little Rock Woman Charged with COVID Relief Fraud

Defendant Allegedly Received Nearly \$2M for Defunct Businesses

LITTLE ROCK - A Little Rock woman was arrested this afternoon based on allegations she fraudulently obtained nearly \$2 million in Paycheck Protection Program (PPP) loans intended to provide relief for small businesses affected by COVID-19. Cody Hiland, United States Attorney for the Eastern District of Arkansas, and Diane Upchurch, Special Agent in Charge of the FBI Little Rock Field Office, announced today the indictment of Ganell Tubbs, 41.

The indictment alleges that Tubbs purported to own two businesses: The Little Piglet Soap Company, LLC, and Suga Girl Customs, LLC. According to the Arkansas Secretary of State, neither business is in good standing, and both businesses list Tubbs' residence and personal phone number as the business contact information.

On April 30, 2020, according to the indictment, Tubbs submitted a PPP application representing that Suga Girl Customs had paid \$1,385,903 in wages and compensation during the first quarter of 2020. She was approved for a PPP loan of \$1,518,887 and received the funds on May 5, 2020, but the indictment states that two days later, she used the proceeds to make an \$8,000 payment on her personal student loan. The following week, according to the indictment, Tubbs spent approximately \$6,000 in online purchases at retailers including Apple, Michael Kors, Sephora, Northface, Nike, and others.

Similarly, on May 5, 2020, Tubbs submitted another PPP application, this time regarding The Little Piglet Soap Company. Based on the representations she made in the loan application, which the indictment alleges are not true, The Little Piglet Soap Company received a PPP loan for \$414,375.

Contact the
Disaster Fra
866-720-572
Justice.gov/



Our nati
reducing



Help us
of covi

FRAUD COULD HAVE BEEN IDENTIFIED/PREVENTED BY PUBLIC RECORD REVIEW



Carry out targeted post-event assurance to look for fraud, ensuring access to fraud investigation resource

➤ **DATA MATCHING**

- Identify reliable sources of data that can be matched against potentially unreliable records
- Then automate the process, if feasible

➤ **FOLLOW THE MONEY**

- Look into financial reports and actual expenditures especially in high risk areas

➤ **ONGOING ENTERPRISE RISK MANAGEMENT**

- Learn from common fraud schemes
- Brainstorm with the program and financial management experts

➤ **SCHEDULE AT LEAST ONE GROUP MEETING WITH GRANTEE KEY PERSONNEL**

- Get eyes on whoever is being funded
 - Easier to do now with virtual meetings being the norm
-
- A solid green horizontal bar at the bottom of the slide.

Nearly 3,800 Fraudulently Filed Unemployment Insurance Claims Blocked by the U. S. Department of Labor

U.S. Attorney and Oklahoma Attorney General Encourage Oklahomans to Report False Claims Filed in their Name

The U.S. Department of Labor Office of Inspector General (DOL-OIG) in collaboration with the Oklahoma Employment Security Commission (OESC) this month stopped payment on nearly 3,800 fraudulently filed unemployment insurance claims, including 1,300 filed from a range of IP addresses located in London, England, announced Trent Shores, U.S. Attorney for the Northern District of Oklahoma; Steven Grell, Special Agent-in-Charge, Dallas Region, U.S. Department of Labor Office of Inspector General; and Mike Hunter, Oklahoma Attorney General.

The DOL-OIG and OESC took action that saved the State of Oklahoma and tax payers more than \$15.9 million.

Example of Successfully Using Data to Catch Fraud



Be **mindful of the shift** from emergency payments **into longer term services** and revisit the control framework – especially where large sums are invested

-
- **Protect the emergency relief funds long term**
 - **Take administrative action whenever possible and appropriate to protect current and future funds**
 - **Develop mechanisms to share information between funding sources with common goals**
 - **Be proactive in identifying fraud**
 - **Actively engage in recurring outreach initiatives and training**
 - **Make awardees responsible for ongoing anti-fraud awareness, training and disclosures**
 - **Create processes to learn from the fraud and get smarter about prevention and detection**
 - **Build ongoing relationships with prosecutors**

Questions?

Fara Damelin

Deputy Inspector General

Corporation for National and Community Service

(202) 606-9377

f.damelin@cncsoig.gov

LEADING PRACTICES AND IDEAS FOR PROTECTING FEDERAL FUNDS FROM FRAUD, WASTE AND ABUSE

Fara Damelin, April 2020

1. Mandate that all recipients of CARES Act funds provide certain information and pre-award certifications to include:
 - State or Federal felony convictions over the last 5 years for individuals seeking financial assistance or for businesses applying for financial assistance (for the latter, this should be disclosed for all company officials and officers);
 - Current government-wide suspension or debarment for individuals, entities, or company officials and officers;
 - Current Federal tax liens or delinquencies; (entered prior to 2/15/20)
 - For any business requesting funds under the SBA program, require production of:
 - i. articles of incorporation for the business;
 - ii. identification of family members on the payroll;
 - iii. a list of employees as of 2/15/20 (designating full and part time), with full names, DOB, and social security numbers;
 - Whether they have applied for or received other financial assistance under the CARES Act and if so, to specify which agency, what amount, and type of assistance sought.
 - Whether they have applied for current SBIR/STTR, 8A or other small business funding programs.

NOTE: DOB and family members are particularly important to avoid or deter fraud. Lessons learned from small business fraud include the use of family members, children and elderly individuals, to help perpetuate fraud. In addition, DOB is important because some fraud schemes involve identify theft of older individuals whose names and info are used to boost number of employees on payroll for small businesses. Even just informing small businesses that they will need to include DOBs of employees may deter fraud schemes that involve padding business with kids and elderly.

NOTE: A recent review of 250 individuals convicted of felony fraud against Federal programs between 2013 and 2017, over 70% were not suspended or debarred government-wide. Therefore, it is important to ask for both convictions and exclusions up front.

2. Recommend or require specified data analytics and database checks prior to issuing grants, contracts, loans and other financial assistance to individuals under the CARES Act, to include matching name, social security and DOB against:
 - Treasury's Do Not Pay list;
 - SSA's Master Death Index;
 - System for Award Management, to look for government-wide suspension or debarment and other agency specific restrictions imposed;
 - Federal Awardee Performance Integrity Information System to look for contracts and grants that have been terminated by other agencies;
 - Oversight.gov for audits or investigations; and,
 - Suspicious Activity Reports.

NOTE: For any of the pre-award recommendations in Numbers 1 and 2 above, when there is insufficient time to incorporate and perform these checks prior to awarding certain funds, agencies can notify recipients that this information will be required to be produced and the checks to be conducted prior to the conclusion of the financial assistance agreements, and that the agency reserves the right to suspend, terminate, or collect the aid based upon information obtained, or if the response produced is insufficient or unsatisfactory. This may help deter potential fraud.

3. Adopt current mandatory disclosure provision in the FAR for all federal grants, loans, and other financial assistance issued pursuant to the CARES Act, such as:
 - The CARES Act financial assistance recipient shall timely disclose in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting, Grants or Loan Officer, whenever, in connection with award, performance, or closeout of this financial assistance or any subrecipient thereunder, the recipient has credible evidence that a principal, employee, agent, or subcontractor of the recipient has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations or a violation of the civil False Claims Act.
4. Mandate life cycle certifications:
 - If fraud cannot be detected before the money goes out, we've learned from small business prosecutions that it is imperative that the recipients are told throughout the lifecycle of the award cycle that the information they provide must be truthful, under penalty of criminal or civil prosecution.
 - These certifications should attach to the application, close out and financial reporting (FFR and financial reports mandated by the CARES Act), as well as when the money is accepted by the recipient.
 - Certifications submitted with the application should include something to the effect of: "I am an officer of the business concern authorized to represent it and sign this certification on its behalf. By signing this certification, I am representing on my own behalf, and on behalf of the business concern that the information provided in this certification, the application, and all other information submitted in connection with this application, is true and correct as of the date of submission."
 - The Uniform Grant Guidance 2 C.F.R. 200.415, contains the following certification for financial reporting:

"By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the [expenditures](#), disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false [claims](#) or otherwise. ([U.S. Code Title 18, Section 1001](#) and Title 31, Sections 3729-3730 and 3801-3812)."
 - Also consider including a reference to 18 U.S.C. 286, 287 (Criminal False Claims and False Claims Conspiracy.)

5. Consider mandating that all contractors, grantees and loan recipients receiving financial assistance under the CARES Act:
 - Post Fraud Hotline Posters to the PRAC, SIGPR, or to individual OIGs making the awards physically on its premises and on its internal and external websites;
 - Post information regarding Whistleblower Protections afforded to contractors, subcontractors, grantees and subgrantees on its premises and on its internal and external websites; and,
 - Offer training on identifying and reporting fraud, waste and abuse and associated whistleblower rights and protections.
6. Consider mandatory training for contracts, grants, small business loans and other federal financial assistance above a certain threshold.
 - The Air Force and NSF, for example, have adopted mandatory training for its small business programs, on fraud, waste and abuse and the consequences;
 - The Air Force instituted an on-line training program that required signatures by federal SBIR award applicants certifying that they understood and completed the training program and agreed to comply with associated requirements.
 - Given the time crunch associated with issuing this money, if we could produce a model training to offer different agencies, the training would just need to be taken by the conclusion of the award funds issued.
7. For SBA Loans to businesses under the CARES Act, at the conclusion of the loan, either prior to issuing final payment or prior to decision to forgive loan, require each business to provide the following information for purposes of data analytics, and make it known up front that this information will be required:
 - Whether any of the businesses are under federal or state indictment;
 - A list of employees as of 2/15/20 (designating full and part time), with full names, DOB, and social security numbers; and,
 - Payroll records to document and support payments made with the CARES Act loan.

NOTE: In addition to running data analytics of these individuals against the data sources listed in the first bullet, data analytics could also be run to match the names/social security numbers/DOBs against state unemployment insurance records to determine whether these individuals were listed in prior years as employees of the business.

8. Coordinate efforts with the Interagency Suspension and Debarment Committee to encourage:
 - Timely use of government-wide suspension and debarment actions to protect CARES Act funds; and,
 - Tracking of suspension and debarment actions related to CARES Act funds.
9. Coordinate efforts with agency OGCs to actively consider the enhanced use of the Program Fraud Civil Remedies Act to recover funds associated with false claims under \$150,000.

NOTE: CIGIE's Legislation Committee continues to seek statutory modifications to PFCRA that would make it more efficient and less costly to pursue.

NSF OFFICE OF INSPECTOR GENERAL Fraud and Waste in the SBIR/STTR Program

NCET2 Webinar:
Defining and Curbing Fraud and Waste in the SBIR Program

September 24, 2012

What is an Office of Inspector General?

- ▶ Each federal agency has independent OIG
- ▶ OIG missions:
 - Prevent and detect waste, fraud, and abuse
 - Promote economy, effectiveness, efficiency
 - Keep agency head and Congress fully and currently informed
- ▶ OIG Tools To Meet Mission Goals:
 - Investigations
 - Audits

BACKGROUND: NSF OIG INVESTIGATIONS

▶ **Who are we?**

- Special agents (Federal Law Enforcement Officers)
- Investigative Attorneys
- Investigative Scientists
- Analysts

▶ **How are investigations initiated?**

- Reactive
- Proactive

▶ **What types of Investigations?**

- Civil/Criminal
- Administrative

What Types of Issues do we Investigate?

CIVIL/CRIMINAL

- Theft/embezzlement
- Financial mismanagement
- Misuse of grant funds
- Conflicts of Interests

ADMINISTRATIVE

- Research Misconduct:
 - Plagiarism, Fabrication, Falsification
- Conflicts of Interests
- Merit review violations

SBIR/STTR FRAUD INVESTIGATIONS

- ▶ Background & Purpose of SBIR/STTR Programs
- ▶ Eligibility Requirements
- ▶ Relationship with Universities
- ▶ Common Types of Abuse
 - Facilities
 - Primary Employment
 - Overlapping/Duplicative funding
 - Subcontracts
- ▶ Investigative Outcomes
 - Indictments for false statements/false claims/theft of federal program funds/mail fraud/wire fraud
 - Government-wide suspension and debarment

Program Background

- ▶ **Small Business Innovation Research (SBIR)**
 - Enacted in 1982, as part of the Small Business Innovation Development Act
 - 2.5% of research budgets of agencies with extramural R&D budgets over \$100M
- ▶ **Small Business Technology Transfer (STTR)**
 - Established by the Small Business Technology Transfer Act of 1992
 - 0.3% of research budgets of agencies with extramural R&D budgets over \$1B

Program Goals

- ▶ **Develop intellectual capital** – Make awards for research that build upon recent discoveries in basic sciences and engineering and provides opportunities for individuals who have, or are working toward, advanced scientific, engineering, or education degrees.
- ▶ **Strengthen the physical infrastructure** – Make awards that lead to development of new scientific, engineering, and education capability through commercialization of advanced instruments, new processes, and innovative software, etc.
- ▶ **Integrate research and education** – Encourage awardees to disseminate research findings through scholarly journals and professional meetings.
- ▶ **Promote partnerships** – Encourage awardees to engage in cooperative activities involving industry, government (state, local, Federal), and academia.

