EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE, FREEDOM AND SECURITY

Directorate C
**Unit C/4: Financial support - Migration and Borders**

SOLID/2012/REV

**Committee**

**General programme Solidarity and Management of Migration Flows**

**Subject**: Fraud Indicators

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## Summary

The objective of this note is to increase fraud-awareness and strengthen the preventive and detective controls (and, potentially, corrective actions) of Member States during the management of SOLID funds. The aim is to give a better understanding of what fraud is and which areas are susceptible to fraud.

## Action

Member States are strongly encouraged to take into consideration this guidance throughout the implementation and management of SOLID funds but also ensure its wide dissemination to all bodies/beneficiaries dealing with SOLID funds. It is highly recommended that Member States use the information provided in this note as best practice in order to update their control procedures and checks, promote fraud-awareness and ensure the application of fraud reporting methods.

This note does not aim to replace national anti-fraud legislation but, rather, offer guidance that can be applied concurrently.

## Context

Article 310 (Title 2, Part 6) of the Treaty of the European Union states that the Union and the Member States, in accordance with Article 325, shall counter fraud and any other illegal activities affecting the financial interests of the Union. In this respect, Article 325 "Combatting Fraud" requires that the Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union and that they shall coordinate their action aimed at protecting the financial interests of the Union against fraud – to do this, they shall organise, together with the Commission, close and regular cooperation between the competent authorities.

Additionally, Article 53(b) of the Financial Regulation applicable to the general budget of the European Communities[1] states that, where the Commission implements its budget by share management the Member States shall take all the legislative, regulatory and administrative or other measures necessary for protecting the Communities' financial interests. These measures include preventing and dealing with irregularities and fraud. Overall, under each management mode, the general internal control system applied should achieve prevention and detection of fraud and irregularities.

Moreover, this guidance seeks to reinforce the Member States in fulfilling Article 95(2) of the Financial Regulation - applying to authorities and bodies participating in the implementation of the budget by either shared or decentralised management - and the requirement to communicate to the competent authorising officer information on candidates and tenderers which are in exclusion situations[2] and where the conduct of the operator concerned was detrimental to the Communities' financial interests.

Equally important, the legal basis of the SOLID funds[3] requires that Member States shall prevent, detect and correct irregularities and that they shall notify these to the Commission. Information on fraud and irregularities forms part of the existing Member States' reporting requirements, i.e. progress reports (on fraud) and final reports (on irregularities), as per Annex 4 and Annex 5 of the Implementing Rules, respectively. Audit Authorities' reports are also considered a source of such information.

**Definitions**

The relevant Implementing Rules of the SOLID funds legal basis define:

- ‘irregularity’: any infringement of a provision of Community law resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the European Union by charging an unjustified item of expenditure to the general budget

- ‘suspected fraud’: an irregularity giving rise to the initiation of administrative or judicial proceedings at national level in order to establish the presence of intentional behaviour, in particular fraud, as referred to in Article 1(1)(a) of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities’ financial interests. Under this article, fraud affecting the European Communities' financial interests shall consist of any intentional act or omission relating to:

    — the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,

[1] COUNCIL REGULATION (EC, Euratom) No 1605/2002

[2] Being an element of Commission Regulation 1302/2008 on the Central Exclusion Database

[3] Articles: 31(3) in ERFIII & RF, 33(3) in EBF and 29(3) in EIF

— non-disclosure of information in violation of a specific obligation, with the same effect,

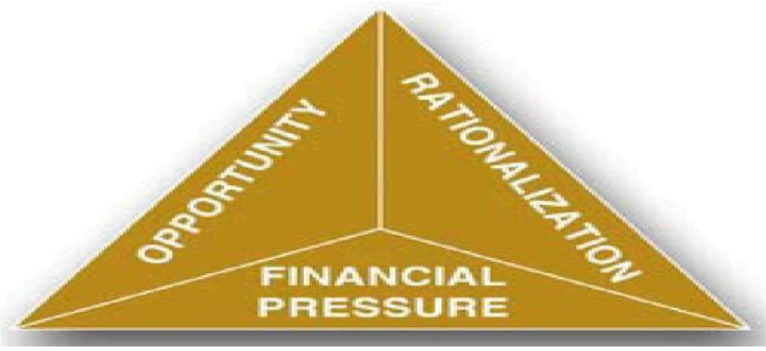
— the misapplication of such funds for purposes other than those for which they were originally granted.

