

we make housing affordable

**Florida Housing**  
Finance Corporation

# Fraud Awareness & Whistle-blower's Act

Office of Inspector General  
2018

[www.floridahousing.org](http://www.floridahousing.org)

227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301  
850.488.4197 • 850.488.9809 Fax

# Objectives

- Fraud Awareness

- Nature
- Detection
- Indicators



- Florida WB Statute



# Fraud Nature

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Institute of Internal Auditors (IIA) defines fraud as:

*Any illegal act characterized by deceit, concealment, or violation of trust. These acts are not dependent upon the threat of violence or physical force. Frauds are perpetrated by parties and organizations to obtain money, property, or services; to avoid payment or loss of services; or to secure personal or business advantage.*



# Nature – Cause of Fraud

## The Fraud Triangle

### Rationalization

Justification of dishonest actions.

**FRAUD**

### Opportunity

Ability to carry out misappropriation of cash or organizational assets.

### Pressure

Motivation or incentive to commit fraud.



Source: <http://www.fraud-magazine.com/article.aspx?id=4294988229>

# Nature - Fraud Schemes - Construction Related

Anti-Kickback Statute of 1986	Cost Mischarging	Leaking Bid Data
Base-Level Construction	Credit Card Fraud	Manipulation of Bids
Billing Manipulation	Cross Charging (Comingling of Contracts)	Medical Facilities
Bribery and Kickbacks	Defective Pricing	Payroll
Cash Larceny	Excluding Qualified Bidders	Product Substitution
Change Order Abuse	Expense Reimbursement Schemes	Progress Payment Fraud
Check Tampering	Failure to Meet Contract Specifications	Property Accountability
Collusive Bidding	False, Inflated, or Duplicate Invoices	Purchasing and Billing
Conflict of Interest	False Statements	Purchases for Personal Use or Resale
Contract Documentation	Federal Employees Compensation Act	Retail Environment Fraud
Contract Financial Management	Fictitious Vendor	Rigged Specifications
Contract Oversight and Surveillance	Government Furnished Equipment Fraud	Skimming
Contract Pricing	Labor Substitution or Labor Cost Mischarging	Source Selection
		Split Purchases
		Truth in Negotiations Act
		Unbalanced Bidding
		Unjustified Sole Source

# Nature - Fraud Schemes - Construction Related

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1. Bribery and Kickbacks
2. Change Order Abuse
3. Collusive Bidding
4. Conflict of Interest
5. Contract Oversight
6. Contract Pricing
7. Leaking Bid Data
8. Manipulation of Bids
9. Rigged Specifications

# Nature - Fraud Schemes

## 1. Bribery and Kickbacks:

- a. Bribery - employee accepts something of value in exchange for preferential treatment.
- b. Kickback - an amount of money given to someone in return for providing help in a secret and dishonest business deal.



Source: <http://www.floridaoig.com/>

# Nature - Fraud Schemes

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## 2. Change Order Abuse:

- a. Contractor colludes w/ procurement official:
  - i. Submits low bid to insure winning a contract.
  - ii. Submits change order requests after contract award.
- b. Dishonest contractor or colludes w/contract personnel:
  - i. Can submit unjustified or inflated change order requests to increase profits; or,
  - ii. Change order process extends contract, but should have been re-bid.



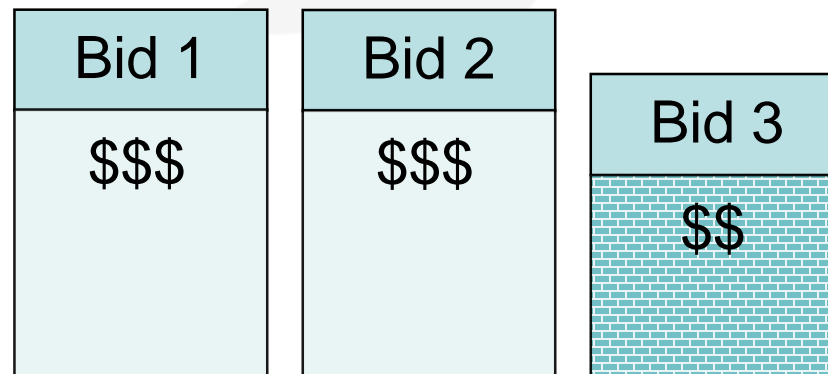
Source: FHFC 2017 Annual Report



# Nature - Fraud Schemes

## 3. Collusive Bidding:

- a. Bidders secretly agree to submit complementary high bids to allow preselected contractor to win.
- b. Suppliers and contractors agree to:
  - i. prohibit or limit competition; and
  - ii. manipulate prices to increase business available to each participant.



# Nature - Fraud Schemes

4. Conflict of Interest – can occur if personnel:
- a. Have undisclosed interests in a supplier or contractor by: accepting inappropriate gifts; favors; or kickbacks from vendors; and
  - b. Engage in unapproved employment discussions with current or prospective contractors or suppliers.