(www.nsf.gov)



Participating Agencies

SBIR:

1. USDA (G)
2. Commerce (C)
3. DOD (C)
4. Education (C/G)
5. Energy (G)
6. DHS (C)
7. HHS (C/G)
8. Transportation (C)
9. EPA (C)
10. NASA (C)
11. NSF (G)

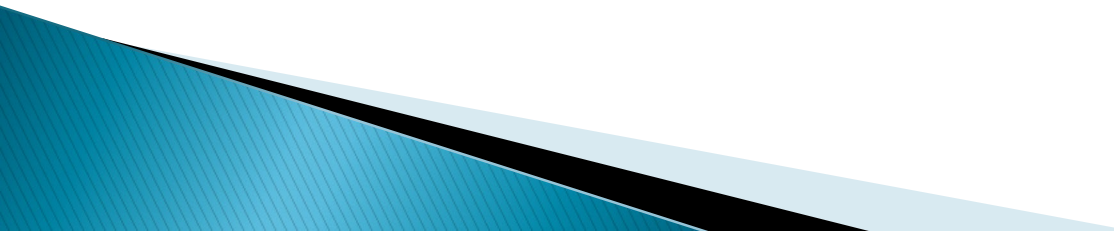
STTR:

1. DOD (C)
2. Energy (G)
3. HHS (C/G)
4. NASA (C)
5. NSF (G)

SBIR/STTR Award Structure

- ▶ 3 Phases – Companies **must** have a successful Phase 1 to receive a Phase 2 award!
- ▶ Phase 1:
 - Feasibility Study
 - 6 months
 - \$70–150K
 - Phase IB: Matching program requiring outside investment
- Phase 2:
 - Expansion/Development
 - 2 years
 - \$300K–\$1M
 - Phase IIB: Matching program requiring outside investment
- Phase 3:
 - Commercialization
 - Private or Non-SBIR Federal funding

ELIGIBILITY REQUIREMENTS

- ▶ U.S. small business as defined by SBA
 - Principal place of business is in the U.S.
 - At least 51% U.S. owned
 - Maximum 500 employees
 - ▶ Cannot receive funding for duplicate work (disclosure of related overlapping work is required)
- 

MORE ELIGIBILITY REQUIREMENTS

- ▶ Work performed by the Company:
 - Phase 1 – SBIR minimum 2/3 research done by company; STTR at least 40% company, 30% partner
 - Phase 2 – SBIR minimum 1/2 research done by company; STTR at least 40% company, 30% partner
- ▶ Amount of Effort by Principal Investigator
 - Generally, one month per 6 months of award period
- ▶ Primary employment of Principal Investigator (PI) is with the company
 - Means that separate and distinct from required months of effort by PI, the PI must ALSO work at least 51% time with the small business
 - Cannot be PI for SBIR/STTR and work full-time or even 50% for a University or other employer

MORE ABOUT STTR AWARDS

- ▶ Goal of this program is to support collaboration between a small business and a collaborating research institution
- ▶ 30% of the STTR budgets (all phases) are required to go to the collaborating research institution
- ▶ STTR awards would not be made but for this budgeted collaboration

CERTIFICATIONS

- ▶ These eligibility requirements are not merely technicalities .
 - If you do not meet these requirements, you are not eligible for the award.
 - False Statements and omissions that affirm that you meet one or more criteria when you do not, constitute criminal violations.
- ▶ SBIR/STTR grantees must certify that these eligibility requirements multiple times.
 - In proposals, requests for payments, interim and final project reports
- ▶ NSF provides mandatory paid training regarding these requirements.
 - Grantees are expected to read and know the provisions of the applicable grant conditions cited in SBIR/STTR award letter.
- ▶ NSF requires financial capability reviews prior to issuance of Phase II SBIR and STTR awards.

MORE ABOUT CERTIFICATIONS

- ▶ Certifications expressly notify the certifier that provision of false information is a violation of criminal law
 - “I certify that to the best of my knowledge...the statements herein are true and complete...I understand that the willful provision of false information or concealing a material fact in this report or in any other communication submitted to NSF is a criminal offense (U.S. Code, Title 18, Section 1001).
 - Not just in proposals and reports, but also in emails communicating with NSF program and financial personnel.

CASE STUDIES

RECENT CASES – Companies A & B

- ▶ PIs and Small Companies suspended government-wide pending SBIR/STTR fraud investigations
 - For lying about primary employment – PI had university appointment; 50% and up breaks the rules!
 - For lying about outside investment funds – False representations made to NSF to obtain supplemental Phase IB funding.
 - For lying about overlapping funding – Even if you create a second company to resubmit portions of your work, you're still receiving duplicate funding.
 - For providing false information about time and effort expended on Phase II award – NSF requires and reviews milestone charts on project reports and relies on representations in those milestone charts before releasing funding, so they must contain accurate information.
 - For misuse of NSF award funds – Paying your mortgage or transferring large portions of award funds directly to your personal account is not OK.

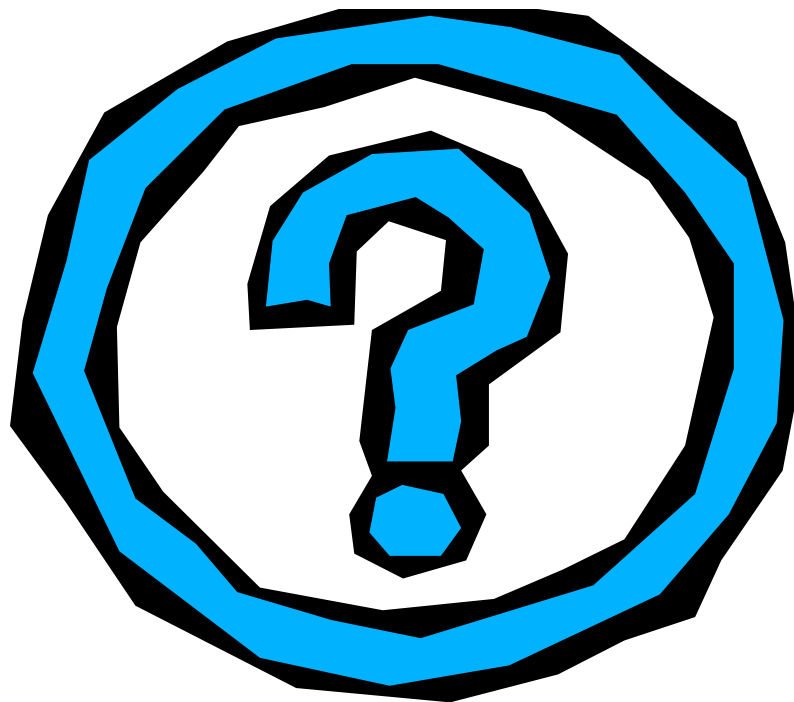
RECENT CASES – Company C

- ▶ STTR Grantee Indicted for False Claims
 - For falsely certifying primary employment and diverting \$100,000 grant funds
 - Company owner and sole proprietor took advantage of eager researchers at the STTR partner institution
 - Company owner promised to hire the graduate student of the partner university researcher if STTR was awarded, and put the grad student on the proposal as PI
 - Company owner never hired the PI, despite certifying to NSF on the proposal, initial request for payment, and final report cover page that the PI was primarily employed by the company
 - Company Owner spent over \$80K on personal credit card debt that had been racking up for years
 - PENDING TRIAL

RECENT CASES – Company D

- ▶ STTR Grantee Under Investigation for False Claims, Wire Fraud
 - For falsely certifying primary employment and diverting grant funds
 - Won 2 awards with substantial sums budgeted for university partners
 - Used work performed by the university in his proposals and reports, but claimed breach of contract when it came time to pay the invoices
 - Plagiarized previously published materials to complete project reports
 - Worked full time at a large company throughout the award periods, despite certifying to NSF on the proposals, initial requests for payment, and final report cover pages that the PI was primarily employed by the company
 - Used most of the funds for personal expenses and investments
 - 2nd university partner reported what happened, otherwise, it may have gone undetected
 - PENDING INVESTIGATION

QUESTIONS



Contact Information

- ▶ **Michael Pritchard, Special Agent, mpritcha@nsf.gov**
 - (703) 292-7533
- ▶ **Fara Damelin, Investigative Attorney, fdamelin@nsf.gov**
 - (703) 292-8873

Confidential Communications

E-mail: oig@nsf.gov

Mail: NSF—ATTN: OIG HOTLINE
4201 Wilson Boulevard; II-705
Arlington, VA. 22230

Anonymous Communications: Hotline:1-800-428-2189
www.nsf.gov click on IG Hotline

NSF Office of Inspector General: Hot Topics

Fara Damelin

Investigative Attorney, Office of Inspector General,
National Science Foundation

Denise Clark

Associate Vice President for Administration,
University of Maryland

NCURA Region II Spring Meeting

Buffalo, NY, April 21-24, 2013



WHAT IS AN OFFICE OF INSPECTOR GENERAL?

Each federal agency has independent OIG

OIG missions:

- Prevent and detect waste, fraud, and abuse
- Promote economy, effectiveness, efficiency
- Keep agency **head** and Congress fully and currently informed

OIG Tools To Meet Mission Goals:

- Investigations
- Audits

BACKGROUND: NSF OIG INVESTIGATIONS

Who Are We?

- Special agents (Federal Law Enforcement Officers)
- Investigative Scientists
- Investigative Attorneys
- Analysts

How are investigations initiated?

- Reactive
- Proactive

What types of Investigations?

- Civil/Criminal
- Administrative

WHAT TYPES OF ISSUES DO WE INVESTIGATE?

CIVIL/CRIMINAL

- Theft/embezzlement
- Financial mismanagement
- Misuse of grant funds
- Conflicts of Interests

ADMINISTRATIVE

- Research Misconduct: Plagiarism, Fabrication, Falsification
- Conflicts of Interests
- Merit review violations

FRAUD INVESTIGATIONS

HOW DO GRANTEES GET IN TROUBLE

Embezzlement/Theft

- Using grant funds to pay for personal mortgage payment, bedroom furniture, vacations, American Idol tickets

False Statements

- Falsely asserting support of a key organization in proposal
- Falsely asserting collaboration with a foreign scientist
- Falsely certifying eligibility requirements for award program
- Falsely certifying required matching funds (cost-sharing)
- False financial reporting

FRAUD INVESTIGATIONS: HOW DO GRANTEES GET IN TROUBLE?

■ FALSE CLAIMS

- Claiming reimbursement for grant funds not spent on funded project
- Grantee-approved no cost extension just to spend remaining grant funds
- Drawing down federal funds for unallowable expenses
- False Interim Reports and Milestone Charts in SBIR/STTR Phase II Awards

■ MISMANAGEMENT OF FEDERAL FUNDS

- Co-mingling federal and non-federal funds
- Failing to account for expenditure of federal funds
- Transferring costs from overdrawn project accounts
- Charging one grant for expenditures of another
- Failing to know, follow, or care about applicable rules
- Expending funds after award expiration date

POSSIBLE OUTCOMES OF CIVIL/CRIMINAL INVESTIGATIONS

- **Civil Action**

- Civil False Claims Act (Treble damages)

- **Criminal Action (Prosecution)**

- Criminal False Claims/False Statements
- Theft/Embezzlement
- Mail/Wire Fraud
- Conspiracy
- Obstruction

- **Administrative Action**

- Suspension/termination of current NSF awards
- Government-wide suspension/debarment

HOT TOPIC

GOVERNMENT-WIDE SUSPENSIONS AND DEBARMENTS

To protect federal funds from those who are not
“presently responsible”

Consequences:

- Central GSA Excluded Parties List
- Applies to all prospective grants and contracts over \$25,000
- If one agency imposes, barred from ALL federal funds

Recent Trend:

- Fact-based suspensions imposed during ongoing investigations

HOT TOPIC

SBIR/STTR FRAUD INVESTIGATIONS

Background & Purpose of SBIR/STTR Programs

Eligibility Requirements

Relationship with Universities

Common Types of Abuse

- Facilities
- Primary Employment
- Overlapping/Duplicative funding

Investigative Outcomes

- Indictments for false statements/false claims/theft of federal program funds/mail fraud/wire fraud
- Government wide suspension and debarment

REASONS WHY UNIVERSITIES WANT TO KNOW WHEN A UNIVERSITY EMPLOYEE IS A PI ON AN SBIR/STTR AWARD

- 1. Because a PI on an SBIR/STTR award must be “primarily employed” by the company that receives the federal funds**
- 2. Because serving as a PI on an SBIR/STTR award requires a time commitment**
- 3. Because of likely conflicts of interest that must be managed**
- 4. Because the university must know of all current and pending support for PIs applying for federal funds through the university**
- 5. Because some PI’s on SBIR/STTR awards wrongfully perform work on SBIR/STTR awards at university labs with university equipment**

TOP 10 THINGS YOU DON'T WANT TO SAY TO AN OIG INVESTIGATOR

1. Do you think I have time to read all of your rules?
2. Time and Effort Policy? Well, we don't actually have one of those yet.
3. Sorry, I can't get you the records; they are being archived in a dangerous building.
4. Wow..Really? No! Entertainment can't be charged to federal awards? Is a trip to Universal Studios considered entertainment?
5. If I have to go back and create cost share records now, that's what I'll do!

