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# Procurement Fraud

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## Executive Summary

The 2016 Global Economic Crime Survey conducted by PricewaterhouseCoopers LLP (2016), states that twenty-two percent of companies have experienced procurement fraud. The statistics have actually decreased since 2014 when twenty-seven percent of companies had experienced procurement fraud. However, procurement fraud is still one of the most costly fraudulent schemes. Despite the reduction, the Department of Defense continues to experience large procurement fraud cases, both in number and dollar value. A recent example is the Supreme Foodservice fraud case, which cost the Defense Logistics Agency \$757 million dollars in fraudulent charges. (Jahner, 2014)

The Department of Defense Office of Inspector General (OIG) handles most of the audits, of all types, for civilian agencies within the Department of Defense. It works to ensure the programs and operations of the agency are following all current legislation, regulation and procedures, and that fraud, waste, and abuse are mitigated and handled properly. When the OIG discovers fraud, the case is referred to its investigative arm, the Defense Criminal Investigative Service (DCIS). This organization is specifically built to investigate potential criminal, civil and administrative misconduct in Department of Defense procurement actions. The OIG has specific procedures regarding fraudulent schemes. This is DCIS's top priority.

Although not part of the Department of Defense, the Justice Department (DOJ) works closely with the OIG and DCIS in initiating civil and criminal cases dealing with fraudulent activity in DOD. DOJ has made major advances in recovering large sums of restitution in DOD and other agencies within the Executive Branch, using the False Claims Act, and has also made procurement fraud a major priority. It has recovered about \$26.4 billion since January of 2009. (Department of Justice Office of Public Affairs, 2015)

Unfortunately, regardless of these agencies' efforts, procurement fraud is still a significant cost to the Department of Defense. The agencies are fighting an uphill battle, doing more "clean up" investigations rather than proactive work. Although the misconduct is being discovered, it is after millions, sometimes billions, of dollars have already been lost. The Association of Certified Fraud Examiners disclosed in their 2016 Report to the Nations on Occupational Fraud and Abuse there was a total cost of \$6.3 billion dollars over 1038 cases in the United States. The report also states that corruption cases have an average cost of \$200k to companies that experience fraud. (Association of Certified Fraud Examiners, Inc., 2016) The OIG states in its Semiannual Report to the Congress states as of September 2015 there were 1,625 open investigations being investigated by DCIS. (Association of Certified Fraud Examiners, Inc., 2016) Based on the statistics given by ACFE and the DOD IG, the minimum potential cost incurred in these cases is \$325 million, although most of the large procurement cases greatly exceed this amount as evidenced by the Supreme case. These losses are also being duplicated, and sometimes overshadowed, by the losses in the non-DOD agencies.

Government agencies are in need of new tools and additional resources to properly deter this misconduct and reduce the losses. In an article posted on Publicintegrity.org regarding national security, the author states that procurement fraud was not a priority during the years President George Bush was in office even though government contracting grew by \$200 billion dollars in the matter of fifteen years. President Obama has since implemented a high priority on procurement fraud, and created the National Procurement Fraud Task Force. Yet, we are still trying to recover money for the damages already incurred. (Schwellenbach, 2009) So how does the Department of Defense begin fighting procurement fraud in an offensive approach rather than a defensive approach? This paper will explore what procurement fraud is, and what the

government is currently doing to fight the scheme, and its accomplishments. Finally this paper will explore how to improve these tactics, and how to begin preventing and detecting future procurement fraudsters.

## **What is Procurement Fraud?**

In order to adequately prevent or reduce fraud losses, one needs to know the specifics of this type of fraud. The definition of the fraud, the characteristics of typical perpetrators, how the fraud can be perpetrated, and other details need to be explained. With this information, prevention, mitigation and discovery policies and processes can be shaped around it, and weaknesses can be identified and mitigated. To discover ways to help the government become more proactive against procurement fraud, it is necessary to understand what is being fought against and attempted to be prevented.