The Association of Certified Fraud Examiners (ACFE)[4] classifies fraud into three types:

1. Intentional manipulation of financial statements (e.g. inappropriately reported revenues)
2. Any type of misappropriation of tangible or intangible assets (e.g. fraudulent expense reimbursements)
3. Corruption (e.g. bribery, bid rigging, undisclosed conflict of interest, embezzlement)

This classification can be a starting point for an organization to identify which areas are fraud-sensitive.

There are three widely accepted elements behind the accomplishment of fraud, which can be summarized as "the fraud triangle"[5]:




- Opportunity: even if a person has a motive, an opportunity must be given. For example, weak internal control systems (inadequacies in supervision & review, segregation of duties, management approval, system controls) may give rise to an opportunity.

- Rationalization: creating some sort of justification for the fraudulent actions committed. For example, persons may justify themselves by rationalizing their acts: "I deserve this money", "I am just borrowing and I'll pay back", "There was no formal approval system", "There was no reason for not breaking the rules", etc.

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[4] See "*Managing the Business Risk of Fraud – A Practical Guide*", *the Institute of Internal Auditors, the American Institute of Certified Public Accountants and the Association of Certified Fraud Examiners,* 2008. http://www.ifa-iaf.be/v1/frontEnd/libraryIfa/index.php?action=detail&id=29

[5] The concept of the fraud triangle was originated by fraud researcher Dr. Donald R. Cressey. See "*The Handbook of Fraud Deterrence*", by Harry Cendrowski, James P. Martin and Louis W. Petro, 2007, p. 41

- Financial motive/ pressure: the "need or greed" factor. Pure greed can often be a strong motivation; however, pressure can be exerted from personal financial problems or personal flaws such as gambling and drug addiction.

**Responsibility for prevention and detection of fraud**

- Member States

In addition to their obligations as defined by the Treaty of the European Union and the Financial Regulation, under the system of shared management of the funds belonging to the General programme "Solidarity and Management of Migration Flows", Member States are principally responsible for setting up management and control systems that function properly and monitor the quality of their operation. Member States should, using applicable rules and principles, protect the Community's financial interests by preventing, detecting and correcting irregularities and by notifying these (including suspicion of fraud) to the Commission.

Even though the primary responsibility for fraud prevention rests with management, successful fraud deterrence may depend on a combination of the efforts of management and auditors. Therefore, dissemination of this note by the Responsible Authority to the Certifying and Audit Authority is essential.

- Commission

Within the context of the Treaty of the EU, the Financial Regulation and the specific legal bases, the Commission must satisfy itself that the Member States have set up management and control systems that comply with the relevant legal bases and, with reference to annual audit reports and own audits, that the systems function effectively during the programming period.

**Management and control environment**

In addition to the satisfactory function of the management and control systems, elements that can help prevent fraud are: a fraud policy, a code of conduct, an ethics policy, whistleblower programmes, internal guidelines and practices, oversight by the management board/ committee, deterrent financial corrections. Anti-fraud measures and relevant national legislation are also important aspects of the control environment.

**The points presented in Annex 1 do not represent an exhaustive list of fraud schemes and indicators. Nevertheless, they are to be used on a best practice basis. They represent common and recurrent fraud schemes with their relevant fraud indicators ("red flags").**

**European Anti-fraud policy**

Drawing on its accumulated knowledge and experience, the European Anti-Fraud Office (OLAF) helps the authorities responsible for managing EU funds – inside and outside the EU – to understand fraud types, trends, threats and risks, and to protect the EU's financial interests by preventing fraud of all kinds.

