



# Grant Fraud Red Flags, Lessons Learned and Best Practices

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# Office of Inspector General

- Independent office within HUD
  - Operates independently with separate budgetary authority
- Mission:
  - Promote economy, efficiency, and effectiveness in the administration of HUD programs
  - Prevent fraud, waste, and abuse involving HUD programs



# What We Do

- Audits
- Evaluations
- Investigations
- Outreach
- Mission Support

- Semiannual Reports:

<https://www.hudoig.gov/library/semiannual-reports>



# Poll Question 1

- The federal government spends more money on:

A) Grants

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B) Contracts



# FY20 Spending

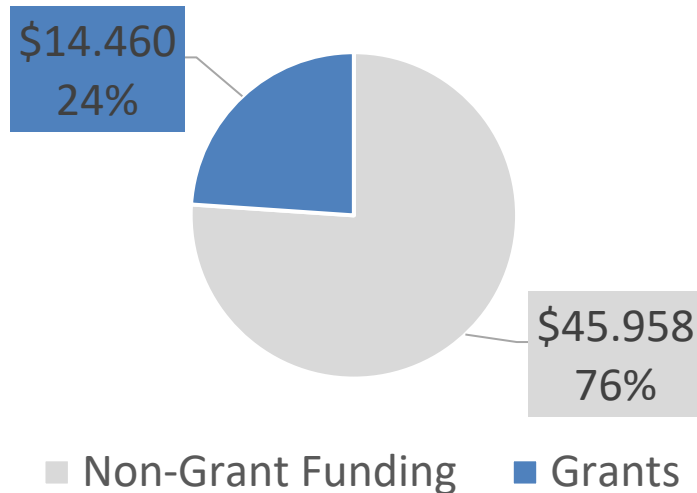
- Grants & Fixed Charges: \$6.8 trillion (78.48%)
- Contracts: \$1.05 trillion (11.54%)

Source: [www.usaspending.gov](http://www.usaspending.gov)



# HUD Grants By the Numbers

## HUD's FY2021 Enacted Funding (billions)



**>\$14 billion**  
in CARES Act/ARP  
funding

Source: CRS Report R46465, THUD Appropriations for FY2021



# What is a grant?

1. Assistance in the form of money, property, or technical expertise
2. awarded by the government to an eligible applicant
3. to provide goods or services that benefit society.



# Contracts vs. Grants

## Contracts

- Written or spoken agreement between two or more parties, intended to be enforceable by law
- Agencies use contracts (the procurement system) to obtain goods and services for the use of the government.
- Competition is preferred; sole source must be justified.
- Multiple oversight mechanisms
- End product: typically a good or service

## Grants

- A sum of money given by the government for any of various purposes
- Agencies use grants to provide or advance a public purpose or service
- Some competition; most awarded via a formula
- Integrity based system; oversight can vary
- End product: often, a narrative report summarizing activities completed or research conducted





# Contracts AND Grants

- Both contracts and grants:
  - Legal instruments
  - Government giver of money
  - Government rules must be followed



# Overview of Grant Process

## Pre-Award

- Solicitation
- Application / Proposal / Plan
- Budget
- Certified Assurances
- Eligibility Certification
- Accept Grant Conditions

## Post-Award

- Formal Award
- Grantee Performance
- Financial Certifications
- Claims for Reimbursement
- Narrative Progress Reports
- Grantor Monitoring / Audits



# Award

By accepting the grant, the grantee agrees to:

1. Comply with record keeping requirements
2. Abide by cost allocation and sharing requirements
3. Comply with copyright and patent requirements
4. Obtain approval before making project changes
5. Comply with various statutes and laws
6. Submit progress and final reports



# Governing Rules

- **Authorizing Legislation**
  - Establishes and authorizes the program
  - Defines the purpose
  - Prescribes eligibility criteria
  - Establishes matching requirements.
- **Uniform Grant Guidance** (for all except for profit grantees)
  - Issued in 2014 – combined multiple OMB Circulars
  - Codified at 2 C.F.R. 200
  - Covers wide variety of requirements – cost principles, subrecipient monitoring
- **Agency Guidelines / Program Specific Rules**
  - Solicitation
  - Grant Terms and Conditions