TOP 10 (OR 11) THINGS YOU DON'T WANT TO SAY TO AN OIG INVESTIGATOR

6. Wow, I had no idea our records were such a mess.
7. I probably threw out the COI disclosure form...I throw out anything that looks bureaucratic.
8. Chicken Dinner Analogy: which goes...
9. I signed the purchase requisition because I saw that everyone else signed too.
10. No, I haven't received any formal training about federal grants management. BUT I have received "on the job" training.
11. Well, sure, if you are going to rely on our time sheets, you would probably have a pretty good False Claims Act case.

NUMBER 12: BUT...WE DID THE WORK!!!

Very common defense to grant fraud cases

Problem Scenario: If grantee receives \$1 million to carry out a funded proposal, carries out the work for \$500,000, and spends the full amount of the award....

We still need to know where the other \$500,000 went....AND

The Grantee can still be charged for false claims associated with the other \$ ½ million

NOTE ON EMAIL COMMUNICATIONS

Sometimes it is not what a grantee/PI says, but instead, what the grantee/PI writes, that could cause some trouble.

Examples....

HOW TO AVOID TROUBLE:

1. Read and know the applicable grant conditions, rules and regulations when receiving federal grant funds:
 - Provide and Document Training (Mandatory)
2. Maintain (during, not after the fact) adequate documentation to support all expenditures, including cost share
3. Ensure your financial reporting matches your financial records
4. Do not expend award funds post-expiration or for purposes unrelated to the award
5. Do not provide inaccurate information or false certifications to Grantee institution or Federal Agency

QUICK QUIZ: LESSONS LEARNED

Multiple choice Question 1

You receive an IG Subpoena requesting all time sheets for an expired NSF Award.

- A. Because you didn't maintain any time sheets during the award period, you create new ones, back date them and submit them in response to the IG subpoena?
- B. You had maintained two sets of time sheets for the same time periods that you charged to two separate federally funded projects. You respond to the subpoena by only producing one set of timesheets.
- C. You had maintained timesheets, but you had a policy of charging time to projects based not on the work that was performed, but instead, on how much money was available in each project account. You submit those timesheets in response to the IG subpoena with a representation that they reflect actual work performed.
- D. None of the above.

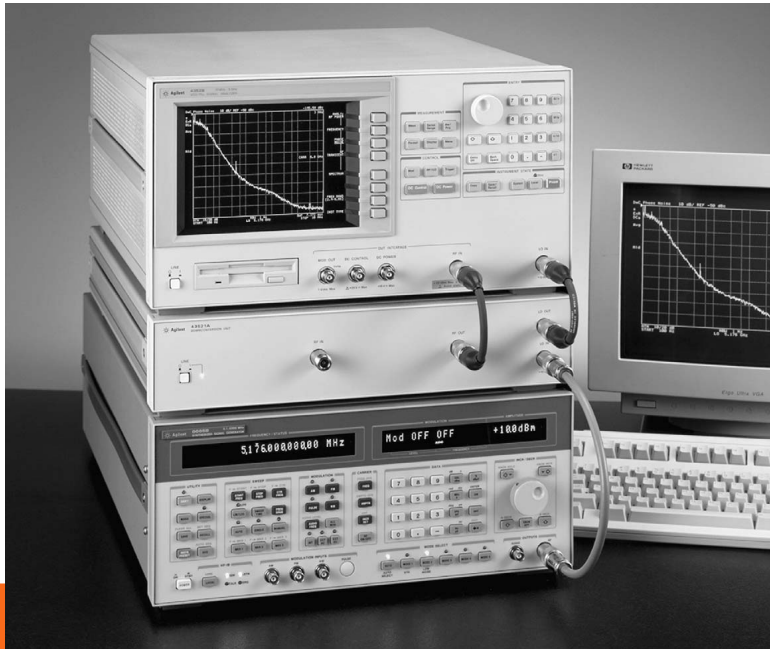
Multiple Choice Question 2:

You work in the Office of Sponsored Programs and are responsible as one of several signatories on purchase orders for Equipment . You receive a purchase order that only contains an order product number, with no description.

- A. You sign the purchase order because two other people including the department chair signed off on it first.
- B. You sign the purchase order because you believe it is for equipment, and there is still funding available in the budget for equipment.
- C. You sign the purchase order because you believe the PI is responsible for and can be trusted to ensure that whatever is being ordered is related to the grant.
- D. None of the above.

NSF Award Budget includes the purchase of Engineering Equipment, but Cameras purchased instead:

Agilent Technologies
Signal Analyzer
\$67,970



Dodd Camera and Video
Sinar P3 Camera + accessories
\$44,346



Multiple Choice Question 3:

You receive a written request by an OIG to produce a General Ledger to document expenditures on an NSF award:

- A. As a PI for an SBIR Phase I award, you didn't actually account for your \$149,000 Phase I award during the award period. But to respond to the OIG request, you create a GL that you produce to OIG. Because some of the money was spent on personal expenses, you eliminate any reference to those expenditures, and create new expenditures for office expenses.
- B. As an administrator at a university, you realize that expenditures were not well documented or supported. So you produce three different GL's to OIG in hopes that one of them suffices.
- C. You work at a non-profit company that has the practice of comingling federal and non federal funds in one project account, without discretely accounting for federal award funds. In addition, your company charges all project expenses to the commingled funds whether or not permissible under federal award conditions. Because you can't demonstrate how federal award funds were spent, you submit documentation for all project expenses.
- D. None of the above.

OIG Requests General Ledger for a closed cooperative agreement

- Cooperative agreement: \$2,494,078
- Initial response: \$2,201,728
- During site visit: \$2,533,078
- Response to IG subpoena: \$2,494,078
-

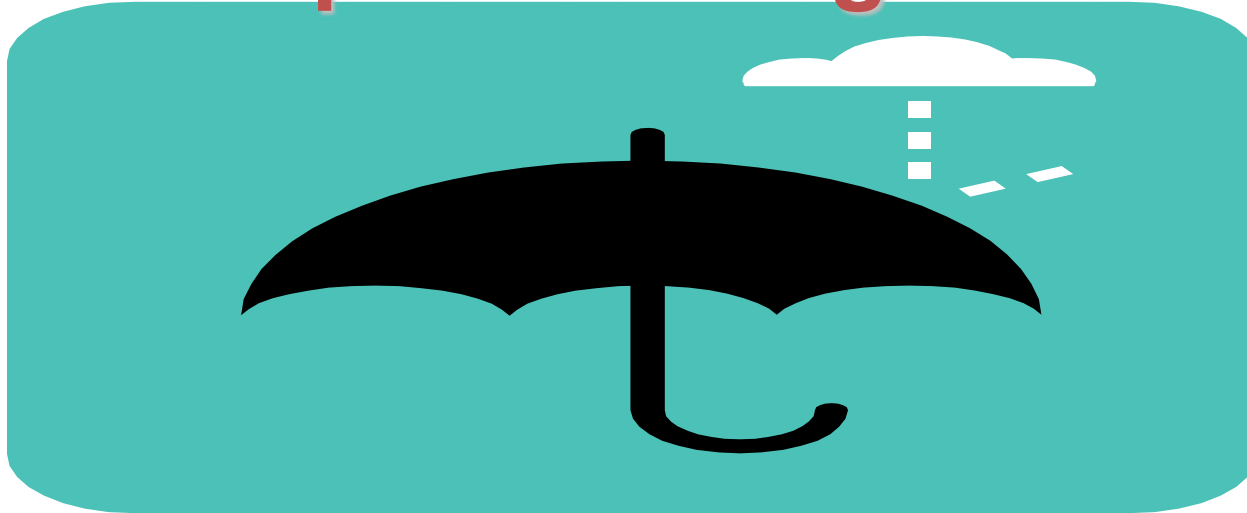
CASE STUDIES

HOT OFF THE PRESS: RECENT CASES

- University PI's Indicted, Pled Guilty and Sentenced for Theft of Federal Program Funds
 - For using grant funds to purchase photography equipment for personal use, instead of engineering equipment as proposed: Home Confinement, Restitution and Probation
 - For diverting federal grant funds for personal travel, billing as business conferences and submitting false registrations and receipts: Restitution, Fine and Probation
- STTR/SBIR PI 's Indicted for Wire Fraud and Obstruction
 - For diverting federal grant funds for personal credit card debt and mortgage, and falsely certifying eligibility requirements for the small business award and creating fake expenditure
 - For falsely certifying primary employment and diverting \$100,000 for personal credit cards
 - For falsely certifying no overlapping funding and primary employment
- Grantees Settle Civil Cases with Federal Government and enter into Mandatory Compliance Plans
 - In FCA Cases:
 - University failed to maintain adequate documentation and reallocated certain costs without required prior written approval
 - University employee misused grant funds intended for students
 - In Common Law Case: Financial accounting system unable to demonstrate that expenses charged to federal funds were allowable, reasonable and allocable

Key to Prevention?

Compliance Programs



Government

Institution/University

Researcher

Compliance Program

A SYSTEM OF RESPONSIBLE ADMINISTRATIVE, FINANCIAL AND RESEARCH MANAGEMENT AND OVERSIGHT, CREATING AN ENVIRONMENT IN WHICH EMPLOYEES CAN OPERATE WITH INTEGRITY

Compliance Programs can be implemented voluntarily or mandated as part of negotiated resolution

Compliance Programs Require:

- **Leadership** - commitment to do the right thing
- **Management** - ethical environment
 - Focus on high risk areas
 - Provide systematic monitoring, auditing, oversight
- **Training** - Communicate facts and expectations
- **Action** - Early detection and correction problems
- **Reporting** – Relay information regarding wrongdoing

Elements of an Effective Compliance Program

1. Reasonable Compliance Standards and Procedures
2. Specific High-Level Personnel Responsible
3. Due Care in Assignments with Substantial Discretionary Authority
4. Effective Communication of Standards and Procedures
5. Establish Monitoring and Auditing Systems and Reporting Systems (whistleblowing without fear of retaliation)
6. Consistent Enforcement of Standards
7. Respond Appropriately to the Offense (reporting to law enforcement, modify program, prevention)

* Federal Sentencing Guidelines U.S.S.G. 8B2.5(f) & 8D1.4(c)(1) (11/1/04)

Benefits of Compliance Programs

- Demonstrates commitment to ethical conduct
- Ensures Accountability
- Minimizes or detects criminal conduct
- Encourages reporting
- Creates awareness through training
- Prevents improper expenditures; improves grant administration
- May help avoid the filing of legal actions
- Mitigation, e.g., may reduce penalty or administrative actions

HOW COMPLIANCE PROGRAMS ARE DEVELOPED

VOLUNTARY

Many universities and non-profits voluntarily creating compliance programs

- They recognize the benefits
- They see it as the right thing to do

CoGR June 2005 Guidance

- Encourages voluntary compliance programs as means for institutions to meet compliance obligations

AND “NOT SO VOLUNTARY”

Trend: DOJ incorporates mandatory compliance plans into settlements with grantees for:

- Overcharging IDC
- Misusing federal grant funds
- Creating false cost-share certifications
- Double billing
- Maintaining false time and effort reports
- Failing to discretely account for federal award expenditures or maintain adequate documentation

These mandatory compliance plans generally 5 years, require annual compliance audits, and provide monitoring by federal agency.

