REOregon
Recover · Rebuild · Revitalize

Fraud, Waste, and Abuse

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14 Fraud, Waste, and Abuse

14.1 Introduction

In this chapter, we present subrecipient and subgrantee responsibilities for preventing fraud, waste, and abuse (FWA); helpful hints to understanding fraud motivations and actors; specific types of fraudulent activities involving federal funds and programs; consequences; and how to report FWA.

14.2 Definitions

Abuse: The intentional misuse of authority to affect otherwise fair and open processes to gain benefit unfairly or improperly, which may result in unnecessary costs to the program. Abuse can occur for financial or non-financial benefits.

Fraud: A single act or pattern of intentional misrepresentations with the intent to deceive or mislead a person or agency that could result in an unauthorized benefit or could deprive others from a legal right or benefit. Fraud is a legal term that requires an investigation and can lead to civil or criminal penalties.

Mismanagement: Creating a substantial risk to an agency's or program's ability to accomplish its mission by not establishing or following existing policies or guidelines.

Waste: Misuse of funds for excessive or nonessential expenditures allocated to a program. Waste can be thoughtlessness, carelessness, or inefficient use of funding or resources without recognizing the difference between the costs and anticipated program benefits.

14.3 Acronyms

FWA: Fraud, waste, and abuse

HUD OIG: U.S. Department of Housing and Urban Development Office of Inspector General

14.4 Identifying FWA

Given the finite resources of the Community Development Block Grant Disaster Recovery (CDBG-DR) program to help individuals, households, and communities recover from the 2020 Labor Day wildfires and straight-line winds, identifying FWA is crucial for program integrity. FWA actions can deprive citizens of recovery benefits designed to support and assist them. By understanding FWA indicators, detection mechanisms, and how to foster a culture of accountability, subrecipients and subgrantees play a part in upholding program integrity.

FWA can manifest in various forms, from financial mismanagement and unethical behavior to the misuse of assets and resources. It can also include fraudulent claims by program participants.

14.4.1 Participants

FWA could be perpetrated by anyone, and the threat comes from inside or outside the organization.

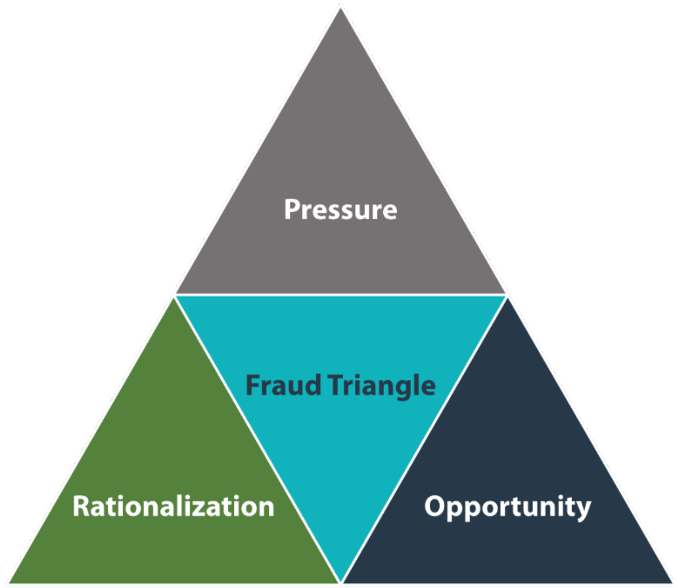
Employees: These are people hired to serve program participants and conduct the business of the organization or entity. Employees can be involved in the administrative, programmatic, or financial functions of the program and can be aided by facilitators who are knowingly benefiting from the FWA activity, have been coerced to participate, or are unknowingly part of the scheme.

Vendors or contractors: Entities contracted by subrecipients and subgrantees to provide goods or services for the implementation of a program run the greatest risk for FWA activities during the procurement and implementation stages of their engagement with the contracting subrecipient or agency.

Program participants: This particular group can both commit FWA and be a victim by misrepresenting residency, not reporting all benefits received, and claiming additional household members to obtain unauthorized or additional benefits. Participants may also be negatively affected by FWA by not receiving eligible benefits because of insufficient program funds.

14.4.2 The Fraud Triangle: Why Do People Commit FWA?

Pressure, opportunity, and rationalization make up the fraud triangle, which helps to identify traits and the likelihood of fraud.