# Uniform Grant Guidance

## 2 CFR § 200

- Cost Principles - 200.400
  - Allowability - 200.403
  - Reasonableness - 200.404
  - Allocability - 200.405
  - Documentation requirement - 200.403(g)
- Requirements regarding subawards - 200.332
- OIG access to grantee and subgrantee records - 200.337



# Uniform Grant Guidance, Cont.

## 2 CFR § 200

- Financial Management System - 200.302
- Conflicts of Interest - 200.112
- Mandatory disclosure - 200.113
- Effort Reporting - 200.430(i)
- Certifications - 200.415



# What is fraud?

- Lying
- Cheating
- Stealing



# Fraud: Technical Definition

**Fraud** involves obtaining something of value through willful misrepresentation. Whether an act is, in fact, fraud is determined through the judicial or other adjudicative system and is beyond auditors' professional responsibility.

GAO's Government Auditing Standards,  
Glossary





# Why is Fraud Awareness & Detection Necessary?

Failure to prevent and detect fraud, waste, and abuse can expose an organization, its programs, or individuals to:

1. Financial liabilities
2. Civil Penalties
3. Criminal Prosecution



# What does grant fraud look like?

- Theft/personal use
- Falsifying applications, reports, or invoices
- Lying about eligibility
- Fictitious expenses
- Inflated expenses
- Inflating time and effort
- Contractor fraud
- Conflicts of interest



# What does grant fraud look like?

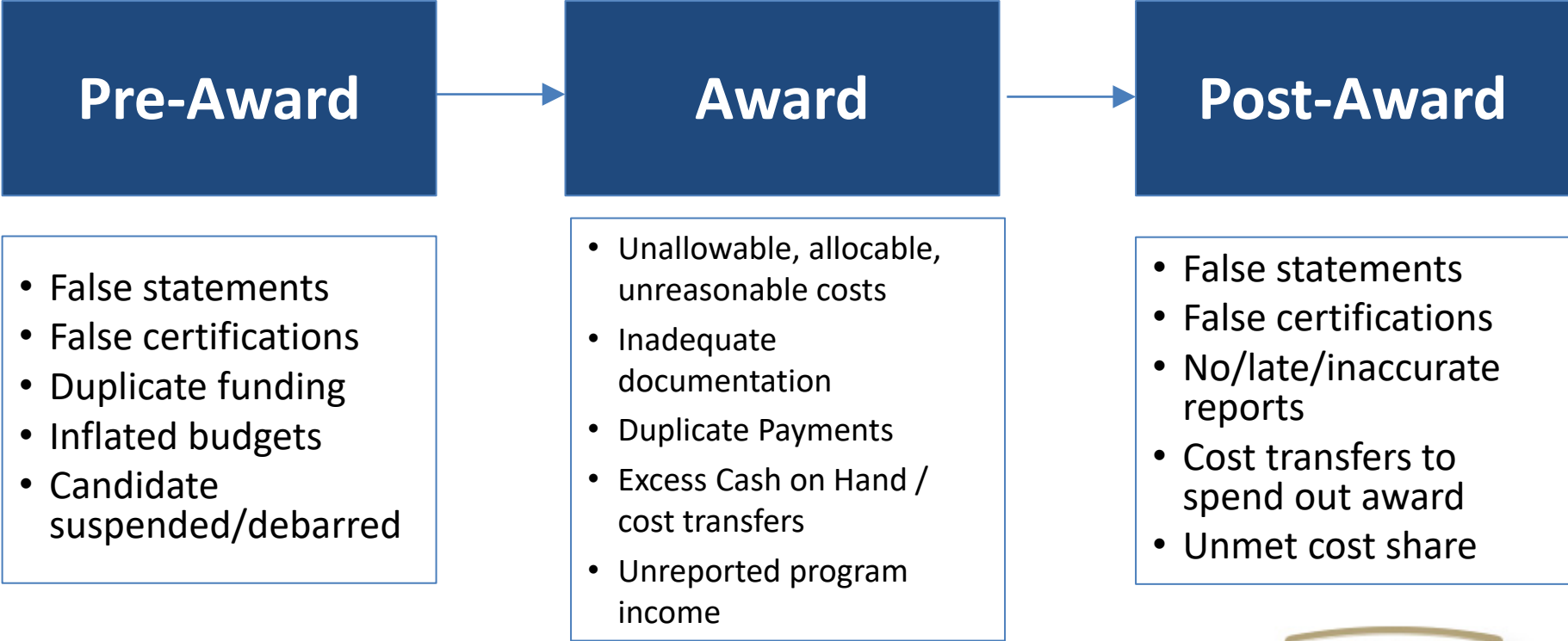
- Bribes/kickbacks
- Ghost beneficiaries
- Ghost contractors
- Identity theft
- Bid rigging
- Price fixing
- Using funds for unintended purposes
- Inflating enrollment and attendance records