OLAF gathers data from its own operational experience and a variety of other sources, including Commission audits, Court of Auditors reports, national partner authorities, open and commercial sources. As well as using this information for its own investigations and analyses, OLAF shares it through databases and applications such as:

- Central Exclusion Database (CED) – contains details of people, companies and organizations banned from receiving EU funding because they are bankrupt or have been convicted for fraud or corruption involving EU funds or revenue. CED is open to EU institutions and Member States' authorities

Other databases exist but are not open to Member States.

**Procedure for reporting fraud to OLAF**

EU citizens can inform OLAF about suspicions of fraud or other serious irregularities with a potential negative impact on EU funds (revenue, expenditure or assets). Suspicions of serious misconduct by Members or staff of EU Institutions and bodies affecting the financial interests of the European Union can also be reported.

It is mainly responsibility of Member States to detect and to investigate fraud cases involving EU funds occurring at their territories. Member States can, when appropriate, ask for OLAF's support.

OLAF cannot investigate: fraud with no financial impact of EU funds or corruption which does not involve Members or staff of EU Institutions and bodies (such allegations should be reported to national police); fraudulent use of the EU logo or the name of EU institutions (such allegations should be reported to the central information service "Europe Direct"[6]).

OLAF can be contacted anonymously, without any formalities, in any of the 23 official EU languages. Information regarding suspicions should be given as precise as possible. Any available documents to support the allegations should also be provided.

OLAF contact details (online, email or by post) can be found on its website: http://ec.europa.eu/anti_fraud/investigations/report-fraud/index_en.htm.

[6] http://europa.eu/europedirect/introducing/index_en.htm

**<u>Annex 1:</u>**

## <u>CONTRACTS AND PUBLIC PROCUREMENT</u>[7]

### (1) Corruption – bribes and kickbacks

Bribes and kickbacks refer to the giving or receiving of a "thing of value" to influence an official act or a business decision.

<u>Corrupt payments</u>

The "thing of value" need not be money, and often is not (the ambiguity remains and the perpetrator can more easily invent excuses if needed). Any tangible benefit given or received with the intent to corruptly influence the recipient can be a bribe. Specific "things of value" that have been given and received as bribes include, for example, gifts whose value exceeds thresholds set by organizations/companies, "loans" whether or not repaid, use of corporate credit cards, overpaying for purchases (e.g. paying € 500,000 for a building worth € 200,000), free use of apartment, or discounted rent, free use of a leased car, cash payments, payment by check or bank transfer of false "fees or commissions", often an agreed percentage of the contract obtained, and paid through a middleman or a *shell company*[8] set up by the recipient and hidden ownership interest in the corrupt contractor or seller). The things of value are often given in the order of this listing. This is because the parties may be unsure of the other's intentions at the outset and the bribe payer may not be able to afford more substantial payments until a contract is awarded.

After the contract award, most bribes are paid in the form of kickbacks, meaning that the contractor will pay or "kickback" an agreed percentage of each invoice payment it receives. Whatever manner the bribes are paid, prices are usually inflated or the quality of goods and services reduced, to cover the cost of the payments.

Corrupt payments facilitate many other types of fraud, such as false invoicing, phantom expenditure or failure to meet contract specifications.

<u>Corrupt influence</u>

Corrupt influence in the contract and procurement area is often reflected as: improper selection such as unjustified single source acquisition (there might be multiple awards under the threshold for public procurement), unjustified high prices, excessive quantity of purchases, acceptance of low quality and delayed or no delivery.

⚐ Fraud indicators:

- most commonly: unexplained favourable treatment of a contractor by a contracting employee over a period of time;

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[7] This section uses much of the structure and contents which ACFE (Contract and Procurement Fraud training) applies for professionals in the field of fraud prevention and detection

[8] A shell company is a company that exists, but does not actually carry out any business and does not own any assets

- close socialization between a contracting employee and service or product provider;
- unexplained or sudden increase in wealth by the contracting employee;
- contracting employee has an undisclosed outside business;
- contractor has a reputation in the industry for paying kickbacks;
- undocumented or frequent changes to contracts increasing the value of the contract;
- contracting employee declines promotion to a non-procurement position;
- contracting employee fails to file or complete conflict of interest declaration
- employee never taking holidays

### (2) Undisclosed conflict of interest

A situation of conflict of interest can occur if an employee of the contracting organization has an undisclosed financial interest in a contract or contractor. A potential conflict of interest might be immune from legal action if it is fully disclosed and approved by the employer in a timely manner. An employee might e.g. secretly own a supplier or a contractor, set up a shell company through which he or she purchases supplies at an inflated price or have an undisclosed interest in property sales or leases.