To understand DOD procurement fraud, looking at the different aspects of procurement, especially the various contracting processes, is important. There are three basic methods of procurement: the competitive bidding method, the competitive negotiation method, and the sole source method. In each of these methods, a contracting officer is the leader of the process, and has the authority to obligate the government for a specific amount of money. Each contracting officer typically has a warrant, or dollar value limit, which is a maximum that they are permitted to authorize when awarding contracts, but, in some cases, this authority may be unlimited. There are also various levels of review depending on the dollar value of the contract. The Federal Acquisition Regulation (FAR) is the set of rules and procedures that sets forth the policies and procedures that must be followed by executive agencies in the acquisition process. (Federal Acquisition Regulation, 2016)

In the competitive bidding method, the contracting officer uses the format and process outlined in part 14 of the FAR. He or she publicly posts a solicitation, which explicitly states all the details of the product or service that is needed. The FAR requires the contracting office to complete significant research in this method to provide potential bidders with as much

information as possible. The solicitation includes the products and/or services needed, any specifications the potential bidders may need to be aware of, such as any packaging and marking requirements, delivery or performance requirements, along with other pieces of information specific to the contract that will be awarded. The solicitation will also include the day in which the bids will be opened by an authorized official and recorded. Once the solicitation is created, it is posted publicly so that contractors can create bids based on the specifications. They are required to submit them on designated forms. The bids are then submitted to the government agency requesting the products or services, and the bids are secured in a lock box. The contracting officer has the right to cancel or modify the solicitation before the bids are opened. On the date specified, the authorized official opens the bids publically, reads these bids aloud, and records all the bids. The contracting officer will then choose one that has the best price, as long as it meets all the requirements set forth. (Federal Acquisition Regulation, 2016)

The competitive negotiation process is very different in that it looks for the best value to the government and not necessarily the lowest price. Due to the complexity of the material being procured by DOD, this method is used for most of the DOD procurements. Typically, the solicitation sets forth the final product being sought, and any required technical qualifications. The potential contractor has the freedom to propose the method of performance, most other details, and the proposed price. On the closing date, each offer is opened privately by the contracting officer, and the information contained therein is not available to any of the other bidders or the public. There is a significant amount of negotiation between the contracting officer and potential contractor, until the contracting officer determines which potential contractor is the “best value” to the government. Once a contractor is chosen and negotiations are

complete, an official contract is drawn up and signed by both parties. (Federal Acquisition Regulation, 2016)

The sole source method uses either of the above contracting methods, but there is no competition between potential contractors. The contracting officer has the ability to contact a specific contractor he or she would like to use for the product or service needed. There needs to be a strong justification as to why the contractor is being chosen instead of using an open competition type of process. In every method, an official contract is written up once a contractor is chosen, and both sides have agreed upon the different aspects of the project. (Federal Acquisition Regulation, 2016)

USASPENDING.GOV reported that in fiscal year 2015, the federal government awarded over \$439 billion in government contracts, and over \$263 billion has been awarded so far in fiscal year 2016. Table 1 is an overview of awards dating back to FY 2008. Through these numbers, we can see the amount of money that could potentially be stolen in fraudulent acts can be seen.

Table 1

<b>Fiscal Year</b>	<b>Contracts</b>	<b>Grants</b>	<b>Loans</b>	<b>Other Financial Assistance</b>	<b>Total</b>
<b>2016</b>	\$264,320,382,259	\$444,579,420,571	\$435,019,714	\$980,574,444,589	\$1,689,909,267,133
<b>2015</b>	\$439,153,063,314	\$617,392,573,979	\$4,664,841,056	\$1,776,104,509,555	\$2,837,314,987,903
<b>2014</b>	\$445,837,592,484	\$603,174,418,497	\$6,233,511,304	\$1,710,256,859,214	\$2,765,502,381,499
<b>2013</b>	\$463,655,899,753	\$521,544,174,145	\$1,947,681,730	\$1,929,199,167,738	\$2,916,346,923,366
<b>2012</b>	\$519,869,990,380	\$543,098,079,086	(\$116,592,782)	\$2,646,767,174,206	\$3,709,618,650,889
<b>2011</b>	\$539,992,481,867	\$571,759,983,628	\$2,459,778,434	\$2,177,665,140,415	\$3,291,877,384,343
<b>2010</b>	\$540,217,470,955	\$623,219,230,422	\$2,814,856,807	\$1,318,646,346,968	\$2,484,897,905,152
<b>2009</b>	\$540,810,039,982	\$675,616,141,453	\$693,164,123	\$1,731,541,170,458	\$2,948,660,516,016
<b>2008</b>	\$541,277,041,036	\$420,682,092,207	\$438,648,746	\$1,121,867,802,673	\$2,084,265,584,662