**AMERICAN RECOVERY
AND REINVESTMENT
ACT OF 2009:ARRA**

SPECIAL ARRA REQUIREMENTS

➤ Reports and Accounting:

Must discretely account for expenditure of ARRA funds
Multiple reports, with significant data: Tell the truth!

➤ You must report to OIG “any credible evidence” of wrongdoing.

➤ Whistleblower protections:

➤ Mandates posted notices for employees about their rights

➤ Prohibits retaliation

➤ Provides OIG investigates allegations of retaliation related to ARRA funds

QUESTIONS



WANT TO LEARN MORE?

Surf Our Website:
www.nsf.gov/oig

NSF OIG Brochures
NSF OIG Semiannual
Reports
NSF OIG Outreach
Presentations
NSF OIG Case
Closeouts

CONTACT INFORMATION

Anonymous Communications:

Hotline:1-800-428-2189 OR www.nsf.gov (click on IG Hotline)

Confidential Communications

E-mail: oig@nsf.gov

Mail: NSF—ATTN: OIG HOTLINE

4201 Wilson Boulevard; II-705

Arlington, VA. 22230

Fara Damelin, Investigative Attorney, OIG/NSF

fdamelin@nsf.gov

703/292-8873



ONE OIG WORKPLACE

CREATING AN ENHANCED INTERNAL COMMUNICATIONS CULTURE AND PROGRAM

THANKS TO THESE OIGS FOR THEIR HELP AND IDEAS!!

- ▶ EPA OIG
- ▶ HUD OIG
- ▶ Interior OIG
- ▶ DOE OIG
- ▶ DOJ OIG
- ▶ DOT OIG
- ▶ GSA OIG
- ▶ NSF OIG
- ▶ SSA OIG
- ▶ USDA OIG
- ▶ USPS OIG

MISSION:

Enhance Internal Communications within OIG

Information Sources

- ▶ Interviews with PAWG Reps
- ▶ Review Websites
- ▶ Read Newsletters/Email Updates
- ▶ Human Interest/Employee Engagement Programs
- ▶ FEVS Results
- ▶ Examples

Compiling Data

- ▶ Summarized best practices
- ▶ Lessons learned
- ▶ Charted out information obtained from all sources
- ▶ “Borrowed” most popular ideas

ENHANCING INTERNAL COMMUNICATIONS

- ▶ **Share information office-wide, rather than by function or components**
 - ▶ From HQ to all divisions at the same time
 - ▶ Ensure transparency
 - ▶ Provide consistent messaging
 - ▶ Connecting all employees to OIG mission and achievements
- ▶ **Achieve Connection through Communication**
 - ▶ Clear, Current, and Comprehensive
- ▶ **Add Human Interest**
 - ▶ Focusing not only on the outcomes, but on the people behind the success stories
- ▶ **Encourage Innovation/Information Sharing/Creativity**

BENEFITS OF ENGAGING EMPLOYEES

- ▶ Improve employee morale and satisfaction
- ▶ Encourage and achieve increased collaboration
- ▶ Create pride in the organization
- ▶ Measure success
 - ▶ FEVS results, retention rates, feedback/stories, surveys, analytics
- ▶ RESEARCH IN SUPPORT THE BENEFITS OF EMPLOYEE ENGAGEMENT INITIATIVES
 - ▶ GAO's 7/15 Report: "Additional Analysis and Sharing of Promising Practices Could Improve Employee Engagement and Performance."
 - ▶ OPM's 9/15 Report: "Engaging the Federal Workforce: How to do it and Prove It"
 - ▶ FRB OIG's 11/17 Report: "Leadership and Management's Best Practices to Increase Employee Willingness to Share Views"

FOUR MAIN GOALS/OUTCOMES

1. Revamp intranet

- ▶ Structure by subject, not component
- ▶ Keep information current
- ▶ Encourage participation
- ▶ Add human interest

2. Provide current consistent information across the organization

- ▶ Monthly recap of key current information, via email with hyperlinks
- ▶ Newsletter
- ▶ IG Video Clips, Email Shout Outs, and End of the Year Impact Video

3. Implement low cost, high impact ideas for bringing people together

- ▶ Peer Recognition Program, Employee Profile, Region of the Month

4. Create an Internal Communications Plan

- ▶ Documenting main goals and how to achieve them
- ▶ Identifying resources and a team responsible for implementation



1

REVAMP INTRANET

Intranet Ideas from our OIG community:

- ▶ Looked at how other agencies revamped their intranet sites
 - ▶ Common features/ideas
 - ▶ Personal spotlights
 - ▶ Length of Service
 - ▶ Employee spotlight
 - ▶ Comings and Goings/Hails and Farewells
 - ▶ Congratulations
 - ▶ Communities of practice
 - ▶ Feedback from other OIGs
 - ▶ Including personal features, pictures and current information is key
 - ▶ Incorporating analytics is important
 - ▶ The best way to reach as many people as possible is to diversity the way information is shared
 - ▶ Even if that means providing duplicate information in different forums

IDEAS/BUTTONS FOR CONSIDERATION



IG News & Info



Case and Audit Updates



Did you know



Features



Outreach & Training



Inspector General's Suggestion
Box

- ▶ **News and Info**
 - ▶ CIGIE newsletters and updates
 - ▶ Weekly News Clips
 - ▶ Relevant memos
- ▶ **Outreach and Training**
 - ▶ CIGIE training schedules
 - ▶ Other outreach presentations
- ▶ **Case and Audit Updates**
 - ▶ DOJ press releases
- ▶ **Features**
 - ▶ Current Announcements
 - ▶ Employee/Regional Spotlights

FOCUS ON THE PEOPLE BEHIND THE ORGANIZATIONAL SUCCESS!





2

NEWSLETTERS AND SHARING SUCCESS STORIES

TWO TYPES OF POSSIBLE NEWSLETTERS

“News You Can Use”

- ▶ Idea: Forward key features by email once a month
- ▶ User friendly:
 - ▶ Picture/caption/hyperlink to articles and features already posted on the intranet
 - ▶ No “new” information or articles
 - ▶ Easier to send out and less work to sustain

IG Quarterly/Semiannually?



- ▶ Idea: An actual newsletter with original articles and IG message
- ▶ Could include:
 - ▶ Message from the IG
 - ▶ Information already created
 - ▶ Regional updates
 - ▶ Legal updates
 - ▶ Option for any OIG employees to submit timely article/information for review and consideration

Federal Acquisition Institute's Email Update: FAI TODAY

News for the Acquisition Workforce


FAI Today

FEDERAL ACQUISITION INSTITUTE



**Goodbye FAI Quarterly Newsletter
Hello FAI Today!**

You spoke, we listened! Thank you for providing feedback to us through our recent newsletter survey. FAI has decided to move to more frequent and shorter e-mail blasts such as this one to get the latest news and important information to the Federal Acquisition Workforce!

 **FAITAS**

Register in FAITAS ASAP!

If you are planning to sign up for online courses don't delay! From 27 Sept 2017 – 30 Sept 2017, Course Registration for online DAU and LMS Courses in FAITAS will be unavailable, in order to make the transition from FY17 to FY18. System users will again be able to register for classes on 1 Oct 2017. Note: The [DAU Virtual Campus](#) and the [FAITAS](#) Learning Management System will continue to be available during this period for you to work on the course(s), to which you are enrolled. If you are dropped or failed from a DL Course and/or CL Module during this period, you will need to wait until 0700 EST 1 Oct 2017 to reapply or register. **Please plan accordingly.**

SEMINAR

New Acquisition Seminar! Learning and Development Across Generations

Today's Federal workforce consists of individuals that span multiple generations, including Baby Boomers, Generation X, and Millennials. Learning & development efforts need to engage people across these generations to ultimately ensure the creation of a qualified workforce is meeting the organizational mission. This seminar will offer valuable insight and useful information on learning & development, and how the generations of the federal workforce inform learning & development efforts. The seminar is available in the [FAI Media Library](#) or register through FAITAS to earn CLPs: [FCL-A-0035](#).


More Classes

More FAC-C Classes are Here!

FAI is very pleased to announce that more FAC-C classes have been added to the training schedule running through February 2018 – at NO COST to your agency. This includes the expanded use of the virtual instructor-led training (vILT). [More info](#)

2018 Leadership Excellence in Acquisition Program (LEAP)

The Partnership for Public Service's Leadership Excellence in Acquisition Program (LEAP) is a development program specifically for mid-level, high-performing federal acquisition professionals.



NSF WEEKLY WIRE

January 17, 2018

[View on Web](#)

RECENT OFFICIAL ISSUANCES

[IB 18-01, Fiscal Year 2018 Critical Dates](#)



FOUNDATION NEWS

You are Invited: New Year, New Neighbors Welcome Bash - Today!

The USPTO is hosting a New Year, New Neighbors Welcome Bash to welcome NSF to the neighborhood on Jan 17, 4 to 7pm in the USPTO Atrium

[Read More...](#)



NEWS YOU CAN USE

A GSA OIG email update

December 7, 2017

Legislative Update

Click [here](#) to see an update on the FY 2018 National Defense Authorization Act (NDAA).

Comings & Goings



Miss anything on the Hub this month? Here's a quick roundup of Hub activity to keep you updated. [Click through to read more!](#)

THE MESSENGER

Your M&P source for administrative information.

Issue 2017-12

March 2, 2017

Other Ways to Provide Consistent Messaging From the Top

- ▶ **IG video clip**
 - ▶ Semiannual or annual message to the OIG
 - ▶ Short - 2-4 minutes addressing key major topics of interest
- ▶ **Remote all hands/virtual town halls**
- ▶ **Ask the IG/Deputy IG**



3

LOW COST,
HIGH IMPACT

IDEAS FOR BRINGING PEOPLE TOGETHER

- ▶ **Employee Spotlight Feature/On the flip side/Getting to Know**
- ▶ **Division/Regional Spotlight Article** - highlighting work and outcome
- ▶ **Recognition**
 - ▶ *IG Awards Ceremony*
 - ▶ *Peer Recognition Program* - STAFF SHOUT OUT
 - ▶ *Office wide emails of recognition*
- ▶ **Holiday Or Public Service Recognition Slide Presentation/Video**

Getting to Know You Survey

- ▶ How long have you worked at GSA OIG, and what do you do?
- ▶ What attracted you to your current position?
- ▶ What profession other than your own would you like to attempt?
- ▶ If you could have dinner with 2 people from history, who would they be?
- ▶ Describe yourself in 3 words.
- ▶ If you could give your 18-year old self one piece of advice, what would it be?
- ▶ What is your greatest accomplishment?
- ▶ Finish this sentence, "On an ideal Saturday, I would....."
- ▶ What is your favorite vacation spot? Or Restaurant? or Movie? or TV Show?
- ▶ Have you had any great career mentors, and if so, what made them great?

ALTERNATIVELY, if you're feeling really creative, you can choose to provide five "Fun Facts" about yourself, and/or share a biggest work challenge story.

Employee Spotlights

GETTING TO KNOW... FARA DAMELIN



1. How long have you worked at GSA OIG, and what do you do?
I've been with GSA OIG since July 12, 2017. I'm here for a CIGIE Fellowship and working on enhancing internal communications.

2. What attracted you to your current position?
The people and GSAIG's awesome semi-annual report. Also, after 14 years of focusing on fraud, I thought it would be fun to focus on the people who find the fraud.

3. If you could have dinner with 2 people from history, who would they be?
My Grandparents, Simon and Stella Kravetz. They were awesome!

4. Describe yourself in 3 words.
Energetic, dedicated/motivated, and fun. (I would say funny, but too many people might successfully challenge that.)

5. If you could give your 18-year old self one piece of advice, what would it be?
Study abroad for at least six months !!! What a lost opportunity!

6. What is your favorite movie and TV show?
When Harry Met Sally

7. Five Fun Facts:

- **My husband and I have two teenage daughters who assure me that I am "the most embarrassing mom ever."**
- **I have a personally-owned blackberry, proving my daughters right.**
- **I have been a Girl Scout leader for many years, which is made remarkable by the fact that I don't cook, sew or camp.**
- **I do not know how to ride a bicycle.**
- **I did not start to eat vegetables until I was 40, at the rate of 1 new veggie a year. I eat 7 vegetables now...**
- **We have a cat by the name of "CAT."**

OH WAIT, that's SIX Fun Facts!