- **Pressure:** Pressure to engage in fraud can be high; for example, when organizations feel pressure to meet financial targets, catch up to deadlines, or make up for poor past performance. Economic conditions such as a financial crisis (personal, organizational, or national) can make pressure particularly acute, increasing the temptation for fraud.
- **Opportunity:** Opportunities for fraud are high when fraud goes undetected due to lack of internal controls or reviewing procedures. Economic conditions such as a financial crisis may also increase opportunities. For example, opportunity could be greater when there are not enough employees to maintain segregation of duties, an important factor for fraud prevention, leading to the ability to override internal controls.
- **Rationalization:** When opportunities to commit fraud exist alongside pressure, the fraud triangle suggests that a third, necessary component for fraud is the ability to justify fraud. People may have an easy time rationalizing fraud, for example, when they perceive that executives condone fraud or believe that fraud is widespread across an industry. Examples of rationalization include, “No one was hurt,” “I am not being paid enough,” “Others have done it,” “I will only do it once and it will never happen again,” and “the Feds have enough money.”

14.4.3 Types of Fraudulent Activities

The following items describe the types of fraud most often seen when federal funds are involved.

Embezzlement and Theft
In several HUD programs, administrators and participants may be entrusted with cash or assets and take them for their personal use. There are many ways they may embezzle, from simply taking money from the cash drawer or writing checks that they then cash to more elaborate methods to conceal the theft, such as by falsifying invoices and misusing the credit cards of the HUD-funded organization. Other examples are when they may steal rental or laundry receipts; falsify deposits, checks, or other accounts; or write bonuses to themselves. They may hire "ghost" employees and convert the payroll checks for their own use. They may use staff, materials, or equipment for personal use, which is also a fraud.

Bribery and Kickbacks
Bidders may offer contract officials money or other items of value to award a grant (bribery), or contract officials may require funds or items of value from bidders to obtain a contract (kickbacks). Additionally, application and recertification staff, grievance officers, or others may require or accept bribes from a tenant or help an applicant get in, or stay in, a unit (or get priority on the waiting list). Inspectors may ask for or accept bribes to pass units for inspections.

Bid Rigging
This usually occurs in the pre-solicitation, procurement, or evaluation phase of the bidding process and acts to limit competition or impede competitive bidding. Oftentimes with bid riggings, insider knowledge is utilized, which gives the person or group an unfair advantage in bidding and/or obtaining a federal benefit.

Contract Repair Frauds
This type of fraud involves home repair firms that contract for work but do shoddy work, or leave when paid while performing little to no work.

Contracting and Procurement Fraud
There are many variations of these frauds that can involve procurement officials and bidders working alone or in collusion to commit frauds including:

- Falsifying certification of regulatory and statutory compliance, or qualifications necessary to obtain a contract
- Colluding with others to win a contract using bid rigging, phantom or altered bids, or split bids
- Falsifying information on contract proposals

- Using federal funds to purchase items that are not for government use
- Billing more than one contract for the same work
- Billing for expenses not incurred as part of the contract
- Billing for work that was never performed
- Falsifying data such as employee credentials, experience, and rates; bonds; and test or inspection results
- Committing change order abuses, underbidding to win contract, or colluding with the procurement officer to make up profits through unnecessary change orders
- Substituting approved materials with unauthorized products
- Misrepresenting a project's status to continue receiving government funds
- Charging higher rates than those stated or negotiated for in the bid or contract

Conflict of Interest
This occurs when an employee, manager, or executive has an undisclosed economic or personal interest in a transaction that adversely affects their employer. If there is a question of conflict, notify Oregon Housing and Community Services (OHCS), as it may be possible to mitigate the conflict.

Documentation Fraud
People commit forgery or alteration of documents, destruction or concealment of records, or impropriety with respect to reporting financial transactions. Examples include identity theft (using another person's identification), forgery of signatures or documents, and misrepresentation of a medical condition to obtain an additional benefit.

Duplicate Benefits
Disaster victims apply for and receive benefits from multiple agencies, which is often seen for duplicate rental assistance and repairs.

Extortion
Someone demands payment of something of value by force, threat, fear, or intimidation.

False Billing
This occurs with the submission of false invoices or altered valid invoices for payment. This could include billings from a shell company, personal purchases on company credit cards, misappropriation, or theft of funds or assets. Most billing schemes involve services rather than goods, as it is easier to conceal services not performed than goods not received.

False Eligibility Claim
Homeowners falsely claim damage to a primary residence when it was an investment property or second home. Rental properties are not eligible for repair funding.

Identity Theft
Program administrators and others steal identities or create false identities to apply for and illegally receive various HUD-funded benefits such as rental assistance, mortgages, or block grant program funds.

Ownership Fronts
Small/disabled/woman/minority/veteran-owned business where the contractor has falsely certified themselves or obtained legitimate certification through invalid means.

Landlord Fraud
Landlords may require additional side payments from tenants above the allowable rent rates.

Sexual Harassment

Instead of requesting money, someone may imply or demand sexual favors to allow a tenant or applicant to get into or stay in the assisted unit.

Tenant or Applicant Fraud

Applicants falsify their true income and assets or family circumstances in order to be eligible for or increase rental subsidy.

