



SBIR Common Fraud Schemes and Consequences

Department of Transportation, Office of Inspector General

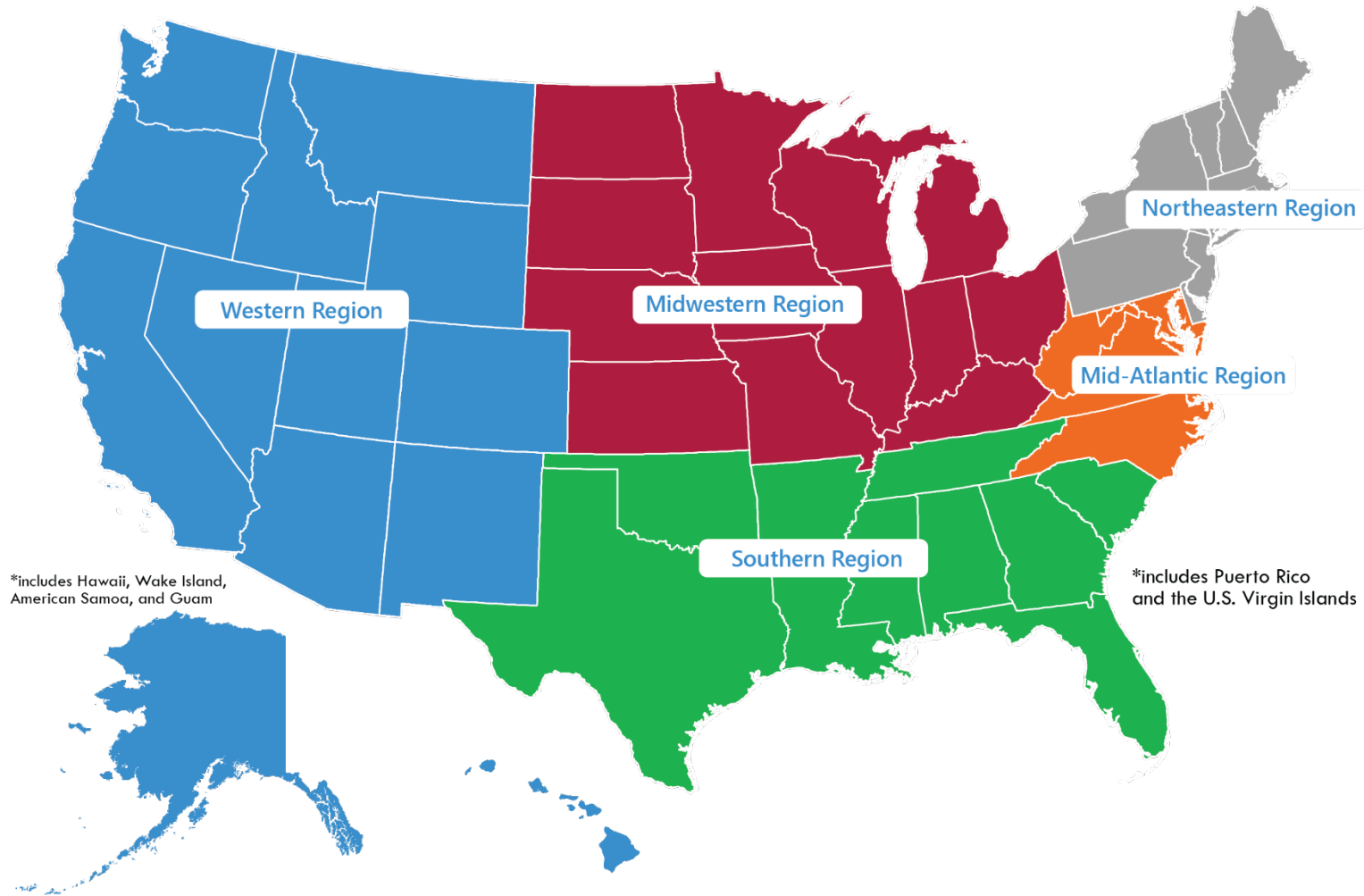


Expectations

The purpose of this presentation is to educate SBIR stakeholders on fraud, waste, and abuse by highlighting common types of fraud found in the Small Business Innovation Research (SBIR) program, and to show what OIG looks for in support of investigations.