CAN ALSO USE THIS FORMAT TO INTRODUCE COMPONENTS AND REGIONS

- ▶ REGIONS

- ▶ WHERE'S GEORGE? (WHAT IS GEORGE?)


- ▶ COMPONENTS

- ▶ AUDIT
 - ▶ INVESTIGATIONS
 - ▶ EVALUATIONS
 - ▶ ADMINISTRATIVE
 - ▶ COUNSEL



Peer Recognition: EPA OIG and DOT OIG

Nominate a Peer for a Star Award in IGEMS
Posted on July 3, 2017 by OIG Blog Team



Nominate a peer today in the IGEMS Awards Module. The OIG Stars Recognition Program is intended as a supplement to the current OIG Awards Program and to provide immediate recognition to employees from within the OIG for their contributions to OIG's three core values – *Customer Service, Integrity, and Accountability*, thereby, expanding awareness of the core values and creating an incentive for others to imitate that behavior in the performance of their day-to-day jobs.

Recipient(s) with the most approved nominations at the end of the quarter, will be recognized as the "Star of Quarter" and presented with a special trophy at the Quarterly OIG – All Hands/Recognition Ceremony.

Please review the [OIG Stars Recognition Program Guidelines](#) and the Lunch and Learn presentation slides [OIG Stars Recognition Program](#) for more information.

[OIG INTRANET: Recognition](#)

This entry was posted in [Recognition](#). Bookmark the [permalink](#). [Edit](#)

People's Choice Award

Award Description: This honorary award recognizes an individual viewed as a model employee by his/her peers.

Basis for Nomination: Contributions such as, but not limited to, the following should be considered for the award:

- a. rapport: regularly greets employees and/or engages others in pleasant conversation and shows a genuine interest in his/her co-workers;
- b. willingness: regularly volunteers to assist others with tasks, projects, or other activities;
- c. upbeat "can do" attitude: regularly displays a positive demeanor, which provides a good example for others and promotes morale;
- d. displays interpersonal or technical skills which are recognized and well respected throughout the OIG.
- e. humor: shares light-hearted, professionally acceptable humor, which enhances the workplace environment and promotes esprit de corp.

MORE IDEAS

- ▶ You said... We did
 - ▶ Circling back to let employees know that their feedback/comments resulted in change
- ▶ Employee Council:
 - ▶ With representatives from every OIG component
 - ▶ A charter/policy - communications, diversity and inclusion, policies
 - ▶ With a senior level champion
- ▶ Blogs/Video Segments and Virtual Town Halls
- ▶ Step competition
- ▶ Red Rover Initiative
 - ▶ An employee shadowing/detail program between divisions

CHALLENGES & OBSTACLES

- ▶ Sustainability
 - ▶ Who will Champion Internal Communications?
 - ▶ Lead by a true believer with passion/energy for the program
 - ▶ Must include ongoing support from the top - at HQ and in the regions
- ▶ Budget/Resources
- ▶ Enhancing the Culture
- ▶ Overcoming Silos and “Need to Know” Philosophy

SUMMARY

- ▶ Information should be shared in as many mediums as possible
 - ▶ To reach the most people
- ▶ Transparency is important and curtails speculation
 - ▶ Providing consistent information to the entire workforce is important
 - ▶ Responding to recommendations and ideas is important
- ▶ Employees want to
 - ▶ Learn about the people behind the mission and the success
 - ▶ Know that others recognize/appreciate what they are doing
 - ▶ Understand what other divisions/people are doing and how it connects to them
- ▶ Pictures and Human Interest make people feel connected
 - ▶ To each other, and to the organization
 - ▶ Building relationships encourages collaboration

QUESTIONS



The Program Fraud Civil Remedies Act

Athena Jones
HUD OIG

Fara Damelin
NSF OIG

Goals of this Training

Familiarize DHS OIG personnel with
The Program Fraud Civil Remedies Act
of 1986 (PFCRA)

- Overview
- History
- Basic Principles
- PFCRA Case Elements
- PFCRA Procedures
- Application

Resource for Forms and Other Guidance



Program Fraud Civil Remedies Act Practitioner's Guide

Prepared by
The Investigations Committee
Program Fraud Civil Remedies Act
Working Group

*Approved by
The Council of the Inspectors General
on Integrity and Efficiency
November 19, 2013*

PFCRA

- **Overview**
- History
- Basic Principles
- PFCRA Case Elements
- PFCRA Procedures
- Application

What's It All About?

PFCRA is an administrative remedy designed to ensure Federal agencies have redress for smaller false and fraudulent claims not selected for enforcement litigation by the Department of Justice.

PFCRA Provisions

31 U.S.C. §§ 3801 *et seq.*

- Provide Federal executive branch agencies with an administrative remedy for small-dollar fraud cases for false claims and statements not selected for DOJ enforcement
- Liability of accused party is determined during administrative proceedings
- Presiding official is ALJ or other qualified individuals authorized under PFCRA

PFCRA

- Overview
- **History**
- Basic Principles
- PFCRA Case Elements
- PFCRA Procedures
- Application

PFCRA - History



- Passed in 1986 – Mini False Claims Act (Claims less than \$150,000).
- 1991 GAO Report – PFCRAs not used extensively – 41 Cases to DOJ between 1986 – 1990.
- 2012 GAO Report – 141 Cases to DOJ between 2006 – 2010 (96% from HUD).
- FY 2011-2013 – nearly \$5.4 million collected by HUD.

PFCRA

- Overview
- History
- **Basic Principles**
- PFCRA Case Elements
- PFCRA Procedures
- Application

Cause for Liability

- Making, presenting, submitting, or causing to be made, presented or submitted to the Government or the recipient of the Government's largess;
- A False Claim or a False Statement; and
- Knowing or having reason to know that the claim or statement is false.

False Claim

- A request for property or services, which is supported by a statement that is:
 - false, fictitious, or fraudulent;
 - is supported by a material fact that is false, fictitious, or fraudulent; and/or
 - omits a material fact that the maker has a duty to include.
- Damages: up to \$5,000, plus double the amount of the claim.



Note on Penalties

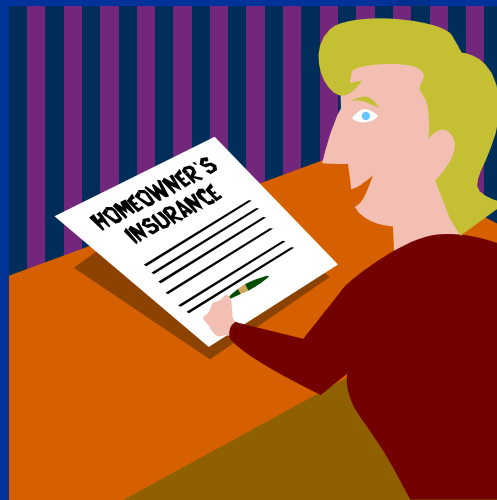
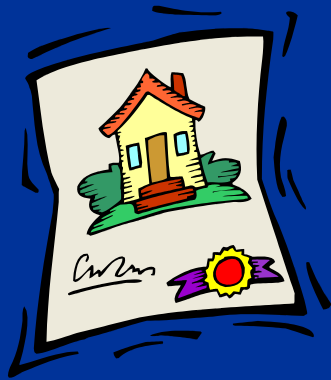
- This presentation uses the current \$5,500 DHS Penalty. 6 C.F.R. § 13.3. Other agencies use different penalty amounts.
- The Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. § 2461 note) provides penalty adjustment once every four years by Federal Register notice.

False Statement

- A statement that includes a material fact that is false, fictitious, or fraudulent; or omits a material fact that the maker has a duty to include.
- The statement is accompanied by a certification or affirmation of truthfulness.
- Damages: up to \$5,000.

Examples of False Claims

- Invoice
- Request for Reimbursement
- SBIR/STTR Grants
- Payroll
- Small Business Contract Invoices from Ineligible Businesses
- Other Grant Claims



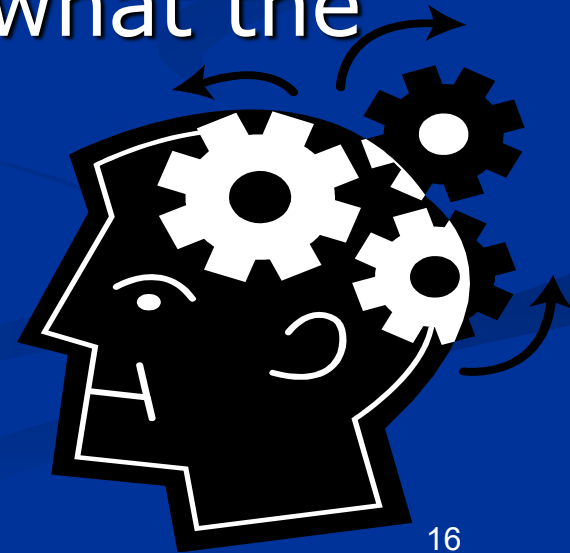
Examples of False Statements

- False Owner's or Contractor's Cost Certification
- False Financial Statement
- False Accounting Report
- False Certifications Required by Program Regulation or Handbook
- False Property Inspection Report



Knowledge Requirement

- Actual Knowledge;
- Deliberate Ignorance (affirmatively hides from the truth); or
- Reckless Disregard (gross negligence; does not care what the truth is).



Remedies for False Claims

- Civil Penalty of up to \$5,000 for each false claim, including false statement that causes claim to be paid
- Assessment of double the amount of paid claim
- Recovery limited to claims of \$150,000 or less

Remedies for False Statements

- Civil Penalty of up to \$5,000 for each false statement



PFCRA

- Overview
- History
- Basic Principles
- **PFCRA Case Elements**
- PFCRA Procedures
- Application

Statutory Elements

- Impose civil penalties and assessments for:
 - Persons
 - Make, Submit or Present or,
 - Cause to Be Made, Submitted or Presented
 - False Fictitious or Fraudulent
 - Claims or Statements
 - They Knew or Had Reason to Know were False
 - To Federal Authorities or their agents.

6 Year Statute of Limitations.

“Person”

- Individual
- Partnership
- Corporation
- Association
- Private Organization
- Entity

Make, Submit or Present . . .

Some affirmative action required.

Cause to Be Made, Submitted or Presented

A liable party does not need to submit the claim personally. PFCRA liability may arise where a person submits false documents that cause a program participant to submit a false claim.

False, Fictitious or Fraudulent

As the terms indicate, the information or submission cannot be true.

****Use caution with cases that involve certifications of intent or future actions.**

Statement

- Representation, certification, affirmation document or other submission
- Made:
 - With respect to a claim
 - With respect to eligibility for contracts, grants, loans or benefits
- Statement must be accompanied **by express certification** of truthfulness or accuracy
- No need to show that any claim was paid

PFCRA

- Overview
- History
- Basic Principles
- PFCRA Case Elements
- **PFCRA Procedures**
- Application

Procedure

- There must be an investigative report referred by the DHS Office of Inspector General.
- OIG report is submitted to the Reviewing Official (General Counsel of DHS or the General Counsel's designee).
- Department of Justice must approve all PFCRA actions.
- Cases are tried in front of Administrative Law Judges, appointed pursuant to 5 U.S.C. Sec. 3105 or detailed to DHS pursuant to 5 U.S.C. Sec. 3344.

OIG Report

- Presents findings and conclusions of investigation/audit to Reviewing Official.
- Should contain all evidence necessary to assess the proposed action.
- Should contain contact information for an investigating agent/auditor.

