

CHAPTER 7

PROCUREMENT FRAUD AND IRREGULARITIES PROGRAM

7-1. Purpose. This chapter provides guidance for the USACE Procurement Fraud and Irregularities (PFI) Program, and is applicable to all Corps of Engineers Offices of Counsel.

7-2. Policy.

a. Management and oversight of the Procurement Fraud and Irregularities Program are the responsibilities of the Chief Counsel for HQUSACE, and Division, District, Laboratory and FOA Counsel for their respective activities.

b. Procurement fraud is a crime which may affect all elements of the Command. Investigating and remedying procurement fraud require a multi-disciplinary team approach.

7-3. Scope of Section.

a. The Procurement Fraud Advisor (PFA) shall be an attorney appointed by the FOA Counsel. PFAs should have a working knowledge of procurement law, criminal law, civil law and administrative law.

b. The PFA shall be responsible for the operation of the PFI Program within his or her FOA. The PFA shall have decision-making responsibility for all procurement fraud cases at the FOA level.

c. PFI cases shall be handled expeditiously. The PFA shall telephonically advise the Division PFA and USACE PFI Coordinator of significant case developments at the earliest practicable opportunity.

7-4. Procurement Fraud Case Initiation.

a. The PFA shall assess all information available to determine if a crime may have been committed or if there are possible violations of law, regulations, policies or contractual obligations. Verbal information should be reduced to writing with as much specificity as possible. This assessment should be made as soon as possible to avoid any adverse effect upon a criminal investigation and the collection and safeguarding of evidence.

b. Suspected procurement fraud shall promptly be referred, through the Security and Law Enforcement Office, to the U.S. Army Criminal Investigation Command (CID) or the Defense Criminal Investigative Service (DCIS), as appropriate, for investigation. The PFA shall provide the preliminary assessment to the investigating agent.

c. The PFA shall assemble the Case Management Team (CMT), including the investigating agent, to discuss the need for and timing of necessary legal, contractual and administrative remedial actions. As appropriate, membership of the CMT shall include:

Audit	Information Management
Civilian Personnel	Labor Advisor
Contracting Officer	Operations
Construction	Resource Management
Counsel	Security and Law Enforcement
Engineering	

The CMT may also include personnel from other agencies, i.e., EPA personnel, if the procurement fraud also involves environmental crime.

d. The PFA shall initiate a Procurement Flash Report IAW AR 27-40, paragraph 8-5b. Copies shall be submitted simultaneously to the Division PFA, USACE PFI Coordinator and OTJAG (Procurement Fraud). The case shall be entered into CMIS-II (or its successor) at the time the Procurement Flash

Report is prepared and shall be updated to keep the information current.

e. Audit support for PFI cases should be requested from the Division Auditor.

f. Normally, the contracting activity shall pay for testing and other laboratory support for the investigation.

7-5. Procurement Fraud Case Management.

a. The PFA shall develop a Remedies Plan (AR 27-40, Figure 8-2) in each significant investigation involving fraud or corruption (See AR 27-40, paragraph 8-8).

b. As appropriate, the PFA shall develop a suspension/debarment report in accordance with DFARS 209.406-3(a).

c. As appropriate, the PFA shall prepare a litigation report (See AR 27-40, paragraph 3-9, for the contents of a civil litigation report). If both a suspension/debarment report and a civil litigation report are required, a single report, incorporating the requirements of both, will suffice.

d. The PFA shall inform the Division PFA and the USACE PFI Coordinator of contract related matters which may affect the ongoing fraud investigation or civil litigation, including:

- (1) Protests against contract award (GAO or Agency).
- (2) Actions before the Armed Services Board of Contract Appeals or the Engineer Board of Contract Appeals.
- (3) Pending contract claims.
- (4) Bankruptcy.

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(5) Terminations for default and unsatisfactory performance ratings.

e. The PFA shall review cases and update data in CMIS-II (or its successor) at least every 30 days.

f. Following referral of a case to the CID or DCIS, the PFA shall, to the extent requested by the investigating agent, provide legal advice and support, and assist in the presentation of the case to the Assistant U.S. Attorney.

g. Upon request, the PFA shall provide assistance to any organization pursuing criminal, civil, contractual or administrative remedies. Before any contractual or administrative action is taken on a matter where a DOJ attorney/AUSA is assigned, the PFA shall coordinate with the Division PFA, the USACE PFI Coordinator, DAJA-PF and the DOJ attorney/AUSA.

7-6. Training and Awareness.

a. The PFA shall be responsible for insuring that annual procurement fraud awareness training is conducted for all personnel involved in procurement activities.

b. Additional awareness measures may also be implemented, i.e., procurement fraud related articles in command newspapers/bulletins, fraud awareness posters, and distribution of DoD Inspector General fraud-related publications.