# Grant Life Cycle



# Fraud Throughout the Grant Life Cycle



# Investigative Process

- Analyze allegation, determine jurisdiction; identify issues
- Objectively gather evidence
- As appropriate, refer to audit, agency, or other OIG
- Work with DOJ, state prosecutors, agency, and awardees to develop appropriate resolutions that protect the interests of the Federal Government and the U.S. taxpayer



# Allegations

- Types of Allegations
- Sources of Allegations
  - Neighbors
  - Colleagues, Former Colleagues
  - HUD Program Officials, Grants Officers
  - Auditors
  - Grant Administrators
  - Contractors
  - Other government agencies
  - Anonymous
- Anyone may contact OIG to report potential wrongdoing:  
<https://www.hudoig.gov/hotline/hotline-form>



# Investigative Outcomes

- Refer to law enforcement authorities (e.g., U.S. Dept. of Justice, State Attorney General)
- Refer to HUD
- Refer to OIG Office of Audits
- Close without further action





# Poll Question 2:

- To prosecute theft, you need to prove that the money stolen was directly charged federal grant?
  - A) True
  - B) False



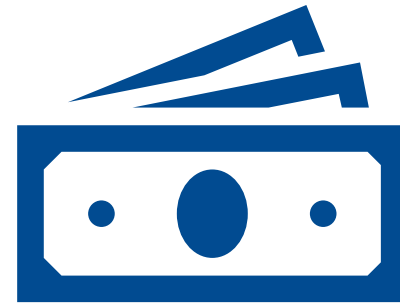
# Criminal Investigations

- Conspiracy – 18 U.S.C. § 371
- Embezzlement – 18 U.S.C. § 641
- Theft of federal funds– 18 U.S.C. § 666
- False statements – 18 U.S.C. § 1001
- Wire fraud – 18 U.S.C. § 1343
- Falsification of records – 18 U.S.C. § 1519



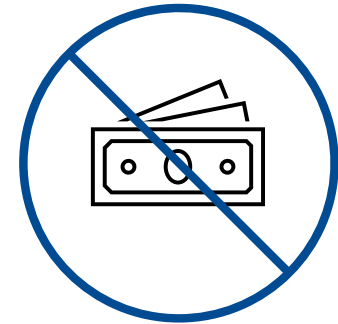
# Civil Investigations

- Civil False Claims Act
  - 3x damages + penalties
- Common law
  - Unjust enrichment
  - Payment by mistake
  - Breach of contract



# Administrative Investigations

- Special award conditions
- Repayment of funds
- Corrective action plans
- Award suspension / termination
- Government-wide suspension and debarment





# Common Grant Fraud Schemes

# Common Grant Fraud Schemes

- False Claims

- Drawing down federal funds for unallowable expenses
- Claiming reimbursement for grant funds not spent on the funded project
- Grantee approved no-cost extension just to spend down remaining grant funds
- Transferring costs from overdrawn project accounts
- Charging one grant for expenditures of another
- Failing to know, follow, or care about applicable rules
- Failure to maintain an adequate accounting system and supporting documentation



