Grant Fraud Enforcement Trends and Compliance Best Practices

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Presented by | Derrick Franklin, HHS OIG & Peter Taschenberger, HHS OIG

Notes:

GRANTS OVERVIEW

Notes:

What is a grant?

- Financial assistance awarded to a recipient by an awarding agency or a pass-through entity.
- Used to carry out a public purpose authorized by U.S law.

- Governments
- Higher Education
- Nonprofits
- Hospitals

AMERICAN HEALTH LAW ASSOCIATION

Notes:

U.S. Department of Health and Human Services (HHS)

- The largest grant-making Department in the U.S. Government
- More than 100 programs administered by HHS's Operating Divisions (e.g., NIH)
- More than $244 billion awarded in FY 2020

- Research
- Services
- Training
- Other Projects

AMERICAN HEALTH LAW ASSOCIATION

Notes:

Office of Inspector General

Provide objective oversight to promote the economy, efficiency, and effectiveness, and integrity of HHS programs, as well as the people they serve.

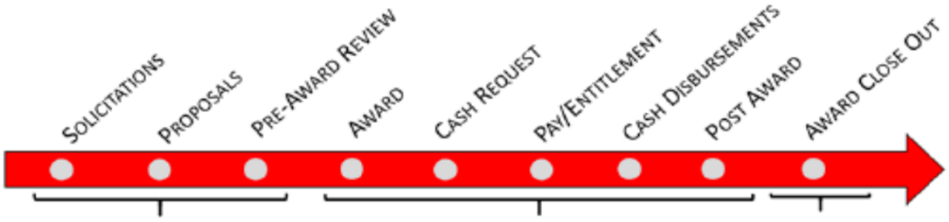
- **Investigations**
- **Audits**
- **Evaluations**

Notes:

GRANT FRAUD

Notes:

End to End Process for Grant Oversight



Pre-Award Risks

- Funding Over Time
- Conflict of Interest
- False Statements
- False Certifications
- Duplicate Funding
- Inflated Budgets
- Candidate Suspended/Debarred

Active Award Risks

- Unallowable, Unallocable, Unreasonable Costs
- Inadequate Documentation
- General Ledger Differs from Draw Amount
- Burn Rate
- No /Late/Inadequate Reports
- Sub-awards, Consultants, Contracts
- Duplicate Payments
- Excess Cash on Hand/Cost transfers
- Unreported Program Income

Award End Risks

- No /Late Final Reports
- Cost Transfers Spend-out
- Financial Adjustments
- Unmet Cost Share

Notes:

Fraud Investigations

PRE-AWARD	False Statements or omissions Failure to Disclose Conflicts of Interest	False Certifications Failure to Disclose Other Support
ACTIVE AWARD	False Statements or omissions Theft and Embezzlement	False Reports and Certifications Misuse of Funds
AWARD END	False Statements or omissions Overlap Funding Schemes	Drawdowns and Misuse of Unused Funds False Reports and Certifications

Notes:

FRAUD CONCEPTS AND INDICATORS

Notes:

MISCONCEPTIONS

1. ONLY CERTAIN TYPES OF PEOPLE WILL COMMIT FRAUD
2. THE FRAUD IS NOT MATERIAL
3. THE FRAUD IS WELL CONCEALED
4. ALL GRANTEES ARE ETHICAL AND HONEST
5. PROJECT OFFICERS / GRANT MANAGERS WON'T DETECT FRAUD

Notes:

FRAUD INDICATORS

01 COMMUNICATION

02 DOCUMENTATION

03 CONTROLS AND ACCOUNTABILITY

04 FINANCIAL

05 PERFORMANCE

Notes:

Examples of Sources of Fraud Referrals

Law Enforcement Partners

Grants Analytics Portal

HHS OIG Hotline

Whistleblowers

Notes:

FRAUD CONSEQUENCES

Notes:

Potential Actions

Investigation by HHS OIG	Referral to DOJ	Termination of the award	Suspension and Debarment

Notes:

RISK MITIGATION

Notes:

Compliance Programs

- Written Policies
- Written Code of Conduct
- Dedicated Compliance Officials
- Routine Training
- Reporting
- Routine Internal Audits
- Leadership Commitment to Compliance

Prevention	Detection	Enforcement

Notes:

OIG'S GRANTS SELF-DISCLOSURE PROGRAM

Notes:

Self-Disclosures

- **There is a formal process for grantees to disclose certain types of conduct.**
- **Grantees must disclose certain types of conduct**
  Fraud, bribery, and gratuity violations potentially affecting their award.
- **Grantees may disclose certain types of conduct**
  Conduct causing liability under the Civil Monetary Penalty Law (CMPL), 42 U.S.C. sec. 1320-7a, or any other conduct – such as conduct that might violate civil or administrative laws—that does not clearly warrant a mandatory disclosure.

HHS OIG
Grant Self-Disclosure Program
June 2019

U.S. Department of Health & Human Services
Office of Inspector General

Notes:

SELF-DISCLOSURE SUBMISSION

- Disclosing entity information
- Award information including program official, op-div
- Full description of conduct
  - Date learned of conduct
  - Types of conduct, transactions or claims giving rise to the matter
  - Time period
  - Names of people involved and explanation of roles in matter
  - Estimate of financial harm
- Corrective Action
- Certification

Notes:

RESOLUTION AND BENEFITS OF SELF-DISCLOSURE

- Favorable treatment compared to affirmative investigation
- Track record in health care: faster, cheaper, less disruptive
- OIG coordinates with awarding agencies
- Disclosure results in monetary CMPL settlement
- Settlements are summarized on OIG's public facing website

Notes:

Compliance
Compliance Resource Portal
Accountable Care Organizations
Advisory Opinions
Compliance Guidance
Corporate Integrity Agreements
Open Letters
RAT-STATS
Safe Harbor Regulations
Self-Disclosure Information
Special Fraud Alerts, Bulletins, and Other Guidance

HHS OIG Grant Self Disclosure Program

Mandatory Disclosures

HHS grant recipients or subrecipients must disclose evidence of potential violations of Federal criminal law involving fraud, bribery, or gratuity violations, potentially affecting the Federal award. Federal regulation, 45 C.F.R. § 75.113, mandates disclosures of criminal offenses that non-Federal entities must make with respect to HHS grants. Please note that the Office of Inspector General does not track letters certifying that no violations of federal criminal law have occurred, and it is not necessary for grant applicants or recipients to submit such certifications to OIG.

HHS OIG Grant Self-Disclosure Program Guidance

Grant Self-Disclosure Submission Form

List of Recently Settled Grantee Self-Disclosures

Voluntary Disclosures

Recipients of HHS awards may voluntarily disclose conduct creating liability under the Civil Monetary Penalty Law (CMPL), 42 U.S.C. § 1320a-7a, or any other conduct—such as conduct that might violate civil or administrative laws—that does not clearly fall within the scope of offenses described at 45 C.F.R. § 75.113.

Self-Disclosure Guidance

Please review the HHS OIG Grant Self-Disclosure Program Guidance and the Grant Self-Disclosure Submission Form for more information.

Both mandatory and voluntary self-disclosures may be submitted by email to grantdisclosures@oig.hhs.gov or by mail to the following address:

Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services
Grant Self-Disclosures
330 Independence Avenue SW,

https://oig.hhs.gov/compliance/self-disclosure-info/grant.asp

Notes:

Questions

Derrick Franklin
Acting Chief Investigative Operations, HHS OIG

Derrick.Franklin@oig.hhs.gov

Peter Taschenberger
Deputy Branch Chief, HHS OIG

Peter.Taschenberger@oig.hhs.gov

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