Source: <https://www.cisco.com>



https: <http://www.floridaoig.com>

Source: <http://www.dodig.mil/Resources/Fraud-Detection-Resources/Fraud-Red-Flags/>

# Nature - Fraud Schemes

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5. Contract Oversight - challenges:
- a. Shortages in quality assurance staffing.
  - b. Failure to properly monitor contract performance enables fraud:
    - i. Contractors failing to meet terms
    - ii. Product substitution



Source: FHFC 2017 Annual Report

# Nature - Fraud Schemes

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## 6. Contract Pricing

- a. Supply and services purchase prices must be fair and reasonable.
- b. Failure to obtain fair and reasonable prices may create opportunities for fraudulent activities:
  - i. kickbacks,
  - ii. bribes, and
  - iii. gratuities.



Source: FHFC 2014 Annual Report

# Nature - Fraud Schemes

## 7. Leaking Bid Data

- a. Contracting personnel share info helps favored bidder formulate a proposal.
- b. Poor internal controls on bid procedures:
  - i. Deadlines not enforced
  - ii. Non-public opening of bids
  - iii. Winning contractor helped draft specifications
  - iv. Winning bid just under the next lowest bid
  - v. Employee socializes or accepts gifts / favors from suspected bidder



Source: <https://designdroide.com/water-faucet.html>

# Nature - Fraud Schemes

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## 8. Manipulation of Bids

- a. Employee can manipulate the bidding process in a number of ways to benefit a favored contractor or supplier:
  - i. Leaking info - competing bids, accepting late bids, changing bids, re-bidding work, etc.
  - ii. Contractor submits “low” bid understanding of contract amendments and price increases.
- b. Poor internal controls and inadequate P&P:
  - i. Winning bid voided due to errors
  - ii. Changes to contracts after receipt of bids
  - iii. Bids lost

# Nature - Fraud Schemes

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9. Rigged Specifications – employee drafts:
- a. Unduly narrow specifications in favor of a contractor to qualify;
  - b. Unduly broad specifications to qualify an otherwise unqualified contractor to bid; and
  - c. Broad specifications, which can be used w/ later contract amendments and change orders to facilitate a corruption scheme.



Source: <https://reisshardware.com/about/warehouse>

# Fraud Detection - Responsibility

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- Does your agency have a fraud policy?
- If so, what are your responsibilities?
- Always be alert to the possibility of fraud:
  - evaluate fraud indicators; and
  - decide whether any additional action is necessary; or
  - whether an investigation should be recommended.



## Implementation Standard 2120.A2

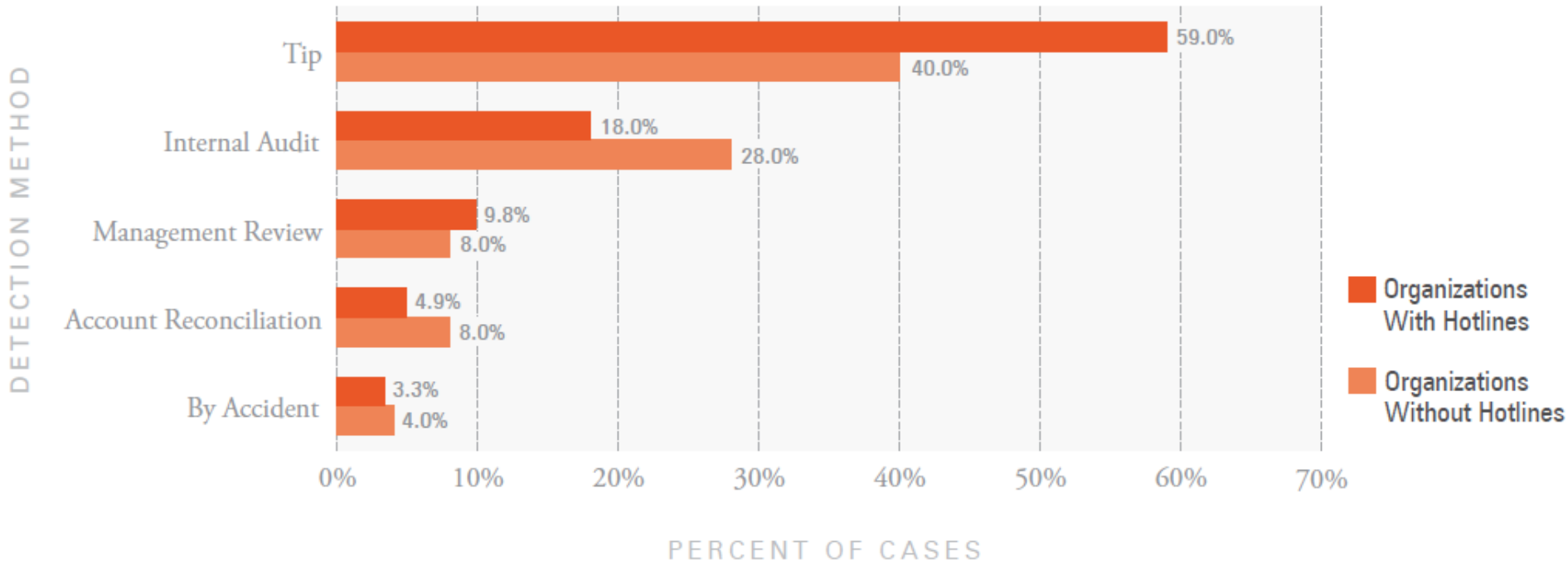
The internal audit activity must evaluate the potential for the occurrence of fraud and how the organization manages fraud risk.





