



DEFENSE INFORMATION SYSTEMS AGENCY
P.O. BOX 4502
ARLINGTON, VIRGINIA 22204-4502

DISA INSTRUCTION 100-50-11*

21 November 2005

21 November 2010

POLICIES

Coordinating Agency Actions Related to Investigations
of Procurement Fraud and Corruption

1. **Purpose.** This Instruction provides policy for conducting and monitoring investigations of fraud and corruption related to Defense Information Systems Agency (DISA) activities. This Instruction further prescribes policy and assigns responsibility for the coordination of criminal, civil, administrative, and contractual remedies stemming from investigations of fraud or corruption related to procurement activities. It delineates responsibility for ensuring Agency action in response to fraud and corruption in the procurement process. It also specifies the criminal, civil, contractual, or administrative actions that will be taken in investigations of procurement fraud and corruption.

2. **Applicability.** This Instruction applies to all DISA activities.

3. **Authority.** This Instruction is published in accordance with the authority contained in [DOD Directive 7050.5](#), Coordination of Remedies for Fraud and Corruption Related to Procurement Activities, 7 June 1989.

4. **Policy.**

4.1 All significant investigations of fraud or corruption related to procurement that affect DISA will be either conducted or monitored from their inception by the DISA Office of the Inspector General (OIG). This will ensure, in such cases, that all possible criminal, civil, administrative, and contractual remedies are identified to cognizant procurement and command officials. Appropriate remedies will be pursued in a timely manner by the OIG in concert with the office of

the DISA General Counsel (GC) *and coordinated with all other affected DOD components.*

4.2 All significant investigations of fraud or corruption related to procurement activities shall be coordinated with the DISA GC to determine and implement the appropriate contractual and administrative actions that are necessary to recover funds and to ensure the integrity of DOD programs and operations.

4.3 Appropriate civil, contractual, and administrative actions, including those set forth in the [enclosure](#), shall be taken expeditiously. During an investigation and before prosecution or litigation, and when based in whole or in part on evidence developed during an investigation, such actions shall be taken with the advance knowledge of the responsible DOD criminal investigative organization and, when necessary, DOD legal counsel and the Department of Justice. Such actions shall be taken before resolution of the criminal or civil case.

5. **Responsibilities.**

5.1 **DISA Inspector General (IG).** The DISA IG will:

5.1.1 Monitor and ensure the coordination of criminal, civil, administrative, and contractual remedies for each significant investigation of fraud or corruption related to procurement activities affecting DISA.

5.1.2 Discuss regularly with the assigned DOD criminal investigative organizations such issues as the current status of significant investigations and their coordinations with prosecutive authorities.

5.1.3 Require all coordination undertaken with the Department of Justice during a criminal investigation be performed by, or with the advance knowledge of, the appropriate DOD criminal investigative organizations and the DISA GC.

5.1.4 Ensure appropriate notification to other DOD components affected by a significant investigation of fraud or corruption related to procurement activities.

5.1.5 Ensure all proper and effective civil, administrative, and contractual remedies available to DOD to include debarment and suspension are, when found applicable and appropriate,

promptly considered by the necessary DISA officials. *This oversight includes monitoring any suspension or debarment action taken by the DISA GC, who is the Agency suspension and debarment authority.*

5.1.6 Establish procedures to ensure that a specific comprehensive remedies plan is developed for each significant investigation involving fraud or corruption related to procurement activities. These procedures shall include the participation of the appropriate DOD criminal investigative organization and the cognizant DISA components in the development of the plan.

5.1.7 Ensure identification and documentation of adverse impact in significant investigations of fraud or corruption related to procurement activities when adverse impact on a DISA mission can be determined. (This information will be used in the development of a remedies plan.)

5.1.8 Review, evaluate, and make recommendations to the Director on issues of safety and readiness resulting from investigations into defective products and product substitution in which a serious hazard to health, safety, or operational readiness is indicated.

5.1.9 Ensure appropriate command, procurement, and investigative organizations are provided all relevant information to determine if further inquiry is warranted on their part to prevent reoccurrence and detect other fraudulent activity.

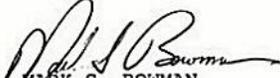
5.2 Director for Manpower, Personnel, and Security (MPS). The Director, MPS, will, in coordination with the Director for Procurement and Logistics (PLD) and the DISA GC, obtain training materials regarding fraud and corruption in the procurement process.

5.3 Director for Procurement and Logistics (PLD). The Director, PLD, will ensure all DISA-controlled procurement-related training includes a period of fraud and corruption instruction appropriate to the duration and nature of the training.

5.4 DISA General Counsel (GC). The DISA GC will, in coordination with the IG, make recommendations to the Director as to whether the Department of Justice should seek to intervene in a case affecting DISA brought under the qui tam

provisions of the False Claims Act. The DISA GC will also recommend to the Director whether to advise the Department of Justice to seek dismissal of a qui tam action in such cases where the Department of Justice has declined to intervene.

FOR THE DIRECTOR:



MARK S. BOWMAN
Colonel, USA
Chief of Staff

1 Enclosure a/s

*This Instruction cancels DISAI 100-50-11, 28 February 2000.

OPR: IG

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Enclosure 1: **DISAI 100-50-11**

**CIVIL, CONTRACTUAL, AND ADMINISTRATIVE ACTIONS THAT CAN BE
TAKEN**

IN RESPONSE TO EVIDENCE OF PROCUREMENT FRAUD

(Extracted from DOD 7050.5, 7 Jun 89)

1. Civil.

1.1 Statutory.

- 1.1.1 "False Claims Act" (31 U.S.C 3729 et seq.).
- 1.1.2 "Anti-Kickback Act" (41 U.S.C. 51 et seq.).
- 1.1.3 "Voiding Contracts" (18 U.S.C 218).
- 1.1.4 "Fraudulent Claims-Contract Disputes Act" (41 U.S.C.604).
- 1.1.5 "Truth in Negotiations Act" (19 U.S.S. 2306 (F)).

1.2 Nonstatutory.

- 1.2.1 Breach of contract.
- 1.2.2 Breach of warranty.
- 1.2.3 Money paid under mistake of fact.
- 1.2.4 Unjust enrichment.
- 1.2.5 Fraud and/or Deceit.
- 1.2.6 Conversion.
- 1.2.7 Rescision and/or Cancellation.
- 1.2.8 Reformation.
- 1.2.9 Enforcement of performance bond and/or guarantee.

2. Contractual.

- 2.1 Termination of contract for default.
- 2.2 Termination of contract for convenience.
- 2.3 Termination for default and exemplary damages under the gratuities clause.
- 2.4 Rescision of contract.
- 2.5 Contract warranties.
- 2.6 Withholding of payments due to contractor.
- 2.7 Offset of payments due to contractor from other contractors.
- 2.8 Price reduction.
- 2.9 Correction of defects (or cost of correction).
- 2.10 Refusal to accept nonconforming goods.
- 2.11 Revocation of acceptance.
- 2.12 Denial of claims submitted by contractors.

- 2.13 Disallowance of contract costs.
- 2.14 Removal of the contractor from automated solicitation or payment system

3. **Administrative.**

- 3.1 Change in contracting forms and procedures.
- 3.2 Removal or reassignment of Government personnel.
- 3.3 Review of contract administration and payment
- 3.4 Revocation of warrant of contracting officer.
- 3.5 Suspension of contractor and contractor employees.
- 3.6 Debarment of contractor and contractor employees.
- 3.7 Revocation of facility security clearances.
- 3.8 Nonaward of contract based upon a finding of contractor nonresponsibility.
- 3.9 Voluntary refunds.

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