Fraud indicators:

- unexplained or unusual favouritism of a particular contractor or seller;
- continued acceptance of high priced, low quality work etc;
- contracting employee fails to file or complete conflict of interest declaration;
- contracting employee declines promotion to a non-procurement position;
- contracting employee appears to conduct side business
- Contracting employee worked for the contracted company prior to joining the Commission.
- Contracting employee relatives work for the contracted company.
- Relative or friend of the beneficiary of the contract gets employed on the contract by the contractor.
- Regular employees of the beneficiary get employed on the contract so that the beneficiary gets their salary as a partial or total kickback.
- Unusual behavior of an employee when dealing with a file: unexplained delays, documents missing, reluctance to answer to requests of the hierarchy..;

- Unusual behavior of an employee insisting to get information on a contract although he doesn't monitor it

### (3) Collusive bidding

Contractors in a particular geographic area or region or industry can conspire to defeat competition and raise prices through various collusive bidding schemes.

Complementary bidding

Complementary bids, also known as “shadow” bids, are intended only to give the appearance of genuine bidding and not to secure the buyer’s acceptance.

Cooperating bidders agree to submit higher priced or deliberately non-responsive bids to allow the selection of a favoured contractor at an inflated price. The winner shares a percentage of its profits with the losing bidders, hires them as subcontractors, or allows them to win other high priced contracts. Complementary bids may also be submitted from shell companies or from affiliated firms.

Bid suppression

For bid rigging schemes to succeed the number of bidders must be limited and all must agree to the conspiracy. If a new (a so-called “diver”) or uncooperative bidder enters the competition, the price inflation will become apparent. To prevent this, the conspirators may pay-off outside companies not to bid or use more forceful means to discourage their participation. The conspirators can also pressurize suppliers and subcontractors not to deal with non-cooperating companies to protect their monopoly.

Bid rotation

The conspirators submit complementary bids or refrain from bidding in order to allow each bidder to be the low bidder on a rotating basis. The rotation can be based on geographic area – one road contractor gets all work in one region, another company in the next – or by type of job, or by time, etc.

Market division

The cooperating companies may divide markets or product lines and agree not to compete in each other’s area, or to do so through collusive measures, such as submitting only complementary bids. Sometimes employees may be involved in collusive bidding schemes – sometimes with a financial interest in the “competing” businesses – and receive a share of the inflated prices.

Fraud indicators:

- winning bid is too high compared to cost estimates, published price lists, similar works or services or industry averages and fair market prices;

- persistent high prices by all bidders;

- bid prices drop when new bidder enters the competition;
- rotation of winning bidders by region, job, type of work;
- losing bidders hired as subcontractors;
- unusual bid patterns (e.g. the bids are exact percentage apart, winning bid just under threshold of acceptable prices, exactly at budget price, too high, too close, too far apart, round numbers, incomplete, etc);
- apparent connections between bidders, e.g. common addresses, personnel, phone numbers, registration of websites of different companies by same person, very similar logo and/or common lay-out of the documents provided etc;
- contractor includes subcontractors in its bid which are competing for the main contract;
- qualified contractors fail to bid and become subcontractors or low bidder withdraws and becomes a subcontractor;
- certain companies always bid against each other, others never do;
- losing bidders cannot be located in the Internet, business directories, have no address etc (in other words they are fictive);
- correspondence or other indications that contractors exchange pricing information, divide territories, or otherwise enter informal agreements;
- collusive bidding has been found in the following sectors and is also relevant for structural funds: asphalt paving, building construction, dredging, electrical equipment, roofing, waste disposal

### (4) Unbalanced bidding

In this fraud scheme contracting personnel provide a favoured bidder with useful inside information which is not available to other bidders, for example, that one or several line items in a request for bid will not be used in the contract (some line items may also be vague or ambitious on purpose and the favoured bidder is instructed how to respond). This information allows the favoured firm to submit a lower price than the other bidders, by quoting a very low price on the line item which will not be included in the final contract. Unbalanced bidding is one of the most effective bid rigging schemes as the manipulation is not as obvious as in other popular schemes (like unjustified single source acquisitions).

