

IDENTIFYING AND AVOIDING ETHICS RISKS

USACE Galveston District

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VALUES

DOD ETHICAL VALUES

Honor
Responsible Citizenship
Pursuit of Excellence
Loyalty
Fairness

Promise Keeping
Caring
Integrity
Accountability
Respect



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PRINCIPLES

14 ETHICAL PRINCIPLES

PRINCIPLES OF ETHICAL CONDUCT

1. Public Service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

2. Employees shall not hold financial interests that conflict with the conscientious performance of duty.

3. Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

4. An employee shall not, except as [provided for by regulation], solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

5. Employees shall put forth honest effort in the performance of their duties.

6. Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.

7. Employees shall not use public office for private gain.

8. Employees shall act impartially and not give preferential treatment to any private organization or individual.

9. Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

10. Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

11. Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

12. Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those--such as Federal, State, or local taxes--that are imposed by law.

13. Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

14. Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or ethical standards. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.



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LAW

Criminal Action

- 18 U.S.C. 1001 False statements to Government Agency

Prohibits knowingly and willfully making any materially false, fictitious, or fraudulent statement or representation.



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LAW

Criminal Action

- 18 U.S.C. 287 False claims

Prohibits presenting a claim to the United States knowing such claim to be false, fictitious, or fraudulent.



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LAW

Criminal Action

- 18 U.S.C. 201 Bribery

Prohibits the giving or accepting of anything of value to or by a public official, if the thing is given "with intent to influence" an official act, or if it is received by the official "in return for being influenced."

LAW

Criminal Action

- 18 U.S.C. 1341 and 1343 Mail and Wire Fraud

Prohibits devising a scheme to defraud another of property, when either mail or wire communications are used in furtherance of the scheme.



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GIFTS

- As a general rule, personnel may not accept gifts given by contractors or given because of their official position.



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ETHICAL DECISION-MAKING

Found in DoD 5500.07-R, Chapter 12

- a. Define the problem
- b. Identify the Goals
- c. List applicable laws and regulations
- d. List the ethical values at stake
- e. Name all of the stakeholders
- f. Gather additional information
- g. State all feasible solutions
- h. Eliminate unethical options
- i. Rank remaining solutions
- j. Commit to and Implement the Best Ethical Solution



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ETHICAL DECISION-MAKING

Found in DoD 5500.07-R, Chapter 12

Always ask yourself these questions when making a decision:

- Do the ethics rules permit me to take a proposed action/may I proceed?
- If yes, should I proceed? What are the benefits if I take the proposed action and what are the RISKS?



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FRAUD

Definition

Any intentional deception designed to deprive the United States unlawfully of something of value or to secure from the United States for an individual a benefit, privilege, allowance, or consideration to which he or she is not entitled.

Such practices include, but are not limited to:

- the offer, payment, or acceptance of bribes or gratuities
- making false statements
- submitting false claims
- falsifying records and books of accounts
- arranging for secret profits, kickbacks, or commissions
- conflicts of interest
- unauthorized disclosure of official information relating to procurement



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FRAUD

By the numbers

- FY 2015 DOJ recovered \$3.5 billion in Civil False Claims Act settlements and judgments.
- FY 2015 \$755 million in investigative recoveries for the Department of the Army.
- FY 2015 Army PFD processed 1,033 suspension, proposed debarment, and debarment actions.



PROCUREMENT FRAUD PROGRAM

The Army Procurement Fraud Division is the single centralized organization in the Army that monitors and coordinates criminal, civil, contractual, and administrative remedies for significant cases of fraud or corruption within the Army relating to Army procurement.

Suspensions and Debarments are administrative measures used by Federal agencies to help ensure that the Government does business only with responsible contractors. Stated another way, the Army wants to ensure that it enters into contracts with contractors who are honest, ethical, and have the ability to successfully perform.



PROCUREMENT FRAUD CASES

- Fraud in formation
 - Bid rigging/Collusion
 - Bribery/Conflicts of Interest
 - Kickbacks
 - Defective pricing
 - Fraudulent sole sourcing
- Fraud in performance
 - False invoices
 - Double billing
 - Inflated indirect cost rates
 - Cost mischarging
 - Claims for work not in accordance with contract requirements



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REMEDIES

- Criminal
- Civil
- Administrative
- Contractual



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CASE EXAMPLE

U.S. v. Harris, Criminal No. EP:13-CR-01285(1)-PRM (W.D. Texas) (2015)

- **Background:** Felony wire fraud case brought under 18 U.S.C. 1843 against COL (Ret.) Thomas Gregory Harris of Friendswood, Texas, a senior vice-president with Luster National, Inc., a professional services firm. The charges (17 counts) were based on invoicing to the government on three 8(a) sole source contracts (1 at Fort Bliss, 2 at the Galveston District) for professional services performed by the Tropical Luster Joint Venture (TLJV). Prosecutors alleged Harris, without the SBA's knowledge, used Tropical Contracting's qualifying status to obtain three restricted SBA contracts, and that Luster National personnel performed the work on the contracts, not personnel from the joint venture as described to SBA officials.
- **Result:** Conviction on 16 of 17 counts of wire fraud.
- **Remedies:**
 1. Criminal: Two years in prison and \$25,000 fine.
 2. Administrative: Compliance agreement with Luster National, Inc.: 1) independent monitor for three years; 2) remedial measures to improve its Contractor Responsibility Program, and 3) not knowingly enter into a business relationship with any 8(a) business for the purpose of obtaining small business set-aside contracts.Army SDO debarred Thomas Harris through 2 March 2022.



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FRAUD

How Fraud Hurts the Organization

- Lost resources
- Decreased productivity
- Lowered morale
- Decreased trust
- Investments of time and money into investigations
- Damaged Reputation



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REPORTING FRAUD

If you suspect fraud involving Army or Government procurements or involving Government personnel or contractor personnel, you should report it.

- Army Criminal Investigation Command via the local Army CID office or <http://www.cid.army.mil/>
- DODIG HOTLINE at (800) 424-9098 or via email to hotline@dodig.mil
- District Internal Review Office
- District Procurement Fraud Advisor



QUESTIONS?

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