**Shortcut – The
Practitioner's
Guide has forms.**

Reviewing Official

- Assesses whether the evidence supports a finding of liability under the PFCRA
- If appropriate, drafts a request for authorization to proceed with a PFCRA
- Determines whether there is a reasonable prospect of collecting an appropriate amount of penalties and assessments

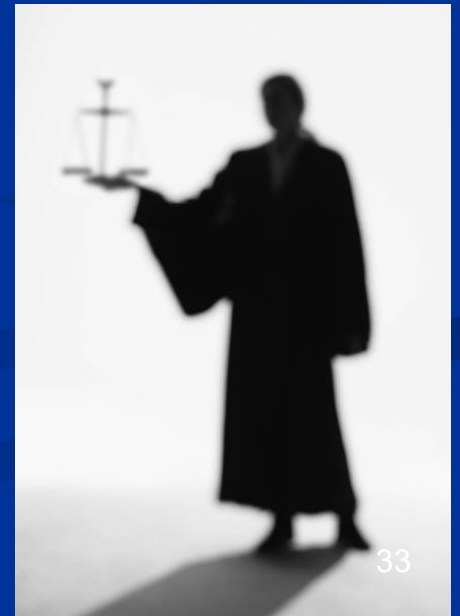
Request for PFCRA Authorization from DHS

1. Reasons for the referral of the allegations
2. Statement specifying the evidence
3. Description and number of claims, statements, or penalties at issue
4. Value of property or services requested or demanded
5. Any relevant exculpatory or mitigating circumstances
6. Statement regarding reasonable prospect of collecting an appropriate amount of penalties and assessments

**Shortcut – The
Practitioner's
Guide has forms.**

After DOJ Approval:

**Litigate the Case
before Administrative
Law Judge**



**Shortcut – The
Practitioner's
Guide has forms.**

Judicial Review

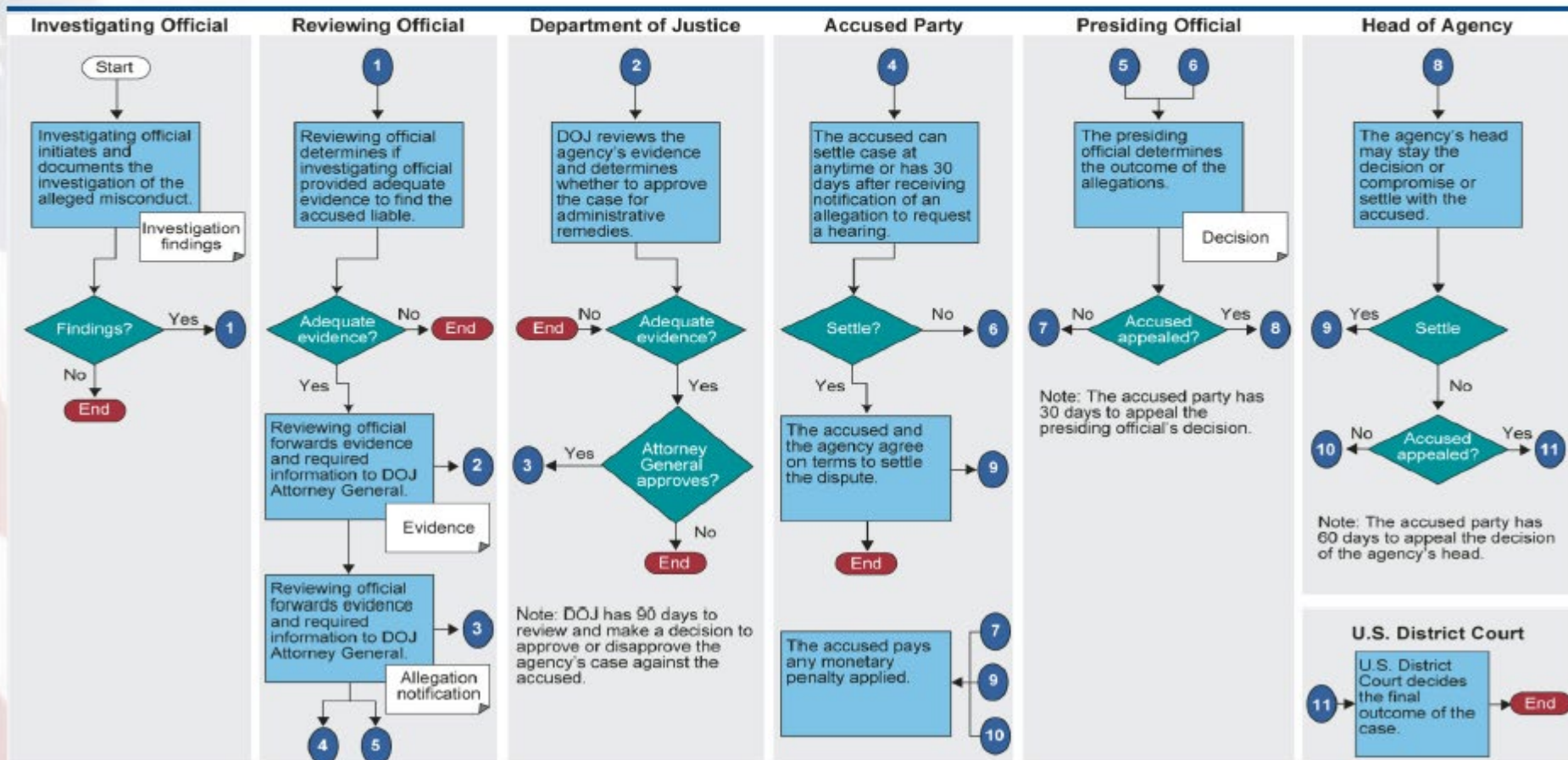
- Appeal lies with District Courts within 60 days of final Agency decision
- Respondent must exhaust administrative appeals
- ALJ's factual findings are conclusive unless unsupported by substantial evidence
- Courts have jurisdiction to affirm, modify, remand for further consideration, or set aside, in whole or in part, the ALJ decision
- District Court can enter judgment in Government's favor

Collection of PFCRA ALJ Judgments

- If affirmative collection necessary, DOJ must file a civil action to have judgment entered in Federal court
- Liability and the determination of amounts of penalties and assessments is not subject to review in a collection action
- 3-year statute of limitations on collection actions



Background: PFCRA Process



**Remember – The
Practitioner's
Guide has forms
that fit this
process.**

PFCRA

- Overview
- History
- Basic Principles
- PFCRA Case Elements
- PFCRA Procedures
- **Application**

Hypothetical #1

- Small Business receives ten \$100,000 SBIR Phase 1 grants to develop projects related to rechargeable batteries.
- All projects were previously submitted to, and funded by, SBIR grants at other agencies (the PI is big on recycling).

Hypothetical #1 Results

- DHS can sue the business (and possibly the individuals) for a \$50,000 civil penalty (ten claims at \$5,000) and \$2,000,000 (double the claimed amount) in assessments.
- Maximum Case Value: \$2,050,000.

Example #1

- Landlord rented a house to his mother and brother using HUD's Housing Assistance Payment (HAP) program. HAP payments cover only a portion of the rent. Landlord never collected the tenant's share but did get \$23,603.00 from 43 HAP payments. (Other payments out of statute.)
- Landlord certified in program documents that no family member living in the house had an ownership interest in the unit. Landlord knew his mother was a partial owner of the house. Mother also affirmed in program documents that she did not own any real estate.

Result?

Result, Example 1

- Landlord and mother jointly and severally liable for \$283,706.
 - \$236,500 in penalties ($\$5,500 \times 43$).
 - \$47,206 assessment ($\$23,603 \times 2$).
- Mother separately liable for an additional \$18,000 in penalties (\$3,000 for 6 false statements).
- Case involved Secretarial appeal.

Example #2

- Husband and wife submitted a \$126,510 claim the HUD-funded Road Home Homeowner Assistance grant program. This program helped homeowners recover from Hurricane Katrina.
- The couple, however, did not own the home at the time Katrina hit. They submitted a false affidavit to get the grant.

Result?

Result, Example #2

- Husband and wife jointly and severally liable for \$260,520.
 - \$253,020 assessment ($\$126,510 \times 2$)
 - \$7,500 in penalties (HUD has adjusted its penalties for inflation).
- Default Judgment.

Identifying Cases

- Program Areas
 - Funds Given to Localities
 - Contracts – Set-Aside or Performance Issues
 - Grants
 - Employee Actions
- Collateral Actions
 - Convictions
 - Declinations
- Potentially Liable Parties
 - Direct Participants
 - Vicarious Liability



Conclusion

Facilitating PFCRA Use at DHS

- Use after successful criminal prosecution
- DHS personnel cases: T&A, purchase and travel card abuse
- Close coordination between offices (DHS OIG, DHS OGC and DOJ Civil Fraud)
- Grant and procurement fraud
- Standard referral templates valuable
- High deterrent effect if well publicized
- Most contracts fall within PFCRA thresholds

HOW TO LEARN MORE

- Peruse the PFCRA Practitioner's Guide
 - A step by step handbook for handling PFCRA cases
- Attend CIGIE's PFCRA Working Group Meetings
 - Coordinated and Hosted by SBA OIG
- November 6, 2014, Training

Questions & Answer



**NSF OFFICE OF INSPECTOR GENERAL
INVESTIGATIVE UPDATE -2012**

**Fara Damelin
Investigative Attorney**

**SRA International, 2012 Annual Meeting
October 2, 2012**

What is an Office of Inspector General?

- ▶ Each federal agency has independent OIG
- ▶ OIG missions:
 - Prevent and detect waste, fraud, and abuse
 - Promote economy, effectiveness, efficiency
 - Keep agency **head** and Congress fully and currently informed
- ▶ OIG Tools To Meet Mission Goals:
 - Investigations
 - Audits

BACKGROUND: NSF OIG INVESTIGATIONS

▶ **Who are we?**

- Special agents (Federal Law Enforcement Officers)
- Investigative Attorneys
- Investigative Scientists
- Analysts

▶ **How are investigations initiated?**

- Reactive
- Proactive

▶ **What types of Investigations?**

- Civil/Criminal
- Administrative

What Types of Issues do we Investigate?

CIVIL/CRIMINAL

- **Theft/embezzlement**
- **Financial mismanagement**
- **Misuse of grant funds**
- **Conflicts of Interests**

ADMINISTRATIVE

- **Research Misconduct:**
 - **Plagiarism, Fabrication, Falsification**
- **Conflicts of Interests**
- **Merit review violations**

HOT TOPIC

SBIR/STTR FRAUD INVESTIGATIONS

- ▶ Background & Purpose of SBIR/STTR Programs
- ▶ Eligibility Requirements
- ▶ Relationship with Universities
- ▶ Common Types of Abuse
 - Facilities
 - Primary Employment
 - Overlapping/Duplicative funding
- ▶ Investigative Outcomes
 - Indictments for false statements/false claims/theft of federal program funds/mail fraud/wire fraud
 - Government wide suspension and debarment

Fraud Investigations

How do Grantees Get in Trouble (Pt. 1)

▶ **Embezzlement/Theft**

- Using grant funds to pay for personal mortgage payment, bedroom furniture, vacations, American Idol tickets, and speeding tickets

▶ **False Statements**

- Falsely asserting support of a key organization in proposal
- Falsely asserting collaboration with a foreign scientist that never happened
- Falsely certifying eligibility requirements for award program
- Falsely certifying required matching funds (cost-sharing)
- False FFR reporting

Fraud Investigations: How Do Grantees Get In Trouble?(Pt II)

◦ **FALSE CLAIMS**

- Claiming reimbursement for grant funds not spent on funded project
- Grantee-approved no cost extension just to spend remaining grant funds
- Drawing down federal funds for unallowable expenses
- False Interim Reports and Milestone Charts in SBIR/STTR Phase II Awards

◦ **MISMANAGEMENT OF FEDERAL FUNDS**

- Co-mingling federal and non-federal funds
- Transferring costs from overdrawn project accounts
- Charging one grant for expenditures of another
- Failing to know, follow, or care about applicable rules
- Expending funds after award expiration date

Possible Outcomes of Civil/Criminal Investigations

- **Civil Action**
 - Civil False Claims Act
 - Treble damages
- **Criminal Action (Prosecution)**
 - Criminal False Claims/False Statements
 - Theft/Embezzlement
 - Mail/Wire Fraud
 - Conspiracy
- **Administrative Action**
 - Suspension/termination of current NSF awards
 - Government-wide suspension/debarment

HOT TOPIC: Government-wide Suspensions and Debarments

- ▶ Purpose: To protect federal funds from those who are not “presently responsible”
- ▶ Consequences:
 - Central GSA Excluded Parties List
 - Applies to all prospective grants and contracts over \$25,000
 - If one agency imposes, affects funding from ALL federal agencies
- ▶ Recent Trend:
 - Fact-based suspensions imposed during ongoing investigations

HOW TO AVOID TROUBLE:

- ▶ Read and know the applicable grant conditions, rules and regulations when receiving federal grant funds:
 - Provide and Document Training (Mandatory)
- ▶ Maintain (during, not after the fact) adequate documentation to support all expenditures, including cost share
- ▶ Ensure your financial reporting to NSF matches your financial records
- ▶ Do not expend award funds post-expiration or for purposes unrelated to the award
- ▶ Do not provide inaccurate information or false certifications to Grantee institution or Federal Agency

Top 10 Things You Don't Want To Say To An OIG Investigator

1. Do you think I have time to read all of your rules?
2. Time and Effort Policy? Well, we don't actually have one of those yet.
3. Sorry, I can't get you the records; they are being archived in a dangerous building.
4. Wow..Really? No! Entertainment can't be charged to federal awards? Is a trip to Universal Studios considered entertainment?
5. The movie outing to see Bad Boys 2 was sort of cultural excursion.

