

ReOregon

Subrecipient Manual

Version 1



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14 Fraud, Waste, and Abuse

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14 Fraud, Waste, and Abuse

14.1 Introduction

Subrecipients and subgrantees are required to:

- Monitor all funded programs for instances of fraud, waste, and abuse.
- Take steps to prevent and address fraud, waste, and abuse.
- Report any instances of fraud, waste, or abuse to the appropriate authorities.

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

14.2 Definitions

Fraud: Fraud is an intentional deception to secure unfair or unlawful gain, or to deprive a victim of a legal right. Fraud can violate civil law or criminal law.

Waste: Waste is a useless consumption or expenditure that is done without an adequate return.

Abuse: Abuse is the improper usage or treatment of a thing, often to gain benefit unfairly or improperly.

14.3 Preventing Fraud, Waste, and Abuse

There are several actions subrecipients and subgrantees must take to prevent fraud, waste, or abuse. These include:

Policies

- Ethics and/or conflict of interest policy and statements
- Procurement
- Financial

Procedures

- Contractual performance measures
- Fiscal procedures evidencing segregation of duties
- Programmatic and fiscal reviews to ensure that subrecipient and subgrantee reports are accurate
- Verifying accuracy of programmatic and fiscal information provided by applicants and subgrantees
- Maintaining records in organized and easily retrievable formats.
- Including fraud reporting on website or direct to OHCS, Oregon, or HUD OIG hotlines

Staff Qualifications

- Attendance at fraud-related training provided by the HUD OIG
- Competency

14.4 Helpful Hints to Understanding and Identifying Fraud

Fraud can take many forms. It involves deception through the misrepresentation or omission of material facts for the purpose of illegitimate gain. Due to finite resources, it deprives citizens with legitimate needs from governmental benefits designed to support and assist them.

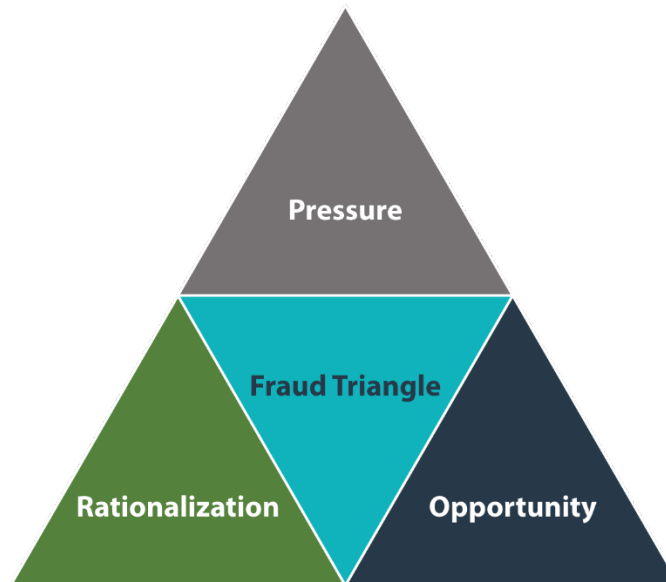
14.4.1 Sources of Fraud

Fraud can occur with anyone involved in the program:

- **Employees:** People hired to serve clients and conduct the business of the organization or entity with vendors (e.g., appraisers and code enforcement officials who inflate the value of repairs, solicit bribes, accept kickbacks from contractors)
- **Clients:** People the program will serve (e.g., false deeds, failure to report all benefits received, falsifying residency)
- **Vendors:** Firms with which the subrecipient contracts (e.g., failing to begin or complete work, substandard work, substandard materials/products)

14.4.2 Fraud Triangle

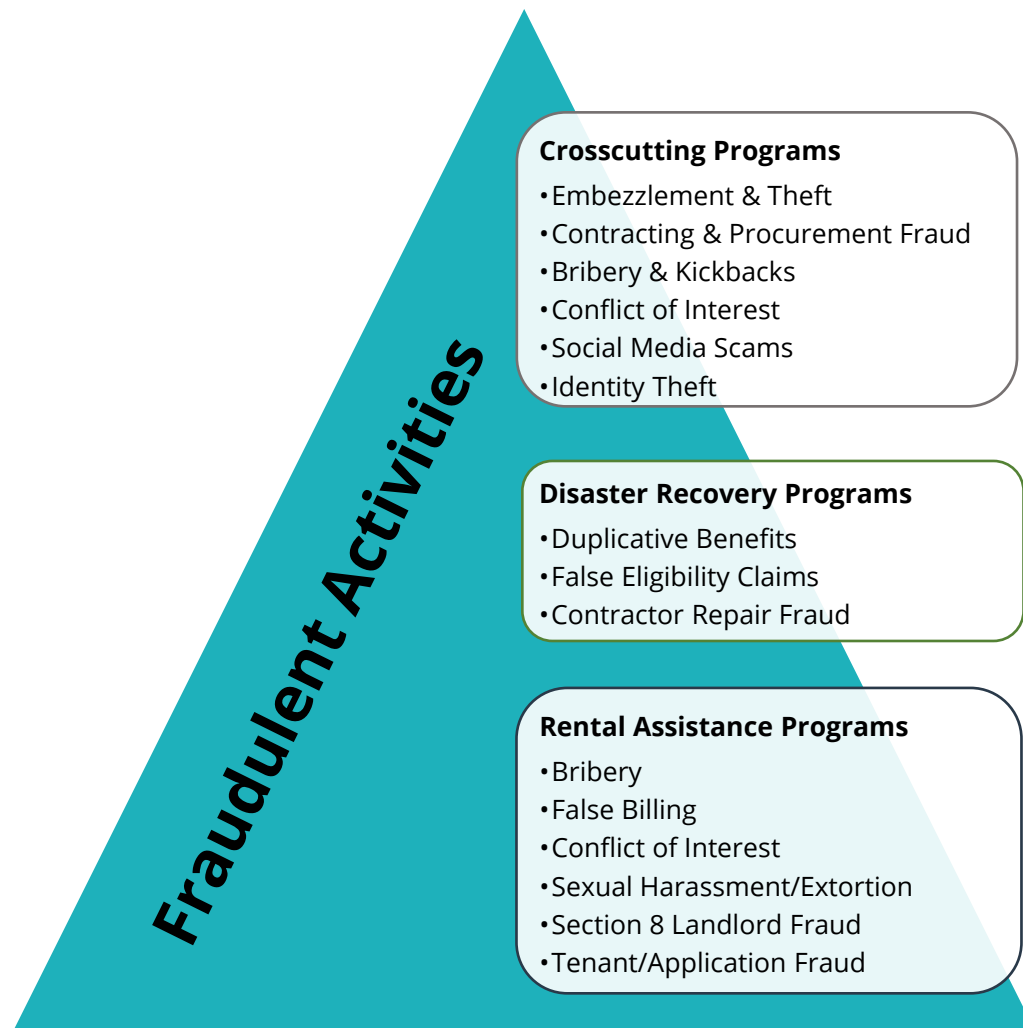
Any trusted and competent employee can commit fraud if there is pressure, opportunity, and rationalization. These three components make up the fraud triangle, which is commonly used to explain the reason behind fraud.



