

First Friday Fraud Facts

April 1, 2011

The Oregon State Controller's Office created this newsletter. With their permission, the Idaho State Controller's Office edits and distributes this newsletter as a cost-effective method of increasing awareness about ways to detect and prevent fraud, waste, and abuse in government.



QUESTIONS OR COMMENTS:

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As mentioned in last month's First Friday Fraud Facts (F⁴), much of the spending of the ARRA funds has often resulted in the utilization of contractor services. This edition of the F⁴ will continue with last month's topic of antitrust violations, and how they can impact your organization. Some concerns surrounding antitrust violations that can occur in the contracting process will also be discussed.

ANTITRUST VIOLATIONS—PRICE FIXING

Price fixing is an agreement between competitors to raise, fix, or otherwise maintain the price at which their goods or services are sold. This does not mean competitors agree to charge exactly the same price, or every competitor within an industry or area is part of the collusion. Any agreement that restricts price competition is considered price fixing and is a violation of the law.

Price fixing can take many forms; some examples include:

- Agreement between competitors to raise prices
- Agreeing to begin negotiations at the same price
- Eliminating, establishing, or adhering to price discounts
- Adopting a standard formula for computing prices
- Maintaining certain price differentials between different types, sizes, or quantities of products
- Fixed credit terms
- Not advertising prices

In addition, many price fixing schemes include some type of mechanism that will make sure everyone adheres to the agreement.

Some signs of a price fixing scheme include:

- Prices that stay identical for long periods of time
- Identical prices that were previously different
- Increase in prices not supported by an increase in costs
- Elimination of discounts, especially those that have historically been offered



Although no specific set of conditions lead to collusion, certain factors signal a potential situation where collusion could occur. Some of these include:

- Fewer sellers, making it easier for them to come together and agree on prices
- Alternative/substitute products which cannot be easily obtained
- Selling products with few differences, thereby making it easier for competing firms to reach a price agreement or common price structure

WHAT YOU CAN DO

Although it is difficult to identify antitrust violations, and even the most conscientious contract negotiator/buyer can be victimized, the following steps can be taken to discourage anti-competitive behavior:

- Soliciting bids from as many sellers as economically feasible will decrease the chances of a successful collusion. Some sources indicate collusion is more likely to occur when five or fewer bidders are involved.
- Only accept sealed bids delivered to a specified location by a given date and time. In addition, bids should be time-stamped upon receipt.
- Hold the public bid opening no more than one day after the closing date.
- Require each bid to include a certification of independent price determination.
- Retain all documentation that accompanies a bid. This includes envelopes, facsimile cover pages, email messages, etc.
- Train all personnel involved in the bidding process to be aware of the indicators of collusion.
- Maintain procurement records to provide an accurate history in the event that collusion is suspected.
- Question vendors when prices or bids do not make sense.
- Understand the markets in which you make purchases. Background knowledge can increase the likelihood of noticing suspicious behavior.
- REPORT ALL SUSPICIONS through appropriate channels within your organization.

ANNOUNCEMENTS FROM THE IDAHO STATE CONTROLLER'S OFFICE

1) Annual Internal Control Training:

When: a) Wednesday, May 4, from 8:15 a.m. – 10:15 a.m.

OR

b) Tuesday, May 10, from 2:30 p.m. – 4:30 p.m.

Learn why internal controls are important to your organization and who is responsible for ensuring they are practiced. The training will cover the objectives of internal controls, including the COSO's 17 points of focus and a round table style discussion, which will provide participants an opportunity to share their internal control concerns and receive feedback.

CPE: 2 Free

To register, please have you supervisor submit an email to Jennifer Bonilla at jbonilla@sco.idaho.gov. Supervisor authorization is required for all SCO training.