Top 10 Things You Don't Want To Say To An OIG Investigator

6. Wow, I had no idea our records were such a mess.
7. I probably threw out the COI disclosure form...I throw out anything that looks bureaucratic.
8. Chicken Dinner Analogy: which goes...
9. I signed the purchase requisition because I saw that everyone else signed too.
10. No, I haven't received any formal training about federal grants management. BUT I have received "on the job" training.

Number 11: But...we did the work!!!

- ▶ Very common defense to grant fraud cases
- ▶ Problem Scenario: If grantee receives \$1 million to carry out a funded proposal, carries out the work for \$500,000, and spends the full amount of the award....
- ▶ We still need to know where the other \$500,000 went....AND
- ▶ The Grantee can still be charged for false claims associated with the other \$ ½ million

NOTE ON EMAIL COMMUNICATIONS

- ▶ Sometimes it is not what a grantee/PI says, but instead, what the grantee/PI writes, that could cause some trouble.
- ▶ Examples....

CASE STUDIES

HOT OFF THE PRESS

MOST RECENT CASES

- ▶ **Former School Superintendant Pled Guilty to Mail Fraud**
 - For submitting multiple duplicate travel reimbursements totaling \$59,882 and submitting false student test scores to receive fraudulent salary payments from research grants
 - 10 months confinement, 3 years parole
 - \$325,000 restitution
- ▶ **University Assistant Dean Pled Guilty to False Statements**
 - For making false statements resulting in improper salary payments
 - 5 years supervised probation, ordered not to work in education
- ▶ **University Program Coordinator Pled Guilty to Fraud**
 - For using P-card to purchase gift cards, diamond ring, groceries, phone/cable and charged to NSF grants: \$173,000 diverted for personal use
 - 10 years prison/10 years supervised probation, after withdrawing initial plea
 - \$125,000 restitution
- ▶ **University Accountant Pled Guilty to Mail Fraud and Theft**
 - For using P-card to make 3800 personal vendor purchases charged to NSF grants
 - \$316,000 diverted for personal use, and created false invoices
 - 32 months prison/3 years probation, \$316,000 restitution

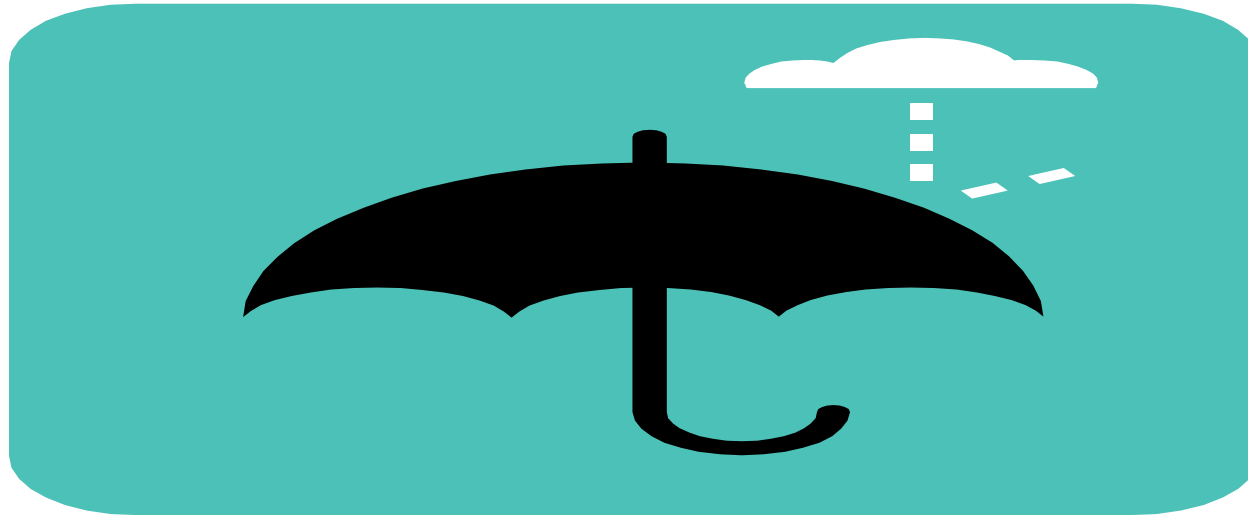
HOT OFF THE PRESS

MORE RECENT CASES

- ▶ Former PI from University Pled Guilty to Theft of Federal Funds
 - For diverting federal grant funds for personal travel, billing as business conferences and submitting false registrations and receipts
 - Sentenced to restitution of \$19,000, \$5,000 fine and one year supervised probation
- ▶ School District Returns \$79,000 to NSF
 - For submitting false certifications in violation of Civil FCA
 - Mandatory 5-year compliance plan
- ▶ University Returns \$477,000 to NSF in COI Case
 - Because university employee/PI improperly subcontracted out work on NSF grant to company in which he had 25% interest
- ▶ STTR Grantee Indicted for False Claims
 - For falsely certifying primary employment and diverting \$100,000 grant funds to pay balances on personal credit cards
 - PENDING
- ▶ Former PI Indicted for Theft and Mail Fraud: PENDING

Key to Prevention?

Compliance Programs



Government

Institution/University

Researcher

Compliance Program

A SYSTEM OF RESPONSIBLE ADMINISTRATIVE, FINANCIAL AND RESEARCH MANAGEMENT AND OVERSIGHT, CREATING AN ENVIRONMENT IN WHICH EMPLOYEES CAN OPERATE WITH INTEGRITY

Compliance Programs can be implemented voluntarily or mandated as part of negotiated resolution

Compliance Programs Require:

- ▶ **Leadership** – commitment to do the right thing
- ▶ **Management** – ethical environment
 - Focus on high risk areas
 - Provide systematic monitoring, auditing, oversight
- ▶ **Training** – Communicate facts and expectations
- ▶ **Action** – Early detection and correction problems
- ▶ **Reporting** – Relay information regarding wrongdoing

Benefits of Compliance Programs

- ▶ Demonstrates commitment to ethical conduct
- ▶ Ensures Accountability
- ▶ Minimizes or detects criminal conduct
- ▶ Encourages reporting
- ▶ Creates awareness through training
- ▶ Prevents improper expenditures; improves grant administration
- ▶ May help avoid the filing of legal actions
- ▶ Mitigation, e.g., may reduce penalty or administrative actions

Elements of an Effective Compliance Program

1. Reasonable Compliance Standards and Procedures
2. Specific High-Level Personnel Responsible
3. Due Care in Assignments with Substantial Discretionary Authority
4. Effective Communication of Standards and Procedures
5. Establish Monitoring and Auditing Systems and Reporting Systems (whistleblowing without fear of retaliation)
6. Consistent Enforcement of Standards
7. Respond Appropriately to the Offense (reporting to law enforcement, modify program, prevention)

* Federal Sentencing Guidelines U.S.S.G. 8B2.5(f) & 8D1.4(c)(1) (11/1/04)

How Compliance Programs Are Developed

VOLUNTARY

- ▶ Trend: many universities voluntarily creating compliance programs because they recognize benefits and because the right thing to do!
- ▶ CoGR June 2005 Guidance
 - Encouraging voluntary compliance programs as means for institutions to meet compliance obligations

And “Not So Voluntary”

Trend: DOJ imposes mandated compliance plans into settlements with grantees for:

- Overcharging IDC
- Misusing federal grant funds
- Creating false cost-share certifications
- Double billing
- Maintaining false time and effort reports
- Commingling Federal and non-Federal funds, failing to scrub for allowable expenses

These mandatory compliance plans regularly span 3–5 years, require annual compliance audits, and provide monitoring by federal agency.

American Recovery and Reinvestment Act of 2009:ARRA

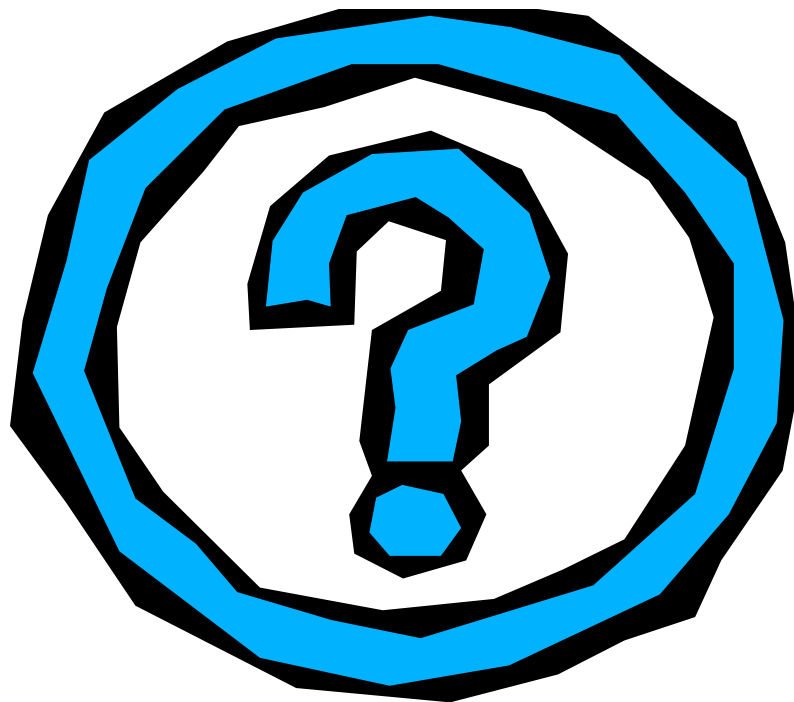
SPECIAL ARRA REQUIREMENTS

➤ Reports:

Lots of reports, lots of data: Tell the truth!

- You must report to OIG “any credible evidence” of wrongdoing.
- Whistleblower protections:
 - Post notices for employees about their rights.
 - Do not retaliate.
 - OIG investigates allegations of retaliation.

QUESTIONS



Want to Learn More?

Surf Our Website:
www.nsf.gov/oig

NSF OIG Brochures
NSF OIG Semiannual
Reports
NSF OIG Outreach
Presentations
NSF OIG Case
Closeouts

Contact Information

Confidential Communications

E-mail: oig@nsf.gov

Mail: NSF—ATTN: OIG HOTLINE
4201 Wilson Boulevard; II-705
Arlington, VA. 22230

Anonymous Communications: Hotline: 1-800-428-2189
www.nsf.gov click on IG Hotline

- ▶ Fara Damelin—fdamelin@nsf.gov; 703/292-8873

NSF OFFICE OF INSPECTOR GENERAL INVESTIGATIVE UPDATE -2015

Fara Damelin

Director, Office of Investigations Legal Division

SRA International, 2015 Annual Meeting

October 21, 2015

What is an Office of Inspector General?

- ▶ Each federal agency has independent OIG
- ▶ OIG missions:
 - Prevent and detect waste, fraud, and abuse
 - Promote economy, effectiveness, efficiency
 - Keep agency **head** and Congress fully and currently informed
- ▶ OIG Tools To Meet Mission Goals:
 - Investigations
 - Audits

BACKGROUND: NSF OIG INVESTIGATIONS

▶ **Who are we?**

- Special agents (Federal Law Enforcement Officers)
- Investigative Attorneys
- Investigative Scientists
- Analysts

▶ **How are investigations initiated?**

- Reactive
- Proactive

▶ **What types of Investigations?**

- Civil/Criminal
- Administrative

What Types of Issues do we Investigate?

