



Department of Defense INSTRUCTION

NUMBER 5505.15

June 16, 2010

Incorporating Change 1, August 8, 2012

IG DoD

SUBJECT: DoD Contractor Disclosure Program

References: See Enclosure 1

1. PURPOSE. This Instruction, in accordance with the authority in DoD Directive 5106.01 (Reference (a)), establishes policies and assigns responsibilities for receiving, reporting, and investigating contractor disclosures of a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in title 18, United States Code (U.S.C.) (Reference (b)) or a violation of the False Claims Act, section 3729 of title 31, U.S.C. (Reference (c)), in connection with the award, performance, or closeout of any contract or subcontract.

2. APPLICABILITY. This Instruction applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense (OIG DoD), the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components").

3. DEFINITIONS. These terms and their definitions are for the purpose of this Instruction.

a. contractor disclosure. A written disclosure by a DoD contractor or subcontractor to the OIG DoD of the existence of credible evidence that the contractor or subcontractor has committed a violation of References (b) or (c) in connection with the award, performance, or closeout of a contract or any subcontract thereunder.

b. Defense Criminal Investigative Organizations (DCIOs). DCIOs include the United States Army Criminal Investigations Command (USACIDC), Naval Criminal Investigative Service (NCIS), Air Force Office of Special Investigations (AFOSI), and the Defense Criminal Investigative Service (DCIS).

c. Military Criminal Investigative Organizations (MCIOs). The USACIDC, NCIS, and AFOSI.

4. POLICY. It is DoD policy that:

a. All contractor disclosures made pursuant to the provisions set forth in subparts 3.10, 9.4, and part 52.203-13 of the Federal Acquisition Regulation (FAR) (Reference (d)), shall be reported to the OIG DoD in accordance with subpart 203.1003(b) of the Defense Federal Acquisition Regulation Supplement (Reference (e)).

b. A referral for investigation of a contractor disclosure to an MCIO by the OIG DoD shall be considered a formal request as provided for in Reference (a) and DoD Instruction 5505.2 (Reference (f)).

5. RESPONSIBILITIES. See Enclosure 2.

6. RELEASABILITY. UNLIMITED. This Instruction is approved for public release and is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

7. EFFECTIVE DATE. This Instruction:

a. Is effective June 16, 2010.

b. Must be reissued, cancelled, or certified current within 5 years of its publication in accordance with DoD Instruction 5025.01 (Reference (g)). If not, it will expire effective June 16, 2020 and be removed from the DoD Issuances Website.



Gordon S. Heddell
Inspector General

Enclosures

1. References
2. Responsibilities

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5106.01, "Inspector General of the Department of Defense (IG DoD)," April 20, 2012
- (b) Title 18, United States Code
- (c) Section 3729 of title 31, United States Code
- (d) Subparts 3.10, 9.4, and Part 52.203-13 of the Federal Acquisition Regulation, as amended
- (e) Subpart 203.1003(b) of the Defense Federal Acquisition Regulation Supplement, as amended
- (f) DoD Instruction 5505.2, "Criminal Investigations of Fraud Offenses," February 6, 2003
- (g) DoD Instruction 5025.01, "DoD Directives Program," October 28, 2007
- (h) Under Secretary of Defense for Acquisition, Technology, and Logistics Memorandum, "Department of Defense Implementation of Disclosure Requirement Under FAR Clause 52.203-13," December 29, 2008¹
- (i) Defense Contract Audit Agency (DCAA) Manual 7640.1, "DCAA Contract Audit Manual," as amended

¹ Available at <http://www.dodig.mil/Inspections/IPO/voldis.htm>

ENCLOSURE 2

RESPONSIBILITIES

1. IG DoD. The IG DoD, in addition to the responsibilities in section 4 of this enclosure, shall:

a. Manage the DoD Contractor Disclosure Program and develop policies and procedures to receive contractor disclosures from DoD contractors and subcontractors.

b. Be the “agency Office of Inspector General,” to receive all contractor disclosures as set forth in the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)) Memorandum (Reference (h)).

c. Promptly notify the Criminal Division and Civil Division of the Department of Justice and affected DoD Components upon receipt of a contractor disclosure matter, and periodically discuss with these organizations the status of outstanding disclosures.

d. Refer contractor disclosures determined to be of a criminal nature to the appropriate DCIO for investigation.

e. Conduct quarterly reviews of DCIO investigative activities to ensure timely investigations of contractor disclosure matters referred to those organizations.

f. Refer non-criminal contractor disclosures to the affected DoD Component for appropriate action in accordance with Component procedures, after coordination with Department of Justice Criminal and Civil Divisions.

g. Coordinate remedies proposed by DoD Component suspension and debarment authorities with DCIOs to ensure the proposed remedies do not impact ongoing investigations.

2. USD(AT&L). The USD(AT&L) shall establish guidelines to ensure that contractor disclosures are promptly forwarded to OIG DoD.

3. DIRECTOR, DEFENSE CONTRACT AUDIT AGENCY (DCAA). The Director, DCAA, under the authority, direction, and control of the Under Secretary of Defense (Comptroller)/Chief Financial Officer, Department of Defense, shall:

a. Establish procedures to ensure any contractor disclosure received directly from a contractor is immediately forwarded to OIG DoD.

b. Provide audit support to the contracting officer, OIG DoD, and the DCIOs in accordance with the Defense Contract Audit Agency (DCAA) Manual 7640.1 (Reference (i)).

4. HEADS OF THE DoD COMPONENTS (EXCLUDING THE DIRECTOR, DCAA). The Heads of the DoD Components (excluding the Director, DCAA), shall establish procedures to:

a. Ensure acquisition officials or contracting officers immediately forward to the OIG DoD any contractor disclosure received directly from a contractor in accordance with Reference (e).

b. Assess contractor disclosures to determine whether administrative remedies are necessary. The decision to take action shall be made following coordination with affected DoD Components and the servicing DCIO.

5. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments, in addition to the responsibilities in section 4 of this enclosure, shall:

a. Ensure that their respective MCIOs adhere to established procedures to evaluate, thoroughly and in a timely fashion, fraud allegations arising from contractor disclosures that involve programs, persons, and organizations affiliated or conducting business with the Department of Defense and, when indicated, investigate them in accordance with References (a) and (f).

b. Establish procedures to resolve, through administrative remedies, contractor disclosures when MCIOs determine the matter does not fall within their investigative jurisdiction or threshold.

c. Establish procedures to ensure MCIOs provide OIG DoD a copy of the Case Initiation Report, quarterly investigation updates, a copy of the final report of investigation, and final report of all actions taken as a result of an investigation.