Investigative Regions





Office of Investigations

**Principal Assistant
Inspector General for
Investigations**

**Deputy Principal
Assistant Inspector
General for
Investigations**

HQ Operations

Investigative Ops
Special Inv. Unit
Hotline

**Mid-Atlantic
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Raleigh, NC

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Woburn, MA
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**Cybercrimes
Unit**

Washington, DC
Atlanta, GA



Office of Investigations

- Conducts criminal, civil and administrative investigations of fraud and other allegations affecting DOT Operating Administrations, programs, contractors, grantees, and regulated entities.
- Partners with Federal, State, and local law enforcement agencies and prosecutors.

DOT-OIG Investigative Resources

Special Agents with Federal law enforcement arrest authority

Investigative tools (subpoenas, search warrants, undercover operations, electronic monitoring)

Specialize in fraud investigations

Computer crime forensics unit



Office of Investigations





Fraud Defined

- Fraud is described as any false representation about a **material fact or any intentional deception** designed to deprive the United States unlawfully of something of value or to secure from the United States a benefit, privilege, allowance, or consideration to which an individual or business is not entitled.”
- OIG does **not** prosecute innocent mistakes. Although the statute requires knowledge that the claim was false, the term “knowledge” includes “deliberate ignorance” or “reckless disregard for the truth.”



Please type your answer in the chat:

Who can commit fraud?

- A. Government contractors
- B. Subcontractors
- C. Agency personnel
- D. All of the above



Where Does Fraud Occur?

- Within the SBIR program, there are several points during the process where fraud can occur. They include, but are not limited to:
- During the application process;
- Within the proposal itself;
- Award period of performance; and
- Close-out



Four Main Types of Fraud

It is important to note that the presence of one or more indicators does not prove fraud, nor are the indicators shown all-inclusive for each of the schemes described.

- Misrepresentations or factual omissions
- Misrepresentation of expended funds
- Misuse of award funds
- Duplication of funds



Combatting Fraud

Misrepresentations or factual omissions

- Submitting a plagiarized proposal or false certifications about research
- Providing false information about the company and the principal investigator and their capabilities
- Submitting inaccurate labor rates
- Falsified letters of reference
- Sham websites or emails



Real World Examples: Proposal Submission

Applicant uses a 4,500 square foot state of the art technical facility including three clean rooms, ten laser benches, and a variety of laboratories.





Real World Examples: Proposal Submission

Applicant actually worked out of a storefront in a shopping center.





Misrepresentations of Expended Funds

- Falsifying how funds were used – personal use or for any use other than the proposed activities
- Misrepresenting work done and results achieved – plagiarized reports or falsely claiming work has been completed
- Research recycling – using research performed under a previous contract or plagiarized results for an award funded by a different source



Combatting Fraud

Misuse of Award Funds

- Using funds to pay for purchases other than funded research
- Funneling SBIR funds to personal accounts - falsifying time sheets or payment to vendors to conceal the improper use



Combatting Fraud

Duplication of Funds

- Receiving multiple SBIR awards from the same or different agencies to conduct the same research. This includes submitting identical deliverables for work that is supposed to be separate.



Combatting Fraud

Self-Dealing

- Occurs when providing subcontracts to entities where the principal investigator or their family has financial interest, and failure to comply with applicable federal cost principles (reasonable, allowable and allocable).
- A cost is reasonable if it is one a reasonable person would incur in the circumstances, after appropriate market research and price analysis.



Knowing the Rules

Which SBIR rules should you be particularly familiar with?