# Common Grant Fraud Schemes, Cont.

- Fraudulent use of grant funds
  - Embezzlement and diversion of funds for personal use, i.e., buying vacations, renovating homes, etc.
- Fraud in the inducement
  - Making material false statements in proposals that result in grants that would otherwise not have been made to that applicant
    - Facilities
    - Employees
    - Subcontractors, Consultants, Letters of Support
    - Eligibility (i.e., SBIR/STTR program; disaster funds)
    - Costs
    - Certifications



# Common Grant Fraud Schemes, Cont.

- Time and Effort Fraud
  - Failure to maintain time and effort reports
  - Directed labor schemes
- Duplicate funding
  - Getting more than one agency to fund the same work
  - Falsely certifying that a similar or overlapping grant proposal has not been submitted to another agency
  - Double/triple billing out the work
  - Falsifying current and pending support







# Red Flags

# Red Flags – Pre-award

- Undisclosed conflicts of interest
- Sole-source or no-bid contracts
- Excessive or Illogical Use of “Consultants”
- Duplicate funding/similar sounding titles and abstracts
- Sham websites, emails / lack of a website



# Red Flags – Award

- Cost transfers to spend down expiring awards
- Early large expenditure report(s)/draw down(s)
- Non-payment of subcontractors
- Drawing down all or most of the funds in the last few months of the award
- Inventories/invoices and financial records not reconciled



# Red Flags – Post-award

- Requests made after award period ends
- Late/no final reports
- Grants with unliquidated funds at the end of the award



# Red Flags – Organizational

- High turnover
- Complex structure
- Lack of clear job descriptions
- Lack of segregation of duties / one person in control
- Insufficient staffing or lacking capacity



# Red Flags – Policies and Procedures

- Lacking or nonexistent
- Conflicting, contradictory, or confusing
- Exists but not followed
- Outdated
- Lack of separation of duties
- Unsupervised use of checking accounts, cash, debit or credit cards
- Commingling



# Red Flags – Monitoring

- Lacking or inconsistent
- Unclear process
- Failure to complete
- Lack of follow up on corrective action



# Red Flags – Audit Results

- No prior audits
- Management does not address audit findings or concludes the findings do not need to be corrected.
- Management agrees to correct finding issues but fails to follow through or take action.







# Case Studies

# Case Study: False invoices

- Conspiracy to commit wire fraud, wire fraud, conspiracy to defraud the United States, false claims
- 37 months imprisonment, 3 years supervised release
- \$1.9 million restitution



# Case Study: Embezzlement by University Accountant

- Mail fraud, theft
- 32 months imprisonment
- \$316,000 restitution, \$2,200 fines
- 250 hours of community service
- 5 year debarment



# Case Study: Embezzlement by Housing Executive

- Wire fraud
- 51 months imprisonment
- \$6,997,486 restitution



# Case Study: No / Inadequate Time and Effort Reports

- Civil False Claims Act
- All NSF awards suspended
- \$1.7 million civil settlement



# Case Study: Falsified Documents During Audit Leads to FCA Settlement

- Civil False Claims Act
- \$1.17 million civil settlement,  
5-year compliance plan
- Compliance coordinator pled guilty, sentenced  
to one year probation



# Case Study: Duplicative Funding

- Wire fraud, false statements, money laundering
- 41 months imprisonment
- ~\$640,000 restitution
- 10 year voluntary exclusion



# Case Study: Directed Labor Scheme

- Civil False Claims Act
- Suspended government wide during investigation
- \$2.25 million civil settlement with company and CEO





# Case Study: Professor Purchases Unauthorized Equipment

- Mail fraud, theft
- 6 months home confinement, 18 months probation
- ~\$32,000 Restitution
- 10 year debarment





# Best Practices

# Best Practices

- Read and know the applicable grant conditions, rules and regulations for federal grants
  - Provide and document (mandatory) training
- Maintain adequate documentation to support all expenditures, including cost share (during, not after the fact)



# Best Practices, Cont.

- Ensure your financial reporting matches your financial records
- Create a fraud hotline