- **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 where there are not enough employees to maintain segregation of duties, an important factor for fraud prevention, leading 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 by Program Type

Below are examples of the types of fraud encountered by program type:



14.4.4 Description of Fraudulent Activities with Federal Funds

Below is a listing and description of 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 to cash to more elaborate methods to conceal the theft, such as falsifying invoices and misusing 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 is using insider information in order to gain an unfair advantage in bidding and or obtaining a federal benefit.
- **Contract Repair Frauds:** 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; false or defective bonds; and test or inspection results
 - Committing change order abuses, underbidding to win contract and colluding with 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; additionally, renting to a relative or having a conflict of interest in allowing themselves or a relative to be a Section 8 landlord. Commissioners (except resident commissioners), officers, and policy influencers of a Public Housing Agency are prohibited from living in a Section 8 unit. Criminal conflict occurs when an employee participates in a particular matter where the person has a financial interest if that matter will have a direct and predictable effect on that interest. It also includes profiting from insider knowledge. (Note: if there is a question of conflict, check with OHCS as it may be possible to mitigate the conflict.)
- **Documentation Fraud:** People commit forgery or alteration of documents, destruction or concealment of records, impropriety with respect to reporting financial transactions. Examples include identity theft (using another person's identification), forging 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.
- **False Billing:** This occurs with the submission of false invoices or altered valid invoices for payment (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 actually an investment property. Rental properties are not eligible for repair funding. This also refers to cases where recipients falsely obtain Section 8 assistance when they in fact own an undamaged home. They sublet the Section 8 unit and keep the rents as profit.
- **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.
- **Section 8 Landlord Fraud:** Section 8 landlords may require additional side payments from tenants above the rents reported to the housing authority.

- **Sexual Harassment/Extortion:** Instead of requesting money, program administrators as well as landlords and inspectors may demand sexual favors to allow an applicant/tenant to get into or stay in the assisted unit.
- **Social Media Scams:** Programs have seen various scams in which websites and other social media sites are used to induce the public to send money in order to receive various HUD benefits, grants, or contracts. They sometimes falsely advertise themselves as being government representatives or agents of HUD to promote their scheme further.
- **Tenant/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 Office of Inspector General (OIG) has a variety of enforcement options available should evidence of fraud be confirmed:

- **Criminal Penalties:** Conviction may result in a prison sentence, probation, and/or restitution.
- **Civil Penalties:** Damages payable to the federal government for each false claim are three times the amount of the claim, plus a penalty in an amount ranging up to \$11,000. False claims liability includes payments received when the grantee relied on information in a work proposal, certification of cost or pricing data, request for payment, or in progress reports. “Knowledge” in these instances is defined as “deliberate ignorance” or “reckless regard for the truth.”
- **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, criminal or civil judgment.

14.6 Addressing and Reporting Fraud, Waste, and Abuse

The occurrence of fraud, waste, and abuse are not signs of a poorly run or mismanaged agency. Reaction to perceived fraud, waste, and abuse is what defines the management of an organization.

The existence of a fraud policy, preventive steps taken, and proper handling of fraud, waste, and abuse are deterrents. By addressing fraud, waste, and abuse, 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 of or fraudulent claims for funds must be reported.

14.6.1 Office of the Inspector General

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

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

- 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 conflict of interests
- Housing subsidy fraud
- Serious mismanagement
- Ethics violations by HUD officials
- Bribery

14.6.2 OHCS Reporting

According to OHCS policy, any employee, consultant or subrecipient who has knowledge of fraud, waste, or abuse, 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 in one or more of the following ways:

- Filling out the CDBG-DR Fraud, Waste, and Abuse Reporting Form
- Contacting the OHCS Executive Director
- Contacting the OHCS Internal Auditor
- Report to the Oregon Secretary of State

14.7 Additional Resources

- HUD OIG's "What You Can Do" page
<https://hudoig.gov/fraud/what-you-can-do>
- Department of Homeland Security Privacy Training & Awareness
<https://www.dhs.gov/privacy-training>
- Oregon Secretary of State Report Misuse of State Government Resources
[State of Oregon: Audits — Report Misuse of State Government Resources](#)