# Detection - Methods

Figure 7: Impact of Hotlines on the Top Five Detection Methods



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Source: <https://www.acfe.com/rtnn2016/easteurope/2016-Report-to-the-Nations-Eastern-Europe-Edition.pdf>

# Indicators - Behavioral Red Flags



**OCCUPATIONAL FRAUD PERPETRATORS OFTEN EXHIBIT CERTAIN BEHAVIORAL CHARACTERISTICS ASSOCIATED WITH THEIR CRIMES.**

**THE FOLLOWING BEHAVIORAL RED FLAGS WERE IDENTIFIED IN AT LEAST 20% OF EASTERN EUROPE AND WESTERN/CENTRAL ASIA FRAUD CASES IN OUR STUDY:**

**UNUSUALLY CLOSE ASSOCIATION  
WITH VENDOR/CUSTOMER**



**33%**

**LIVING BEYOND MEANS**



**31%**

**FINANCIAL DIFFICULTIES**



**22%**

**WHEELER-DEALER  
ATTITUDE**



**21%**

Source: <https://www.acfe.com/rtn2016/easteurope/2016-Report-to-the-Nations-Eastern-Europe-Edition.pdf>

# Indicators - Terminology

- Behavioral Symptom

- Drastic change may be an indicator
- Guilt or stress may cause noticeable changes



- Document Symptom

- Tampering with accounting records
- Keeping two sets of books / forcing reconciliation



- Lifestyle Symptom

- Unexplained rise in social status or material consumption



# Indicators - Document Symptom

## Concealment of Fraud Schemes

In addition to gathering information about how the frauds were perpetrated, we also asked survey respondents how the perpetrators attempted to conceal their schemes. While the sample size of cases from Eastern Europe and Western/Central Asia in which concealment methods were provided was quite small, illustrated below are the four most common methods used by the perpetrators in our study.



**CREATED FRAUDULENT  
PHYSICAL DOCUMENTS**



**FORCED/ALTERED  
ACCOUNT  
RECONCILIATIONS**



**ALTERED TRANSACTIONS  
IN THE ACCOUNTING  
SYSTEM**



**ALTERED PHYSICAL  
DOCUMENTS**



Source: <https://www.acfe.com/rtnn2016/easteurope/2016-Report-to-the-Nations-Eastern-Europe-Edition.pdf>

# Whistle-blower's (WB) Act

State employees should contact the Whistle-blower's Hotline to report: Violations of law that present a clear and present danger to the public's health, safety, or welfare

**Whistle-blower's Hotline**



Whistle-blower's Hotline:  
P.O. Box 151  
Tallahassee, FL 32302

**(800) 543-5353 toll free**

In Tallahassee, call:  
(850) 922-1060

Blow the whistle on fraud  
and abuse in Florida.

- Gross mismanagement
- Gross waste of funds
- Gross neglect of duty



# Whistle-blower's (WB) Act

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## **Section 112.3187 – 112.31895, FS**

It is the intent of the Legislature to prevent agencies or independent (agency) contractors from taking retaliatory action against an employee or independent contractor who reports violations of law which creates a substantial or specific danger to the public's health, safety, or welfare.



# Nature of Information Disclosed



*“Any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by an employee or agent of an agency or independent contractor which creates and presents a substantial and specific danger to the public’s health, safety or welfare.”*

*“Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, suspected or actual Medicaid fraud or abuse, or gross neglect of duty committed by an employee or agent of an agency or independent contractor.”*

Subsections 112.3187(5)(a) & (b), F.S.

# WB Act – Specific Details

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- IG for purposes of Whistle-blower's Act – make determinations and conduct the investigations
- Protection for WB
- Confidentiality
  - WB Identity
  - Active Investigative Information
- Investigative Timeframes
  - Determinations (20 days)
  - Investigations (60 days)
- Governors CIG – WB Hotline
- WB Response – 20 days
- Referral to LE if Criminal