# Best Practices, Cont.

- Do not expend award funds post-expiration or for purposes unrelated to the award
- Do not provide inaccurate information or false certifications to grantee/pass-through or federal agency
  - If you notice an issue, timely self-disclosure
- When in doubt, ask



# Best Practice: Risk Assessments

- Each grant recipient will be vulnerable to different types of fraud
- Universal-time sheet manipulation, credit card abuse, travel, procurement
- Identify vulnerabilities and ways to mitigate them- separation of duties
- Training
- Reporting issues



# Best Practice: Certifications

- Examples:
  - “I certify to the best of my knowledge and belief that this report is true in all respects and that all disbursements have been made for the purpose and conditions of the grant or agreement.”
  - “I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct to the best of my/our knowledge. WARNING: Anyone who knowingly submits a false claim, or makes false statements is subject to criminal and civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012, and 31 U.S.C. §3729, 3802)”



# Certifications

**Grant  
Lifecycle  
Certifications  
Hold Grantees  
Accountable  
At Each  
Phase**

## **Certifications Mandated at All Grant Stages**

- Application
- Interim and Final Progress Reports
- Drawdown of Funds
- Financial Reporting

## **Types of Information To Be Certified**

- Eligibility Criteria
- Current and Pending Support
- Disclosure of Conflicts/Related Party Transactions
- Pending Applications and Overlapping Funding
- Present Responsibility and Prior Convictions
- Reversionary Interest in Unexpended Funds
- Expense Reports and/or Milestone Charts

[https://www.ignet.gov/sites/default/files/files/CIGIEGrantOversightCapstoneReport\(Jan2021\)Final1-28-21x.pdf](https://www.ignet.gov/sites/default/files/files/CIGIEGrantOversightCapstoneReport(Jan2021)Final1-28-21x.pdf)





# How to Contact OIG

- Report violations of the rules



- <https://www.hudoig.gov/hotline/hotline-form>
- [HOTLINE@hudoig.gov](mailto:HOTLINE@hudoig.gov)



# When *must* I contact OIG?

- Uniform Guidance Mandatory Disclosure Requirement
  - Grantees and applicants “**must disclose**, in a **timely** manner, **in writing** to the Federal awarding agency or pass-through entity **all violations of Federal criminal law involving fraud, bribery, or gratuity violations** potentially affecting the Federal award...” - 2 CFR § 200.113 (emphasis added)



# Employees of grantees and subgrantees are protected!

- Federal law **prohibits retaliation** against employees of grantees, subgrantees, contractors, and subcontractors for providing information reasonably believed to evidence:
  - A violation of law, rules, or regulation
  - Gross mismanagement
  - A gross waste of funds
  - An abuse of authority, or
  - A substantial and specific danger to public health or safety



# Employees of grantees and subgrantees are protected, cont.!

- Employees of HUD grantees, subgrantees, contractors, and subcontractors are protected from retaliation if they make a whistleblower disclosure to:
  - Their management
  - OIG
  - An official responsible for investigating misconduct
  - Congress
  - GAO
  - DOJ, Court or grand jury



# Whistleblower Protection

- Relevant Statute: 41 U.S.C. § 4712
- More information:  
<https://www.hudoig.gov/fraud/whistleblower-rights/federal-contractor-grantee-protections>
- To file a complaint:  
<https://www.hudoig.gov/hotline/whistleblower-retaliation-complaint-form>



# Final Takeaways

- Read the rules
- Follow the rules
- Read your policies (update, if necessary)
- Follow your policies
- Document, document, document
- If you have questions, ask



# Additional Resources

- Semiannual Reports
  - Each OIG – Look up reports from your various funding agencies
  - HUD OIG SARs: <https://www.hudoig.gov/library/semiannual-reports>
- CIGIE Grant Oversight Capstone Report:  
[https://www.ignet.gov/sites/default/files/files/CIGIEGrantOversightCapstoneReport\(Jan2021\)Final1-28-21x.pdf](https://www.ignet.gov/sites/default/files/files/CIGIEGrantOversightCapstoneReport(Jan2021)Final1-28-21x.pdf)





# Questions?

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