(USASPENDING.GOV, 2016)

In the Journal of the Association of Inspectors General, Tom Caulfield (2014) states that procurement fraud is not only one of the most common types of government frauds, but it can also be one of the most costly types of fraud. In every procurement method described above, there is the potential for fraud. According to the International Anti-Corruption Resource Center, there are many common schemes used to carry out procurement fraud. These include, but are not limited to bribes and kickbacks, excluding qualified bidders, failure to meet contract specifications, fraudulent invoices, leaking bid information, product substitution, fictitious vendors, and many others. These are commonly seen by the contracting agencies and the OIG, and some are currently high priority for these organizations.

Bribes and kickbacks both entail giving something of value to another to influence the receiver's decisions. Bribes are typically paid by vendors or their representatives to contracting personnel to influence the decision to choose their company for a contract. Similarly a kickback is essentially an illegal "thank you" from the vendor to another person, usually using the proceeds of the contract as a guide. These payments do not necessarily have to be monetary; they can also include vacations, cars, clothes, and anything else of value.

Through the investigation and review of prior cases, it has been determined that there are hints, typically called "red flags" that help investigators determine that fraud may exist. In the bribery and kickback area, these can include a sudden change in lifestyle of a procurement official, contracting officers accepting gifts of any value, vendors having a reputation for these types of transactions, and unexplained relationships between vendors and contracting officers. (Kramer, 2012)

Excluding qualified bidders is typically a scheme carried out by a procurement official normally colluding with a bidding vendor. In this type of scheme, a procurement official is creating environments and specifications that become justifications to exclude other qualified bidders. There are numerous ways of carrying out this scheme, including creating extreme pre-qualification requirements, or creating extreme contract specifications. There are also a number of red flags for this type of scheme, which include qualified bidders not submitting bids, unusually narrow contract specifications, contracting officer not publicizing the solicitation enough, and a short bidding time period. (Kramer, 2012)

Failure to meet contract specifications is another very broad scheme that can include many different aspects. This is carried out by a vendor, which knowingly submits material or services that do not meet the contract specifications. Red flags of this scheme include poor

quality of material or services, high rate of material failures, and failing to pass material or service inspections or tests.

The submission of fraudulent invoices is another broad scheme, which can include false, duplicate, or marked up invoices. This scheme is carried out by the vendors knowingly submitting invoices for payment that are, in some way, fraudulent. False invoices are invoices being submitted for material or services not actually delivered. Duplicate invoices are invoices that are submitted, which have already been paid. However, the vendor is acting as though the payment was never received. Finally marked up invoices are invoices, which contain inflated prices that were not agreed upon. These red flags include not being able to account for the material or services being paid for, no documents to back up the payments, and multiple invoices containing the same data or information as another. (Kramer, 2012)

Leaking bid information is another scheme typically carried out by a procurement official. In this scheme, a contracting officer is usually colluding with a vendor to ensure the vendor is awarded the contract. An example of the type of information leaked is the dollar value competitors have submitted in bids. This will give the vendor an advantage when placing their own bid. The red flags of this scheme include late bids being accepted, the difference between the winning bidder and next lowest being minimal, and the late bidder being chosen for the award. Fictitious vendors is a scheme carried out by a procurement official, and can be a form of embezzlement. The procurement official creates a fictitious vendor in the system to receive false payments for goods or services not actually delivered. Normally the fraudster will submit payments for services physical objects would need to be accounted for. Red flags include not being able to verify the vendor in a master list, any sort of directory, etc., and weak internal controls. (Kramer, 2012)

The final scheme that will be discussed is product substitution, which the OIG has made a priority in its audits and investigations, due to its danger to DOD personnel. This scheme can be extremely detrimental to the war fighters as vendors typically supply lower quality material or services, including defective parts, used parts, or counterfeit parts. By doing this, the vendor's production costs are lower, which creates a larger profit from the contract. The vendor may pay some sort of bribe or kickback to inspectors to ensure the material passes inspection, submits false paperwork, or changes material after it is inspected. The red flags of this scheme include unusual packaging, unusual appearance, frequent complaints, and malfunctions with the material. (Kramer, 2012)