Fraud indicators:

- particular line item bids appear to be unreasonably low;
- changes are issued soon after contract awards to delete or modify line item requirements;

- line items for bids are different than the actual contract;
- bidder close to procurement personnel or participated in drafting specifications
- Statement of availability and exclusivity between bidder and expert is signed prior to the date of publication of the tender specifications, thus indicating that bidder had an anticipated knowledge of these specifications.

### (5) Rigged specifications

Requests for bids or proposals might contain specifications which are tailored to meet the qualifications of a particular bidder, or which only one bidder can meet. This is particularly common in IT and other technical contracts.

Specifications which are too narrow can be used to exclude other qualified bidders, or to justify single source acquisitions and avoid competition altogether. A pattern of rigged specifications which favour a particular contractor suggests corruption.

Fraud indicators:

- only one or a few bidders respond to request for bids;
- similarity between specifications and winning contractor’s product or services, or expert's profile (CV);
- complaints from other bidders;
- specifications are significantly narrower or broader than similar previous requests for bids;
- unusual or unreasonable specifications;
- high number of competitive awards to one supplier;
- socialization or personal contacts between contracting personnel and bidders during the bidding process;
- the buyer defines an item using brand name rather than generic description

### (6) Leaking bid data

Contracting, project design or bid evaluation personnel can leak confidential information to help a favoured bidder formulate a technical or financial proposal, such as estimated budgets, preferred solutions, interview questions communicated in advance to a favoured bidder's expert, or the details of competing bids.

Fraud indicators:

- poor controls on bidding procedures, e.g. failure to enforce deadlines;
- winning bid just under the next lowest bid;
- some bids opened early;
- acceptance of late bids;
- late bidder is the winning low bidder;
- all bids are rejected and contract is re-bid (may happen several times)
- Changes of certain consortium members between the cancellation of the tender and its re-launch,
- After tender cancellation, procedure is changed to restricted negociation.
- winning bidder communicates privately with contracting personnel by e-mail or otherwise during bidding period

### (7) Manipulation of bids

In a poorly controlled bidding process contracting personnel can manipulate bids after receipt to ensure that a favoured contractor is selected (changing bids, “losing” bids, voiding bids for alleged errors in specifications, etc)

Fraud indicators:

- complaints from bidders;
- poor controls and inadequate bidding procedures;
- indications of changes to bids after reception;
- bids voided for errors;
- a qualified bidder disqualified for questionable reasons;
- job not re-bid even though fewer than the minimum number of bids were received

### (8) Unjustified single source awards

This scheme often results from corruption, in particular if the pattern is repeated and questionable.

Such awards can be made by splitting purchases to avoid competitive bidding thresholds, falsifying single source acquisition justification, drafting very narrow specifications, extending previously awarded contracts rather than re-bidding.

Fraud indicators:

- single source awards above or just below competitive bidding thresholds;
- previously competitive procurements become non-competitive;
- split purchases to avoid competitive bidding threshold;
- request for bid mailed only to one service provider (in particular when a tender has been cancelled and the procedure has been changed to restricted negociation)

### (9) Split purchases

Contracting personnel may split a purchase into two or more purchase orders or contracts in order to avoid competition or higher-level management review. For example, if the threshold is € 250,000, a single procurement of goods and services for € 275,000 can be split into two contracts – one for goods for € 150,000 and the other for € 125,000 – to avoid bidding.

Split purchases (often called "salami slicing or saucissonnage") can indicate corruption or other schemes by a purchasing employer.

Fraud indicators:

- two or more consecutive, related procurements from the same contractor just under competitive bidding or upper level review thresholds;
- unjustified separation of purchases, e.g. separate contracts for labour and materials, each of which is below bidding thresholds;
- sequential purchases just under the thresholds

### (10) Co-mingling of contracts

A contractor with multiple similar work orders might charge the same personnel costs, fees or expenses to several of the orders, resulting in over-invoicing.

