

National Procurement Fraud Task Force White Paper

Procurement Fraud: Legislative and Regulatory Reform Proposals (2008) – Related Actions and Updates

IMPROVE ETHICS AND INTERNAL CONTROLS

- ✓ ***Requirement for Ethics Compliance Program for Government Contractors***
Section 6101 of Public Law 110–252, the Close the Contractor Fraud Loophole Act and FAR modifications require contractors to have a code of conduct and to report violations of law.

IMPROVE PROSECUTION AND ADJUDICATION

- ✓ ***Expand OIG subpoena authority to include compelled interviews; clarify that the scope of OIG subpoena authority (at 5 U.S.C. § 6(a)(4)) includes tangible things and electronic evidence***
Section 9 of Public Law 110-409, the IG Reform Act of 2008, made changes to IG subpoena access to include electronic information as well as any tangible thing. There is currently a draft bill that provides IGs with testimonial subpoena authority (TSA). TSA is also a CIGIE legislative priority.
- ✓ ***Details of OIG Counsel Employees to the Department of Justice to Assist in Prosecuting Certain Procurement Fraud Matters***
Several OIGs have detailed attorneys as Special Assistant U.S. Attorneys to U.S. Attorney Offices.
- ✓ ***Extension and Reform of the Program Fraud Civil Remedies Act (PFCRA)***
Section 10 of Public Law 110-409, the IG Reform Act of 2008, clarified that DFE OIG offices are included under PFCRA. Currently, additional changes are being considered for PFCRA and PFCRA changes are a legislative priority for CIGIE.
- ⊘ ***Amendment of Federal Sentencing Guidelines to Better Define Economic Loss in Procurement and Grant Fraud Cases***
No changes made.

IMPROVE THE ABILITY TO PREVENT AND DETECT PROCUREMENT FRAUD

- ✓ ***Requiring Notification of Overpayments and Related Remedies***
Section 6101 of Public Law 110–252, the Close the Contractor Fraud Loophole Act and subsequent FAR modifications require contractors to report overpayments.
- ✓ ***Extending Criminal Conflict of Interest (18 U.S.C. § 208) provisions to contractors who perform key acquisition functions***
Section 841(a) of Public Law 110-417, the National Defense Authorization Act of 2009 and subsequent FAR modifications require contractors to have procedures in place to screen covered employees for potential personal conflicts of interest.
- ✓ ***Reinstate Audit Rights over Pricing Information in the GSA MAS Program***
Congress appropriated funds directly to GSA OIG for MAS program audits.
- ✓ ***Establishing a National Procurement Fraud Database***
Section 872 of Public Law 110-417 created the and Federal Awardee and Performance and Integrity Information System, a system with specific information on the integrity and performance of contractors. GSA OIG also developed an online map with links to state suspension and debarment websites, as well as other sites with exclusion information.
- ✓ ***Enhanced OIG Authority for Computer Matching***
Section 2 of Public Law 114–317, the IG Empowerment Act of 2016, included an IG exemption to the Computer Matching and Privacy Protection Act of 1988 (CMPPA), which excuses IGs from obtaining formal matching agreements before matching data with other agencies and entities to identify fraud and waste.
- ✓ ***Unique Identification for Individuals in the Excluded Parties List System (EPLS)***
GSA implemented a new information system, the System for Award Management, with such information.
- ⊘ ***Background Check Requirements for Contractors***
No changes made. The Defense Counterintelligence and Security Agency performs most background checks for federal contractors.