As shown in these examples of common misconduct, the usual perpetrator is a procurement official and/or vendor companies, employees of the vendor, and/or suppliers to the vendors. Procurement officials know what the auditors are searching for when looking for fraudulent actions. They have the ability to hide their actions for an extended period of time because they are trusted employees and know how to properly hide the misconduct. Vendors that work with government agencies are typically "repeat customers." They will know how the procurement process works. They have worked with procurement officials often, and may have even developed a relationship with them. Some of these fraudulent schemes will be very easily carried out. Technology gives the perpetrators an advantage to falsify documents, including invoices, shipping documents, and receipts. Specific examples of the types of incidents being discussed herein is shown clearly in the next two sections.

## Case Studies

### **Supreme Foodservice**

A notable fraudulent procurement case, and good example of fraudulent invoicing, is Supreme Foodservice (Supreme). Supreme is a contractor that supplied food to the troops in the Middle East through contracts with the Defense Logistics Agency – Troop Support (DLA), formerly known as Defense Supply Center of Philadelphia (DSCP). DLA is the Department of Defense agency that procures and supplies the warfighters with all non-weapon system needs, such as food, medical supplies, construction equipment, and uniforms. After a competitive negotiation process, Supreme was awarded, in 2005, the prime vendor contract to supply and transport food and water bottles to the troops in various countries including Afghanistan. This over \$8 billion contract required the company to transport the supplies to active war zones. (United States of America v. Supreme Foodservice FZE, 2014)

After multiple audits, contract reviews, and investigation, DLA determined that Supreme had overcharged the government by approximately \$48 million from 2005 until 2009. The investigation determined that Supreme had been overcharging for material and submitting false invoices for payment. Supreme used Jamal Ahli Foods Co. LLC (JAFCO) as a subcontractor to disguise the inflated prices for perishable foods and bottled water. JAFCO was a company created by the owners of Supreme, and who were involved in all business decisions for JAFCO. Both parties went to great lengths to hide the relationship from DLA. The two worked together to gain more money from the prime vendor contract. JAFCO supplied marked up prices and invoices to Supreme which then charged the government these marked up prices. (United States of America v. Supreme Foodservice FZE, 2014)

A December 2014 press release from the Department of Justice revealed that investigators found DLA had disputed the prices numerous times. On two different occasions, the contracting officer requested copies of the manufacturer invoices to see the prices. Supreme provided the invoices but removed the mark ups that JAFCO was adding to the material and provided various excuses as to why they were different than the ones originally submitted. One former executive was bribed to not disclose the ongoing fraud scheme to DLA. However, the Supreme fraud was eventually uncovered when another former employee became a whistleblower. Michael Epp, who was an executive of the company, provided the DOJ with a significant amount of evidence that assisted in the prosecution of the company. Supreme pled guilty and agreed to numerous fines. They had to pay more than \$288 million in criminal fines and \$146 million in civil penalties. They were required to directly pay DLA back for the money they stole, which was determined to be a little over \$38 million. The fines were split amongst Supreme and its various subsidiaries. (Department of Justice Office of Public Affairs, 2014)

Within the guilty plea agreement, Supreme agreed to multiple sanctions. First they agreed to pay the fines by certain deadlines. The plea agreement also states the payment of the forfeiture payments, restitution, and fines amount to a “just” resolution. The plea agreement states that Supreme was to immediately dissolve JAFCO and stop all business with this subsidiary. Supreme was mandated to remove the owners, both current and former, from any management position regarding business with the government for five years. Based on compliance with these sanctions, Supreme would not be debarred indefinitely from doing business with the government. (United States of America v. Supreme Foodservice FZE, 2014)

This is a great example which shows how detrimental an untrustworthy vendor scheme can be. This fraud lost millions of taxpayers’ dollars. This example shows just how damaging

this type of fraud can be, and how difficult it is to discover. With no whistleblower action, there's a possibility that this scheme could still be ongoing.

