

First Friday Fraud Facts

June 5, 2009

Share your stories

If you have a case you would like to see shared in *First Friday Fraud Facts*, please let us know.

QUESTIONS OR COMMENTS:

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This edition will continue on the topic of Antitrust violations and how they can have an impact in your organization. As we mentioned in last month's issue; much of the spending that will occur as a result of the ARRA will likely be done in a way that will utilize the services of contractors. As such this issue is a continuation from last month and will cover some of the issues surrounding antitrust violations that can occur in the contracting process.

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 that competitors agree to charge exactly the same price or that 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;
- And not advertising prices.

In addition, many price fixing schemes include some type of mechanism that will make sure that 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;



- Increases in prices that are not supported by an increase in costs;
- Elimination of discounts, especially those that have historically been offered.

Although there is no specific set of conditions that would lead to collusion; there are certain factors that can lead to a favorable situation for collusion to occur. Some of these include:

- Fewer sellers makes it easier for them to come together and agree on prices.
- Alternative/substitute products cannot be easily obtained.
- When products have few differences it is easier for competing firms to reach a price agreement or common price structure.

WHAT CAN YOU DO

Although it is difficult to identify anti-trust violations, and even the most conscientious contract negotiator/buyer can be victimized, there are a few things that can be done to discourage anti-competitive behavior.

- Soliciting from as many bidders 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 that are delivered to a specified location by a given date and time. In addition, it is recommended that all bids be time stamped upon receipt.
- Hold the public bid opening at least 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 for 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.

TRAINING OPPORTUNITIES

OMB's NEW Compliance Supplement for Circular A-133 Audits: How Grantees Can Use it for Audit Readiness

Date: Wednesday, July 1, 2009

Time: 10:00 a.m. – 12:30 p.m.

Location: Department of Consumer and Business Services
350 Winter St NE, Room 260
Salem, OR 97309

Cost: FREE (sponsored by SCD)

CPE: 1.5 credit hours

Registration: If you are interested in attending, please sign-up early by sending an email to SCD.Register@state.or.us. The following information should be included in the text of your email:

1. Attendee Name
2. Agency Name and Address
3. Email Address
4. Telephone Number

If you have questions please contact Erin Haney at erin.d.haney@state.or.us or (503)378-3156 ext. 277.

**FIRST FRIDAY FRAUD FACTS IS
PUBLISHED BY THE STATE
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<http://www.oregon.gov/DAS/SCD/>

WHO CAN YOU CALL FOR HELP?

The State Controller's Division reminds state agencies that it is always available to answer internal control questions. If you have an internal control problem or an audit finding and need help in resolving it, please contact:

Erin Haney

**Statewide Financial Internal Control
Officer**

erin.d.haney@state.or.us

503-378-3156 x277

Internal control tools are on the Web!

http://www.oregon.gov/DAS/SCD/internal_controls.shtml