Fraud indicators:

- similar invoices presented under different jobs or contracts;
- the contractor invoices for more than one job for the same time period
- adding timesheets of the different projects of a given contractor results in staff of the contractor "apparently" working for more than 220 annual working days, never being ill and never taking holidays.

- An individual or a family (mother and daughters for example) manages several companies working in the same area, getting contracts funded by EU and operating in the same premises, with common staff

**(11) Cost mischarging**

A contractor can commit fraud by intentionally charging costs which are not allowable or reasonable, or which can not be allocated, directly or indirectly, to a contract. Labour costs are more susceptible to mischarging than material costs because employee labour can in theory be charged to any contract.

Labour costs can be manipulated by creating fictitious time sheets, altering time sheets or supporting documentation or simply invoicing for inflated labour costs without supporting documentation.

Fraud indicators:

- excessive or unusual labour charges;
- labour charges inconsistent with contract progress;
- apparent changes to time sheets;
- time sheets cannot be found;
- the same material costs charged to more than one contract;
- charging indirect costs as direct costs
- total working hours for an employee incoherent
- Costs of certain personnel may be charged as both direct and indirect.

**(12) Defective pricing**

Defective pricing occurs in contracts if contractors fail to disclose current, complete and accurate cost or pricing data in their price proposals resulting in an increased contract price.

Fraud indicators:

- contractor refuses, delays or is unable to provide supporting documents for costs;
- contractor provides inadequate or incomplete documentation;
- out-of-date pricing information;
- apparent high prices compared to similar contracts, price lists or industry averages

### (13) Failure to meet contract specifications

Contractors which fail to meet contract specifications and then knowingly misrepresent that they have met them commit fraud.

Examples of such schemes include the use of sub-standard building materials, inferior quality parts, failure to lay the required foundation in road projects etc. The motive, of course, is to increase profits by cutting costs or to avoid penalties for failing to meet deadlines etc. Many such schemes are difficult to detect without close inspections or tests by independent subject matter experts. The fraudsters may seek to bribe the inspectors though.

Fraud indicators:

- discrepancy between test and inspection results and contract claims and specifications;
- absence of test of inspection document or certificates;
- low quality, poor performance and high number of complaints;
- indications from the contractor’s expense records that the contractor did not e.g. purchase materials necessary for the works, does not own or did not lease equipment necessary for the work or did have the necessary labour on the site (NB: this type of cross-checking can be valuable)

### (14) False, inflated or duplicate invoices

A contractor might knowingly submit false, inflated or duplicate invoices, either acting alone or in collusion with contracting personnel as the result of corruption.

Fraud indicators:

- invoiced goods or services cannot be located in inventory or accounted for;
- no acknowledgment of receipt for invoiced goods or services;
- questionable or no purchase order for invoiced goods or services;
- contractor’s records do not reflect that the work was done or that the necessary costs were incurred;
- invoice prices, amounts, item descriptions or terms exceed or do not match contract items, purchase order, receiving records, inventory or usage records;
- multiple invoices with the same amount, invoice number, date etc;
- inconsistency of the invoice numbers

- sub-contracts in cascade;
- cash payments;
- payments to off-shore companies

### (15) Phantom service providers

a) An employee can authorize payments to a fictitious seller in order to embezzle funds. This scheme is most common where there is a lack of segregation of duties between requisition, receipt and payment.

b) Contractors can set up phantom companies to submit complementary bids in collusive bidding schemes, to inflate costs or simply to generate fictitious invoices. Experience has shown that fraudsters tend to use names of companies which are similar to the names of real companies.

Fraud indicators:

- service provider can not be found in any directories, the Internet, Google and other search engines etc;
- service providers address can not be found;
- the service provider lists incorrect street address or phone number;
- off-shore company used

### (16) Product substitution

Product substitution refers to the substitution, without the purchaser's knowledge, of inferior quality items for those which are specified in the contract. At worst, product substitution can be life-threatening, e.g. deficiencies in infrastructure or buildings. Substitution is particularly attractive in contracts calling for expensive high grade materials that can be replaced by similar appearing, much less expensive, products. The substitution often involves component parts which are not easily detected. Specially created samples can also be presented for inspection in order to deceive.