### **Barbara Lessner: Procurement Fraudster**

Another notable procurement fraud case that occurred with DLA shows another weakness in the procurement system. This case involved a contracting officer abusing the power she held within the agency. Barbara Lessner was a supervisory contracting officer in charge of a group of nine buyers in the Medical Supply Chain of Troop Support. The group was responsible for contracts under a \$100 thousand dollar threshold, which purchased biomedical equipment and equipment for hospital use. The only one with the authority to sign the contracts was Barbara as she was the only person that held a warrant. As described previously, a warrant is a license that states the person is trained and authorized to obligate government funds. The limitation on her warrant was \$100,000. (Barbara L. v. United States of America, 2007)

At the demand of Ms. Lessner, the team began awarding numerous contracts to a company named Pamir. This occurred even when Pamir was not the lowest bidder. A team member eventually brought this concern to Ms. Lessner's supervisor, who began to question these choices. At this point, Ms. Lessner stopped giving assignments to this team member, and began forging the team member's signature on contracts. The potential fraud was referred for investigation to DCIS, which began an investigation on all Pamir contracts that were awarded from DLA. The organization found that the contracts to Pamir were worth over \$3 million, and

that there was almost \$1 million worth of overcharges. (Barbara L. v. United States of America, 2007)

DCIS also discovered, that on multiple occasions, Ms. Lessner was aware of a lower cost bid, and chose Pamir anyway. It was discovered that out of the one hundred sixty-three contracts Pamir was awarded, one hundred nineteen of the contracts were awarded regardless of lower cost options. DCIS, with the assistance of the Federal Bureau of Investigation, gained a search warrant for Pamir, and seized multiple documents and computer files. The files showed Ms. Lessner was providing information to Scott Watanyar, who worked with Pamir. The information provided included what competitors were bidding for different contracts Pamir was involved in. She also gave him advice on specific dollar values to bid. She provided him documents from particular procurement systems that were used to do research and purchase material. She also worked around the \$100 thousand threshold she had by awarding multiple contracts to Pamir for the same material on the same days. It was discovered that Mr. Watanyar and Ms. Lessner had a personal relationship, not just a work relationship. (Barbara L. v. United States of America, 2007)

During the investigation, the buyers were asked to review all of the awards that were made to Pamir, and discovered forged signatures on sixty-four of the contracts. The buyers also testified that, on those contracts that were not forged, Ms. Lessner had forced them to sign and award the contract to Pamir. DCIS interviewed Ms. Lessner and briefed her that there would be a search and potential seizure of documents and files from her desk. She was escorted off the base. Once off, Ms. Lessner called a team member, and instructed her to take a group of files off her desk and destroy them. She informed the team member that she was being wrongly accused. In April of 2005, she was indicted for twenty-one counts of various fraudulent conduct, including

wire fraud and procurement fraud. In September of 2005, she pled guilty to all twenty-one counts she was indicted for. Ms. Lessner was sentenced to 51 months in prison, three years of probation when released, and to pay \$938,965.59 in restitution. (Barbara L. v. United States of America, 2007)

This example shows how much damage contracting personnel can cause in the procurement process. Although she had an accomplice, the scheme was successful because of the strings that Ms. Lessner pulled. She instructed Mr. Watanyar on how to properly submit the bids. She had the knowledge and authorization within DLA to properly execute the scheme. She knew how to work around the threshold she had, and knew how to keep the red flags to a minimum. She was extremely effective as she forced DLA to overpay by almost \$1 million.

### **Departments Handling Procurement Fraud**

#### *Defense Contract Audit Agency*

The Defense Contract Audit Agency (DCAA) specifically audits government contracts awarded by the Department of Defense. The reviews include pre-award and post award services, system audits, and negotiation audits. The audits ensure that costs are reasonable and allowable. In the agency's 2014 Year in Review, they specify cases where millions of taxpayers' dollars were saved based on DCAA's advice and audits. In addition to its procurement auditing function, DCAA also plays a part in the investigation and prosecution of fraud. When potential fraud is found they submit referrals to either Defense Criminal Investigative Services or the Justice Department. If the two departments need assistance with the investigation DCAA will help in

various ways such as collecting evidence, recreating transactions, helping with subpoenas, and other investigation tactics. The DCAA has been involved in cases that have successfully prosecuted based on the False Claims Act, bribery, and product substitution. (Defense Contract Audit Agency, 2014)