CIVIL/CRIMINAL

- Theft/embezzlement
- Financial mismanagement
- Misuse of grant funds
- Conflicts of Interests
- Obstruction

ADMINISTRATIVE

- Research Misconduct:
 - Plagiarism, Fabrication, Falsification
- Conflicts of Interests
- Merit review violations

Possible Outcomes of Civil/Criminal Investigations

- **Civil Action**
 - Civil False Claims Act
 - Treble damages
- **Criminal Action (Prosecution)**
 - Criminal False Claims/False Statements
 - Theft/Embezzlement
 - Mail/Wire Fraud
 - Conspiracy
 - Obstruction (Audits and Investigations)
- **Administrative Action**
 - Suspension/termination of current NSF awards
 - Government-wide suspension/debarment

Fraud Investigations: How do Universities Get Into Trouble

- ▶ **Embezzlement/Theft**
- ▶ **False Statements/False Claims**
- ▶ **Mismanagement of Federal Funds**
- ▶ **Failure to Train Personnel in Federal Grant Requirements**
- ▶ **Lack of Procedures and Processes to Hold Personnel Accountable**
- ▶ **Not Knowing What Their Employees Are Involved In**

Hot Topics for University Grantees

- ▶ Uniform Guidance
 - Mandatory Disclosures
 - Certifications
- ▶ SBIR/STTR Awards
- ▶ Dual Employment
- ▶ Expenditure Sign Offs
- ▶ Cost Transfers
- ▶ Conflicts of Commitments
- ▶ Current and Pending Support

Uniform Guidance

- ▶ Consolidation of multiple OMB Circulars and Codified Regulations, 2 CFR Part 200
- ▶ Effective December 26, 2014
- ▶ Learn what's new and not so new
- ▶ OIG Community Involvement
 - Certifications
 - Mandatory Disclosure
 - Was required already for contracts
 - Now required for grants, too

§ 200.113 Mandatory disclosures

The non-Federal entity or applicant for a Federal award **must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law** involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in § 200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR Part 180 and 31 U.S.C. 3321).

§ 200.415 Required Certifications

“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and **the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award.** I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).”

University as a Federal Subcontractor:

- ▶ Do you request and require that the prime award be provided to you for your file?
- ▶ Do you review that file?
 - Personnel
 - Facilities
 - Budget
- ▶ Do you report nonpayment of subcontracts to federal OIGs?
- ▶ Do you search SAM to determine if you are working with Excluded Party?

SBIR/STTR Awards: What Universities Need to Know

1. A PI on an SBIR/STTR award must be “**primarily employed**” by the company that receives the federal funds
2. An STTR award includes a **mandatory subcontract** to University Partners, without which the prime award could not be made
3. Serving as a PI on an SBIR/STTR award requires a **time commitment**
4. Potential **conflicts of interest** must be managed
5. The university must know of all **current and pending support** for PIs applying for federal funds through the university
6. Instances where PIs on SBIR/STTR awards wrongfully perform work on SBIR/STTR awards at **university labs** with university equipment
7. Instances where **universities not paid** for subcontract work, or all work done by university employees or students
8. **Proactive Idea:** Search SBIR.Gov, and see who is being funded in your area

Dual Employment and Other Conflicts

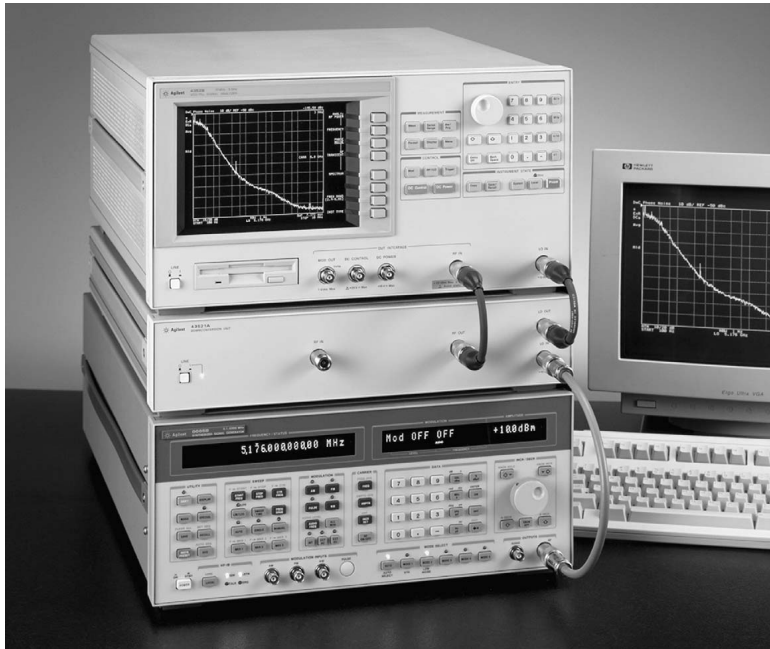
- ▶ What are your Conflict of Commitment Reporting Requirements?
 - Do you have mandatory reporting requirements? Affirmative reporting even if nothing to report?
 - What happens if employees don't file mandatory reports? Consequences?
- ▶ Do any of your PI's have dual appointments as tenured faculty at two institutions at the same time?
 - Multiple investigations involved this scheme
 - Dual employment not reported to universities
 - Dual employment not on resumes submitted with federal grant proposals
- ▶ Are any of your personnel subcontracting out to family members or using company vendors that they own, or are owned by their immediate family members?

Who is Signing Off on What, and Why?

- ▶ Fraud happens
- ▶ “I signed off on it because Joe did,” is not going to prevent or catch fraud
- ▶ Multiple Investigations reveal a lack of true scrutiny for purchases made with grant funds and lack of training
- ▶ Similar issues posed with financial reporting to agencies
 - There are certifications
 - Who is ensuring the accuracy of what is being reported, and what funds are being drawn down?

NSF Award Budget includes the purchase of Engineering Equipment, but High End Cameras purchased instead:

Agilent Technologies
Signal Analyzer
\$67,970



Dodd Camera and Video
Sinar P3 Camera + accessories
\$44,346



Cost Transfers, Effort Reporting, Financial Reports

- ▶ What are your current policies?
- ▶ Are they being followed?
- ▶ Do you have source documentation to support your expenditures charged to federal awards, to include time and effort?
- ▶ Who is responsible for the accuracy of reports made to the federal government?

What Are You Reporting Out to the Govt? And How Accurate Is It?

- Investigation of a Cooperative agreement, totaling \$2,494,078
- Initial response: \$2,201,728
- During site visit: \$2,533,078
- Response to IG subpoena: \$2,494,078

HOT OFF THE PRESS

MOST RECENT CASES

- **University to pay \$2.7 Million for Failing to Account for Federal Research Funds**
- **University Professor Convicted in Scheme to Defraud NSF and for Obtaining Kickbacks from Student Stipends**
- **Former Professor Pleads Guilty in \$3 Million Federal Research Grant Fraud Case**
- **Former University Professor Pleads Guilty to False Statements**
- **University Returns Money for Misuse of Federal Subcontract Funds**
- **Non-Profit Grantee to return funds for misuse of NSF grant funds**

Top 10 (or 12) Things You Don't Want To Say To An OIG Investigator

1. Do you think I have time to read all of your rules?
2. We don't actually have any written policies about the expenditure of federal grant funds.
3. Sorry, I can't get you the records; they are being archived in a dangerous building.
4. Wow..Really? Entertainment can't be charged to federal awards?
5. If I have to go back and create cost share records now, that's what I'll do!
6. I had no idea our records were such a mess.

Top 10 (or 12) Things You Don't Want To Say To An OIG Investigator

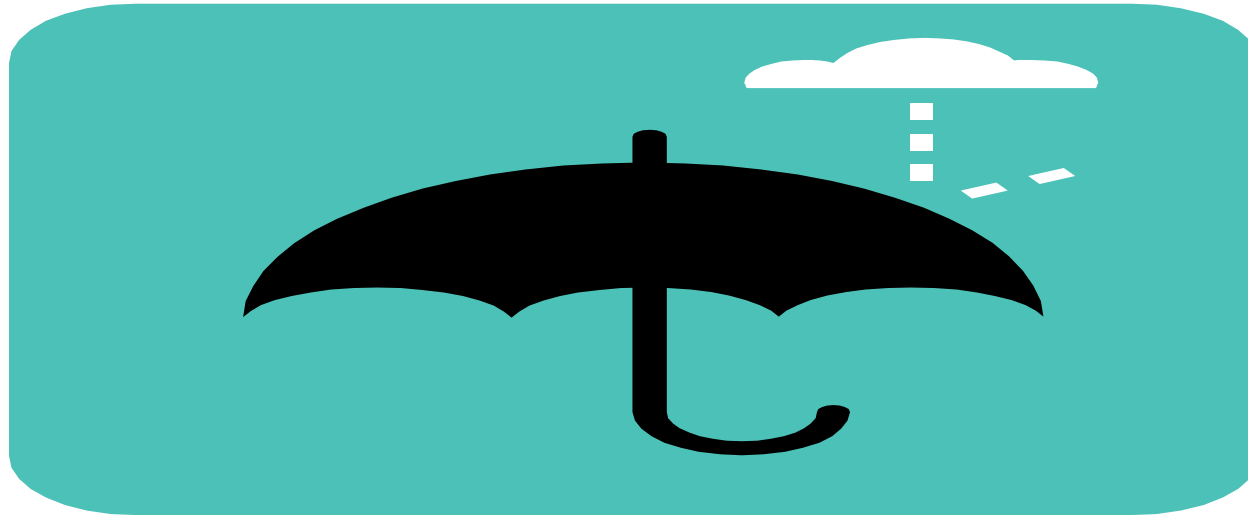
6. I probably threw out the COI disclosure form...I throw out anything that looks bureaucratic.
7. Chicken Dinner Analogy: which goes...
8. I signed the purchase requisition because I saw that everyone else signed too.
9. No, I haven't received any formal training about federal grants management. BUT I have received "on the job" training.
10. If you were going to rely on my timesheets, you'd have a pretty good case.
11. But what are you complaining about...we did the work!

HOW TO AVOID TROUBLE:

- ▶ Read and know the applicable grant conditions / regulations:
 - Provide and Document Training (Mandatory)
- ▶ Maintain (during, not after the fact) adequate documentation to support expenditures and cost share
- ▶ Ensure financial reporting matches internal records
- ▶ Do not expend award funds post-expiration or for purposes unrelated to the award
- ▶ Do not provide inaccurate information or false certifications to Grantee institution or Federal Agency

Key to Prevention?

Compliance Programs



Government

Institution/University

Researcher

Compliance Program

A SYSTEM OF RESPONSIBLE ADMINISTRATIVE, FINANCIAL AND RESEARCH MANAGEMENT AND OVERSIGHT, CREATING AN ENVIRONMENT IN WHICH EMPLOYEES CAN OPERATE WITH INTEGRITY

Compliance Programs can be implemented voluntarily or mandated as part of negotiated resolution

Compliance Programs Require:

- ▶ **Leadership** – commitment to do the right thing
- ▶ **Management** – ethical environment
 - Focus on high risk areas
 - Provide systematic monitoring, auditing, oversight
- ▶ **Training** – Communicate facts and expectations
- ▶ **Action** – Early detection and correction problems
- ▶ **Reporting** – Relay information regarding wrongdoing

Benefits of Compliance Programs

- ▶ Demonstrates commitment to ethical conduct
- ▶ Ensures Accountability
- ▶ Minimizes or detects criminal conduct
- ▶ Encourages reporting
- ▶ Creates awareness through training
- ▶ Prevents improper expenditures; improves grant administration
- ▶ May help avoid the filing of legal actions
- ▶ Mitigation, e.g., may reduce penalty or administrative actions

Elements of an Effective Compliance Program

1. Reasonable Compliance Standards and Procedures
2. Specific High-Level Personnel Responsible
3. Due Care in Assignments with Substantial Discretionary Authority
4. Effective Communication of Standards and Procedures
5. Establish Monitoring and Auditing Systems and Reporting Systems (whistleblowing without fear of retaliation)
6. Consistent Enforcement of Standards
7. Respond Appropriately to the Offense (reporting to law enforcement, modify program, prevention)

* Federal Sentencing Guidelines U.S.S.G. 8B2.5(f) & 8D1.4(c)(1) (11/1/04)



Whistleblower Protection

- **NSF federal employees** are protected if they make a whistleblower disclosure to the US Office of Special Counsel, the OIG, or a supervisor
- **Employees of NSF contractors and grantees** are protected if they make a whistleblower disclosure to their management, an OIG, or an official responsible for investigating misconduct
- **Both** federal employees and contractor/grantee employees are also protected for communications to Congress or the media

Whistleblower Protection Ombudsman

William J. Kilgallin
Senior Advisor, Investigations
National Science Foundation
Office of the Inspector General
(703)292-4993

wkilgall@nsf.gov



QUESTIONS



Want to Learn More?

Surf Our Website:
www.nsf.gov/oig

NSF OIG Brochures
NSF OIG Semiannual
Reports
NSF OIG Outreach
Presentations
NSF OIG Case
Closeouts

Contact Information

Confidential Communications

E-mail: oig@nsf.gov

Mail: NSF—ATTN: OIG HOTLINE
4201 Wilson Boulevard; II-705
Arlington, VA. 22230

Anonymous Communications: Hotline: 1-800-428-2189
www.nsf.gov click on IG Hotline

- ▶ Fara Damelin—fdamelin@nsf.gov; 703/292-8873