14.5 Consequences of Committing Fraud

The HUD OIG has a variety of enforcement options available, should evidence of fraud be confirmed, and penalties[1] including:

- **Criminal Penalties**: Conviction may result in a prison sentence, probation, and/or restitution.
- **Civil Penalties**: These are monetary penalty amounts required by the Federal Civil Penalties Inflation Act of 2015, which further amended the Federal Civil Penalties Adjustment Act of 1990.

[1] Penalties can change based on updates to the Code of Federal Regulations (CFR) and are routinely adjusted. For the most current penalties and potential monetary penalties, please review Title 24 Housing and Urban Development of the CFR, available at ecfr.gov/current/title-24.

- **Administrative Penalties**: Administrative penalties include debarment or suspension. These sanctions are government-wide regardless of the federal agency involved. They can be indefinite and are imposed with a fraud conviction, or criminal or civil judgment.

14.6 Preventing FWA

Subrecipients and subgrantees are required to:

- **Monitor** all funded programs for instances of FWA.
- **Take steps** to prevent and address FWA.
- **Report** any instances of FWA to the appropriate authorities.

The following sections describe several actions subrecipients and grantees can take to prevent FWA.

14.7 Reporting FWA

The occurrence of FWA is not a sign of a poorly run or mismanaged agency. Reaction to perceived FWA is what defines the management of an organization.

The existence of a fraud policy, preventive steps taken, and proper handling of FWA are deterrents. By addressing FWA, management can identify and close procedural gaps to ensure that the same issues will not reoccur.

Remember to involve OHCS and HUD OIG early, at the first indication of fraud; maintain all original documents; and provide requested access to records. Indications of mismanagement; violations of laws, rules, or regulations; or theft or fraudulent claims for funds must be reported.

14.7.1 Mandatory Disclosures

Any applicant, recipient, or subrecipient of a federal award must promptly disclose any credible evidence of the commission of a violation of federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code or a violation of the civil False Claims Act. Recipients and subrecipients are also required to report matters related to recipient integrity and performance in accordance with 2 CFR 200 Appendix XII, available at ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/appendix-Appendix%20XII%20to%20Part%20200.

Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance. Remedies include but are not limited to:

- Temporarily withholding payments until corrective actions are taken
- Disallowing costs for all or part of the activity associated with the noncompliance
- Suspension or termination of the federal award in part or in its entirety
- Initiating suspension or debarment proceedings
- Withholding further federal funds from new awards or continuation funding
- Pursuing other legally available remedies

14.7.2 OHCS Reporting

According to OHCS policy, any employee, consultant, or subrecipient who has knowledge of FWA, or who has good reason to suspect that such conduct has occurred, shall immediately report the activity to the OHCS Disaster Recovery and Resilience Management. Individuals can complete an online reporting form located at app.smartsheet.com/b/form/ba45d4feece44aa4b4ac65d719750688.

14.7.3 Oregon Bureau of Labor and Industries (BOLI)

If subrecipients or individuals identify wage violations associated with BOLI, complaints should be directed to:

Oregon Bureau of Labor and Industries Wage and Hour Division
800 NE Oregon Street, Suite 1045
Portland, OR 97232
mailb@boli.state.or.us
971-673-0761
oregon.gov/BOLI/pages/index.aspx

For further information to determine if a complaint should be made to BOLI, please refer to Chapter 6 Labor Standards in the OHCS Subrecipient Manual. Chapter 6 provides detailed guidance on compliance requirements for labor standards.

14.7.4 HUD OIG

OIG is an independent office within HUD. Its role is to promote the economy, efficiency, and effectiveness of HUD’s programs and operations. It prevents and responds to issues related to FWA, reporting to the HUD Secretary and Congress.

OIG focuses on reports of fraud or serious mismanagement with high dollar losses or significant community impact. Examples of what to report to the OIG Hotline include:

- Violations of federal laws, rules, and regulations pertaining to HUD programs and funding
- Substantial and specific danger to health or public safety at HUD Public and Multifamily Housing Developments
- Contract and procurement irregularities
- Theft and abuse of government property
- Employee misconduct
- Abuse of authority or conflicts of interest
- Housing subsidy fraud
- Serious mismanagement
- Ethics violations by HUD officials
- Bribery

14.8 Additional Resources

- OHCS Anti-Fraud, Waste, and Abuse Policy, oregon.gov/ohcs/disaster-recovery/reoregon/Documents/CDBG-DR_Fraud-Waste-and-Abuse-Policy_ReOregon_012623.pdf
- OHCS Fraud, Waste, and Abuse Complaints webpage, oregon.gov/ohcs/disaster-recovery/reoregon/about-reoregon/Pages/report-complaints.aspx
- Oregon Secretary of State Report Misuse of State Government Resources, sos.oregon.gov/audits/Pages/accountability.aspx
- HUD OIG’s “What You Can Do” Guidance Page, hudoig.gov/fraud/what-you-can-do