Fraud indicators:

- unusual or generic packaging: packaging, colours or design different than the norm;
- discrepancy between expected appearance and actual appearance;
- product identification numbers differ from published or catalogue numbers or numbering system;

- above average number of test or operation failures, early replacements, or high maintenance or repair costs;

- compliance certificates signed by unqualified or non-certified person;

- significant difference between estimated and actual costs for materials;

- contactor is behind schedule but quickly catches up;

- unusual or obliterated serial numbers; serial numbers are not consistent with legitimate manufacturer's numbering system;

- invoice or inventory item numbers or descriptions do not match purchase order terms

## LABOUR CHARGES AND CONSULTANCY SERVICES

### (1) Incurred labour cost

Without any external independent or physical verification, labour is very vulnerable to manipulation. A promoter might knowingly claim false labour, direct and indirect. The critical issue is whether the employee's time is properly charged to the project actually worked on. (No third party documentation may exist such as invoices, purchase orders, etc., to support labour costs). The most important control in the labour accounting system is the individual employee and the employee's acceptance of the responsibility to accurately record time worked.

Fraud indicators:

- distinctive charging patterns;

- sudden, significant shifts in charging;

- decrease in charges to projects/contracts in overrun or near ceilings;

- a disproportionate percentage of employees charging indirect;

- large number of employees reclassified from direct to indirect or vice versa;

- same employees constantly reclassified from direct to indirect or vice versa;

- weak internal controls over labour charging, such as employee time cards signed in advance, employee time cards filled in by the supervisor, time cards filled in with pencil or time cards filled in at the end of the pay period;

- actual hours and rates consistently at or near budgeted amounts;

- use of adjusting journal entries to shift costs between contracts, R&D, commercial work;

- significant increases or decreases in charging to sensitive accounts;

- employee's time charged differently than associated travel costs
- employee's time being charged under employee's status and under external contracts ('civil contracts')

### (2) Uncompensated overtime

A promoter might knowingly claim false overtime where no informal credit for the extra hours, such as additional time off, is usually given. The critical issue is whether the employee’s time is properly charged to the project actually worked on. No third party documentation exists.

Fraud indicators:

- professional staff required to work a significant amount of unpaid overtime on a variety of projects-both direct and indirect;
- salaried employees only charging the regular hours worked during any day for an extended period;
- a pattern of management directed unpaid overtime with employee bonus based on the extra hours worked;
- overrun contracts/projects worked on only during unpaid hours

### (3) Consulting/professional service

Based on a real case:

The services were properly supported with detailed consulting agreements, invoices and reports. The subjects covered were relevant to the contractor's operations and provided appropriate recommendations to improve the efficiency of certain operations. The contractor implemented the majority of the recommendations. The applicable agreements contained the necessary level of detail and the fees were considered reasonable.

However, for some companies contracted, their services were not previously used. The agreements were not specific in what services the companies were to provide; however, they did detail who would perform the services and the hourly rate involved. The individuals' resumes were not available. The fees were higher for these new companies. The company representative could not explain the higher fees or the specifics of what services were to be provided.

Moreover, invoices from these companies for additional services rendered were vague in description and only referred to the agreement. The expense was a lump sum with no breakdown of hours spent, hourly rate, travel expenses or other expenses. No trip reports or other summary reports were available. No additional information on these companies was available; the promoter was unable to provide anything other than verbal assurances of the services provided.

Finally, the invoices showed a post office box as a mailing address and no listing of these companies in the telephone directory.