- **Duplicate or overlapping proposals may not be submitted to multiple agencies without full disclosure to all agencies.**
- Company must meet the Small Business Administration's requirements for a small businesses, including being majority American-owned and have **500 employees or less.**
- The PI's **primary employment** must be with the company during the contract period. **The PI may not be employed full-time elsewhere.**
- **Research and development must be performed in the United States.**



Concerns About Foreign Influence

- There is an increasing trend in the U.S. Government to view foreign collaborations with greater scrutiny; e.g. “foreign talent programs” or other foreign state-affiliated partnerships, particularly from countries perceived to be “of risk.”
- Accepting money from multiple sources for essentially equivalent research is always a violation, regardless of where it comes from – disclosure is key; the more you share the better the relationship with your project manager. This is particularly notable with “angel investors” who are seeking to invest in small, unestablished entities with little or no promise of return.
- Small business owners are encouraged to conduct due diligence and to “know your investor” practices to ensure they are not taking money from bad actors.



Consequences

What happens when are rules broken?

If you commit fraud or other wrongdoing in applying for or carrying out an SBIR award, OIG will investigate. Those who commit fraud are subject to administrative, civil and criminal action. Violations of civil or criminal law are referred to the Department of Justice (DOJ).





Consequences - Administrative

- Government can terminate contracts tainted by fraud.
- Government can debar the small business owner and/or employees. Debarment is typically 3 years, but can be longer.
- Prohibition from receiving any federal contracts or working as a subcontractor on federal contracts.



Consequences - Civil

- Although the statute requires knowledge that the claim was false, the term “knowledge” includes “deliberate ignorance” or “reckless disregard for the truth.”
- Includes treble damages (3x actual) and a fine of up to \$11,000 for each false claim.
- False claims liability includes payments received when the Government relied upon false information in the SBIR contract proposal, in a certification of current cost or pricing data, in a request for payment or in progress reports.
- Program Fraud Civil Remedies Act subjects anyone who knowingly makes or submits a false claim or statement to a civil penalty of not more than \$7,000 for each false claim or statement as well as twice the amount of any payments made by the Agency.
- Whistleblowers can receive up to 30% of an award for reporting fraud via the qui tam provision of the False Claims Act.



Consequences - Criminal

Providing false information to obtain an SBIR contract or about the work performed violates several criminal laws to include, but not limited to:

- False Statements - punishable to 5 years in prison, forfeiture and \$250,000 fine
- Theft of Federal Property - punishable to 10 years in prison, forfeiture and \$250,000 fine
- Wire Fraud - punishable to 20 years in prison, forfeiture and \$250,000 fine
- False Claims - punishable by \$250,000 fine for individuals and \$500,000 fine for corporations

Criminal forfeiture – full amount of contract; personal assets can also be seized to satisfy forfeiture or fine.



Investigations Case Study #1

Company made false statements to receive funding

- Company submitted proposals to multiple agencies that contained misrepresentations regarding its eligibility to seek SBIR and/or STTR grant awards, as well as other material aspects of their project, including employees, budget, and recommenders.

Outcomes

- Company pleaded guilty to two counts of false statements
- \$881,699 in restitution; 5-year probation

PRESS RELEASE

**Biotech Research Company Ordered to Pay
\$881,669.69 in Restitution for False Statements in
Grant Applications**



Investigations Case Study #2

Company violated the false claims act

- Company concealed its use of underpaid foreign graduate students who were ineligible to work at the company due to visa restrictions, to obtain SBIR contracts.

Outcomes

- 2-year voluntary exclusion from federal contracting and financial assistance
- \$500,000 recovery

PRESS RELEASE

**Lansing-Based Research And Development Firm
Pays \$500,000 To Resolve Federal Contract Fraud
Allegations**



True or False

T/F: The presence of a red flag equals fraud.

T/F: Duplicative funding is a violation of federal law.

T/F: Award work must be completed in the United States.

T/F: Proper documentation is not required to spend funds on a contract if it was discussed in the proposal.



Do The Right Thing

- The Government retains the right to examine the status of an SBIR contract at any time. This includes site visits; and requests for records including financial documents and timesheets.
- Good record keeping will help eliminate suspicion and ensure successful status checks.
- When in doubt, ask!



U.S. Department of Transportation
Office of Inspector General

Fraud & Safety
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