### *Department of Defense Office of Inspector General*

The Department of Defense Office of Inspector General is the organization charged with the review of all areas of the Department of Defense Operations. It makes recommendations to the agencies including ways to reduce costs, how to eliminate fraud, waste and abuse, how to strengthen the internal controls of the agency, and how to properly achieve compliance with various laws and policies. Its mission statement and vision statement explain that the agency's main goal is to ensure agencies are "provided with independent, relevant, and timely oversight," of all operations. In these activities, the OIG is protecting and supporting the warfighter and taxpayers, and the Inspector General reports directly to Congress and the Secretary of Defense. (Department of Defense Office of Inspector General, 2016)

The agency includes many different sub-groups and agencies, which all focus on different areas. Many of its auditors and investigators focus on procurement. The auditors review and organize audits of all areas of operations. They are the ones that make the recommendations as mentioned above. The auditing department focuses mainly on regular financial audits and systems security. They look for ways to improve current activities in all of the agencies. The auditors will also know the types of environments that are prime for fraudulent activity, and works with the agency to try to mitigate or even eliminate the risk. The Investigation department

is the Defense Criminal Investigative Service, which will be discussed next in more detail.

(Department of Defense Office of Inspector General, 2016)

The OIG has various programs for DOD employees to anonymously submit possible fraudulent acts for review. The first is a DOD Whistleblower Program, which allows federal employees and others to report misconduct anonymously. Federal employees are required to report any sort of corruption or misconduct to the proper authorities. The employees of the OIG can only find so much as perpetrators know what is being looked for during audits and investigations. Whistleblowers are the auditors and investigators' best tools. They know the system better, they know the organization better, and there is a high chance they know who the perpetrator is. There are various ways for the whistleblower to submit claims, but it is essential to all matters of national security of the government. The OIG also protects the whistleblower from any negative reactions. (Department of Defense Office of Inspector General, 2016)

The OIG also has extensive resources on their website regarding fraud, and that information is open to the public. The information is based on the environments that are best for fraudulent acts, and how the DOD employees can recognize potential fraud through red flags. It also explains the expectations of DOD employees should they see or suspect fraudulent misconduct is occurring, and explains the responsibilities of the auditors when conducting reviews. This allows any employee of any agency to access this, and gain more information about what they should be looking for, or how to know if there's potential fraud occurring.

(Department of Defense Office of Inspector General, 2016)

*Defense Criminal Investigative Services*

As stated above the civilian Investigation Department of the OIG is the Defense Criminal Investigative Services, which reviews and investigates fraudulent activities. It conducts both criminal and civil investigations based on information referred to them from other agencies such as the Defense Contract Audit Agency, the auditing department of the OIG, military agencies, and the DOD contracting personnel. The number one priority of DCIS is currently Procurement Fraud. According to DCIS, this fraud is hard to find, and can be extremely costly to organizations. Its second priority is product substitution, which was discussed earlier.

(Department of Defense Office of Inspector General, 2016)

DCIS conducts the investigations based on information found by auditors, provided by procurement personnel or whistleblowers, other government agencies, and many other sources. DCIS will typically receive little information, such as the people involved, the potential misconduct that occurred, and where the misconduct has occurred. The investigators then use various techniques to find evidence that either denies or confirms the reported suspicions. They may work with other government agencies throughout the investigation, such as the Department of Justice. Once the investigation is complete, the investigators will draft a report off all the findings. If there was evidence found of fraudulent misconduct, DCIS will pass on the information to the Department of Justice, which will move forward with the prosecution of the perpetrator, or to the original contracting officer to administer contractual or administrative action. (Department of Defense Office of Inspector General, 2016)

