Recent Fraud Trends in Government Contracting

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Learning Objectives

• Understand the types of contracting and procurement fraud we are seeing in Los Angeles County

• Identify some unique risks associated with contracting and procurement activities in the government space

• Explore contracting fraud prevention & detection strategies
Topics for Discussion

• Background on Contracting Fraud and the Current Landscape

• Social Services Contracts

• Bid Rigging & Collusion

• Contracts Involving Specialized Knowledge & Expertise
Background

- Government contracts – A LOT!
- Contracting can maximize public value – IF we have a level playing field and real competition between contractors
- Traditional oversight has not been effective in preventing and deterring fraud
Fraud Landscape

We have seen an increase in reported and substantiated cases of contractor fraud, particularly involving:

• Social & Human Services Providers
• Bid Rigging
• Conflicts of Interest
• Collusion between Contractors and County Employees
Social Services Contracts

Monitoring & Compliance Challenges

• Intangible and Difficult to Quantify Services and Deliverables
• Payments Triggered by Client Participation or Attendance
• Subjective Outcome Measures
• Divergence Between Programmatic (qualitative) and Fiscal (quantitative) Performance
Social Services Contracts

Monitoring & Compliance Challenges cont.

• Determining if clients and recipients EXIST and are ELIGIBLE
• Reconciling Services Billed vs. Provided
• Contractors operating under multiple contracts that may serve overlapping populations and/or provide similar or complementary services
Social Services Contracts

Risk Factors

- Many Small and Mid-Sized Providers lack business and bookkeeping expertise
- Related parties as employees/vendors
- Format and availability of client files and documentation of services
- Cash flow problems, delinquent tax payments, bank fees and charges, debt
Social Services Contracts

Risk Factors (cont.)

• Non-salary payments to owners, principals and related parties
• Cash withdrawals and other unaccountable payments
• Board composition
• Lax oversight by program staff
Social Services Contracts

Prevention and Detection Strategies

- Auditor involvement in developing contract terms and monitoring program
- Confirmation of services
  - Client “satisfaction” surveys
  - Confirmation of benefits statements
  - Cold calls
Social Services Contracts

Prevention and Detection Strategies (cont.)

- Secret Shopper Program
- Data Analytics
  - Client personal data
  - Service levels and participation trends relative to other providers
  - Composition of services
    - Average service cost per client vs. peer agencies
Social Services Contracts

Prevention and Detection Strategies (cont.)

• Contract monitoring by walking around
  – Lifestyle indicators of contractor principals and key personnel
  – Knowledge and engagement of board members
  – Existence of program sites, facilities, etc.
Bid Rigging & Collusion

What is it?

Bid rigging occurs when bidders agree among themselves to eliminate competition in the procurement process, thereby denying the public a fair price. Bidders can eliminate competition in public procurement in many ways.
Bid Rigging & Collusion

Bid Suppression
One or more competitors agree not to bid, or withdraw a previously submitted bid, so that a designated bidder will win. In return, the non-bidder may receive a subcontract or payoff.
Bid Rigging & Collusion

Complementary Bidding
Coconspirators submit token bids which are intentionally high or which intentionally fail to meet all of the bid requirements in order to lose a contract. "Comp bids" are designed to give the appearance of competition.
Bid Rigging & Collusion

Bid Rotation
All co-conspirators submit bids, but by agreement, take turns being the low bidder on a series of contracts.
Bid Rigging & Collusion

Customer or Market Allocation

Co-conspirators divide up customers or geographic areas so and do not to bid or will submit only complementary bids when a solicitation for bids is made by a customer or in an area not assigned to them. This scheme is most commonly found in the service sector and may involve quoted prices for services as opposed to bids.
Bid Rigging & Collusion

Risk Factors and Red Flags

- Identical or nearly identical bids from different companies
- Bids far exceed the agency’s estimates of the value of the contract for the market and services offered
- A winning bidder subcontracts part of the award to one or more losing bidders
Bid Rigging & Collusion

Risk Factors and Red Flags (cont.)

• Bid documents appear altered or duplicated from a common template

• A significant gap between the winning bid and other bidders, indicating a “number-to-bid-above”

• Evidence of bidder collusion – e.g., the same handwriting or other commonalities between supposedly independent bids
Bid Rigging & Collusion

Employee Collusion Red Flags

• Known qualified bidders do not bid
• Evidence of personal relationships between contracting/procurement staff and vendors
• Lax procurement and contracting oversight
• Repetitive purchases
Bid Rigging & Collusion

Employee Collusion Red Flags (cont.)

• Procurement or contract requires technical expertise/knowledge concentrated in one or a few employees

• Contract specifications or requirements are unusual, unnecessarily restrictive or prescriptive, and/or lack sufficient justification
Bid Rigging & Collusion

When looking for employee/contractor collusion, Email is the BEST EVIDENCE
Bid Rigging & Collusion

Detection and Prevention Strategies

• Expand the population of bidders through outreach and incorruptible channels (e.g., central bid posting site, advertising, etc.)
• Require bidders to sign non-collusion affidavits as part of their bid package
• Train purchasing employees on red flags AND consequences for engaging in or failing to report fraud, and PROSECUTE
Bid Rigging & Collusion

Detection and Prevention Strategies (cont.)

• Data Analytics – Mine your ERP system!
  – Search for common identifiers between supposedly independent competitors
    • Normalize addresses, phone numbers, etc.
    • Compare company contacts, emails, etc.
    • Verify the existence of bidders on a sample basis
      – are they legitimate businesses or shells/fronts
Bid Rigging & Collusion

Detection and Prevention Strategies (cont.)

• Data Analytics – Mine your ERP system!
  – Compare employee phone, bank account, and address information with vendors
  – Social Media research

• Consider unannounced, short-term rotation of Procurement staff (cross training?)
Contracts Involving Specialized Knowledge & Expertise

• Increased fraud risk if the expertise is critical to contracting and procurement decisions and resides with only one or a few employees
• Difficult to prevent/detect without an expert to analyze decisions and contract criteria independently
• Evaluation of contract specifications and technical requirements is critical before the bid is published
Contracting Fraud Resources & References

Council of Inspectors General – www.ignet.gov
International Anti-Corruption Resource Center www.lacrc.org
Questions? Contact Me!

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