⚐ Fraud indicators:

- no formal signed agreements or contracts; however, large sums paid for "services rendered" based on invoices with few specifics;

- formal agreements or contracts exist but are vague as to services to be rendered, and no other documented support, such as detailed invoices, trip reports or studies, exists to justify the expenses;

- services paid for were used to improperly obtain, distribute or use information or data protected by law or regulation;

- services paid for were intended to improperly influence the content of a solicitation, the evaluation of a proposal or quotation, the selection of sources for contract award or the negotiation of a contract, modification or claim. It does not matter whether the award is by the prime contractor or any tier subcontractor;

- services paid for were obtained or performed in some way that violated a statute or regulation prohibiting improper business practices or conflict of interest

### (4) Labour categories

Based on a real case:

A contractor's proposal for a renewal of time and material (T&M) contract, which had been awarded on a yearly basis for the last two years, indicated that the incurred hourly rates were significantly lower than the proposed rates, except for the administrative category. The original proposal had a full work force on board when the contract was originally bid. After being awarded the contract, the contractor hired/used employees at lower salaries than proposed. The qualifications of some of the newly hired employees were below the requirements per the request for proposal. The contractor had placed many of the newly hired employees in labour categories, for which they did not qualify.

⚐ Fraud indicators

- significant differences between proposed and actual unit costs or quantities with no corresponding changes in work scope or job requirements;

- task-by-task invoicing consistently at the ceiling level established in the contract. An exception would be if the contract/work order specifies how many hours to bill;

- specific individuals proposed as "key employees" not working on the contract;

- proposed labour not based on existing work force. Massive new hires needed. New hire labour rates significantly lower than proposed;

- employees’ skills do not match the skill requirements as specified for their labour category or the contract requirements (tuned CVs);
- employees typically charged indirect by the company being charged direct to the contract
- partners’, officers’, supervisors’ and other employees’ time being charged in noncompliance with the contract terms or with the company’s established accounting policies and procedures
- Companies do not have either the financial capacity or the technical resources (proper qualified staff) to perform the work.

## BENEFICIARY/GRANT-RELATED

### (1) False documents/ declarations

Financial declarations, certificates, CV's, documents proving co-financing can be falsified by applicants during the application, implementation and (interim or final) reporting stages in order to meet eligibility criteria.

Fraud indicators

- informal financial documents not signed by authorized personnel,
- declarations signed by persons without authority in the specific department e.g. participation in the project signed by someone other than the legal representative of the (potential) partner

### (2) Favouritism

Project (programme) managers and other employees responsible for publication, information or evaluation of calls for proposals and reports are in a position to (improperly) favour some of the (potential) applicants and beneficiaries by extra information, assistance, kindness and indulgence not given to others, or by looser evaluations for well-known applicants.

Fraud indicators

- unexplained favourable treatment of an applicant by a programme (project) employee over a period of time,
- repeated agreements with the same applicants,
- same evaluators for the same applicants over a period of time,
- indications of changes to applications after reception,

- communication of additional information to certain applicants, particularly prior to its official publication

- unofficial/ unauthorized contacts with applicants during the selection and award procedure

### (3) Double funding

Claiming funds from several sources for the same action/ project can lead to operational overheads and other indirect costs being charged more than once

Fraud indicators

- presenting the same grant application or cost statements as for a grant which was previously awarded ("copy-paste" errors),

- overlapping of similar projects,

- projects having the same sources of funding

- Same addresses and/or telephone numbers, websites registrants, contact persons, etc… for different sub-contractors

- Same individual charged as employee and external consultant or under 'civil contract'

### (4) Diversion of the grant for other (than the agreed) purposes

The grant can be used for unjust enrichment, personal gain or for other activities than foreseen in the proposal.

Fraud indicators

- Requests for amendments soon after the grant agreement has been signed or after the award decision has been notified,

- Requests for amendments (an extension) just before end date of activities,

- Disappointing results (final report).

## GENERAL

The following represent general points that may lead to the suspicion of fraud:

- The electronic address of a company/ organization (or its contact members) does not exist/ does not work

- The website of the company/ organization does not exist or is registered by a different entity or is always "under construction"

- The telephone number is the same as the fax number (this can be spotted already from the application/ tender proposal), or it is a mobile phone number, or is subscribed in a different country than the one of the company

- The key staff/ contact persons are always the same people and if their contact or professional details are searched on-line they give contradicting results (e.g. their CV contradicts LinkedIn, they live in a different (distant) country than their place of work, email does not exist).