*Department of Justice*

Although it is not a part of DOD, the Department of Justice (DOJ) is responsible for representing DOD, as well as all other federal agencies, in all civil and criminal actions. DOJ has a criminal and a civil fraud section to deal with all allegations of white collar crime. The Fraud Section assists with the investigation, and controls the prosecution of these cases. The Section also assists in public education of fraud, new policies, and prevention tactics to start fighting this crime head on. They help all industries with training sessions to educate the workforces on fraudulent acts. A quick glance at the procurement fraud section of the DOJ Fraud Section, it can be seen that they work with all areas, including Afghanistan contract fraud, fraud within the National Guard, and various others. (Department of Justice, 2016)

In recent years, the Justice Department has recovered a large amount of money through the Civil False Claims Act. The False Claims Act is a strong and important tool for obtaining civil recoveries for misconduct against the government. The False Claims Act was first approved by Congress in the Civil War era, and was remodeled in the 1980s to make it more effective. The remodel was completed because of the drastic amount of fraudulent activity occurring in procurement fraud. The Act can be used against perpetrators who have made fraudulent claims against the government. For example, the False Claims Act can be used against perpetrators who submit false invoices into an accounting system. Through this act, the DOJ has recovered over \$13 billion in various cases since 2013. These settlements and judgements have been through civil cases. . (Department of Justice, 2016) There have also been a significant number of criminal convictions.

## **Auditors VS. Certified Fraud Examiners**

Although each of the above Departments are working hard and succeeding in fighting fraud and recovering large amounts of restitution from fraud cases, there is still room for improvement. These agencies are working in a reactive manner where they need to become proactive about procurement fraud. Billions of dollars are being lost on procurement fraud, and only some of the losses are being recovered. However, even more will never be recovered because of the nature of the misconduct and the time it takes to conduct an investigation.

First the difference between an auditor and certified fraud examiners must be explored, and what advantages there are of either position. An auditor is a person who reviews financial statements and processes for any material misstatements. They are focused on ensuring the financial data of an organization is mostly error-free. They are also focused on ensuring the organization is following all accounting policies, such as Generally Accepted Accounting Principles, Generally Accepted Auditing Standards, or within the government all policies enacted by the Governmental Accounting Standards Board. Although there are times that auditors do find fraudulent activity, they are not necessarily searching for it. For example, the Defense Contract Audit Agency find more situations where agencies can save money on contracts, but not because there is fraudulent activities going on. They are finding savings for the agencies on various aspects of the contracts. Auditors focus on the processes and specific numbers of the financial data of an organization, and want to ensure that what is being presented to the public is mostly error-free. (Putra, 2012)

Fraud examiners generally have a very different mindset. Fraud examiners have already been presented with findings that suggest misconduct is occurring. They investigate with the focus of proving that there is improper activity occurring. They have many of the same skills of

auditors. However, they have additional expertise regarding fraud. Fraud examiners hold an advantage as they have knowledge in both the accounting skills, the investigative, and litigation skills and experience required to properly handle fraudulent misconduct. These professionals understand how financial statements work and are supposed to look when properly prepared, understand how the accounting systems work, and the accounting principles that companies and organizations must follow. They also understand investigation techniques and processes, which includes the proper way to look for evidence, what type of evidence is needed, and how to handle the evidence correctly so that it can be used in a court case. They will have knowledge on the United States laws and statutes that are related to fraudulent conduct, and also on the other legal aspects of a court case. (Wells, 2003)

Fraud examination takes years to be fully educated in the field. The field is constantly changing and evolving because of the way that technology evolves. Fraud auditors have the option to become certified through a license with the Association of Certified Fraud Examiners. A person must apply to the Association for the license, he or she must pass an exam. Finally an approval committee will review and approve the person for the certification. To be eligible for the exam, the candidate must have a minimum of a bachelor's degree and at least two years of working experience in a related industry, such as accounting, auditing, or law. These qualifications show that the candidate has knowledge and experience of the proper ways business should be conducted. The examination requires education in fraud prevention and deterrence, financial transactions and fraud schemes, investigation, and law. The candidate will have knowledge of why perpetrators commit fraud, how they commit fraud, what the financial transactions will look like, all the different fraud schemes, etc. They can learn this information through college courses, test preparation classes, and work experience. Colleges are still

implementing fraud classes, so the best way to obtain this education is through job experience in a related field, such as accounting, auditing, or law. Once the license is obtained, the person must complete Continuing Professional Education points. These points can be earned through a variety of different seminars, training classes, college courses, etc. These points keep the license holder aware of the changes in the field, new techniques for investigation, and new technologies used to discover fraudulent activity. This license qualifies the person as an expertise in the field, which is beneficial for both his or her own career advancement and the reputation of the company the employee works for. (Association of Certified Fraud Examiners, Inc., 2016)

### **Recommendation**

So the question is, “How can the government become more proactive in fighting procurement fraud?” Based on the research above, my opinion is the auditors and investigators in the various agencies should be encouraged, if not required, to obtain the Certified Fraud Examiners License. By encouraging the current employees within the agency to obtain this license, this will create benefits for the employee and the agency. The candidate will have a higher chance of achieving the qualifications to become a CFE as they have significant experience in auditing and investigation. This will become an advantage with preparation for the exam. An experienced auditor or investigator will already know the processes of the agency. They will have knowledge on how an audit is conducted, how an investigation is conducted, and what is typically looked for or found when dealing with misconduct. They will know the various policies that need to be followed such as GAAP, GAAS, and the standards of the Governmental Accounting Standards Board. Many of these aspects are involved in the four different parts of the exam. This will also help improve the daily tasks they complete as it will teach them different

approaches to their work. This will benefit the agency as it will obtain more qualified employees through the license, and will improve the processes already implemented.

The complexity of procurement fraud and the amount of damages it can cause requires an expert. Those that obtain the license will be required to complete continuing education points, which will keep the CFEs stay current with techniques and tactics through the various seminars, classes, and other methods of education they will be required to attend to keep the license. They will be able to better assist agencies in strengthening internal controls, ethics programs and policies with the newest practices developed based on information gathered in these various classes.

There is an advantage to the OIG having the CFEs as they are typically the first people to discover fraud besides whistleblowers and the company's own employees. By the OIG encouraging or requiring its employees to obtain the certification, they can better assist DCIS when turning over potential fraud information. They will be able to provide more detailed information to the investigators based on their knowledge, which will assist with more successful investigations. DCIS encouraging or requiring its employees to obtain the certification will further improve the investigations. CFEs are required to have training and education in investigation techniques, how to write reports properly, and other aspects of the investigation process to pass the exam. The Department of Justice would benefit from having CFEs on its staff because they are also required to have education and training in laws and statutes that are related to fraudulent activity. Although they are successfully recouping money through the False Claims Act, there are other laws and statutes that can help with criminal actions along with the civil actions.

Not only with the CFE license significantly help improve the work that currently being done, but can also assist in the prevention and deterrence of procurement fraud. The CFEs are properly educated and trained in prevention and deterrence tactics through strengthening internal controls, strengthening policies regarding fraudulent conduct, and creating training programs to properly train agencies' employees on fraudulent conduct. The CFEs can create training programs with the agencies. These programs will include basic fraud classes for the employees so they will know what to look for when working with vendors and coworkers. The programs can also include information regarding how to handle suspicions of fraudulent conduct. They can educate on the Whistleblower program. They can also assist in rewriting policies regarding fraudulent conduct. By creating more stringent policies regarding what actions will be taken if caught committing fraudulent activities, this can act as a deterrent for potential future fraudsters. Finally by assisting with strengthening internal controls, the company can create more barriers within the system to fight against employee manipulation and potential vendor fraudulent activities.

Although improving current processes and daily tasks is important, this is still working in a reactive manner. Agencies need to become more proactive against this fraudulent scheme. Procurement fraud is costing DOD agencies too much money to continue on the track of only attempting to recover losses, and not preventing the losses to begin with.

## **Conclusion**

Although procurement fraud is starting to decline compared to the various other types of frauds, it still is too costly to all organizations to ignore. With government procurement fraud, taxpayers' dollars are being abused and stolen. The public trusts that contracting officers will do their due diligence to ensure they are using the best and most reliable vendors and suppliers. When fraud cases like these occur, the public trust diminishes and creates a bad reputation for the acquisition workforce. The agencies fighting fraud need to become more proactive, so that the taxpayers' dollars are not being lost to illegal activity. They also need to strengthen the trust of public by becoming more proactive and fighting harder against this misconduct.

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