

Office of the Inspector General, DoD

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DoD Coordination of Remedies Program

Executive Summary

Introduction. When a Defense Criminal Investigative Organization¹ (DCIO) determines that a procurement fraud crime has occurred, the DoD can pursue criminal, civil, and administrative actions to seek remedies appropriate to the wrongdoing. On June 7, 1989, the DoD issued Directive 7050.5, "Coordination of Remedies for Fraud and Corruption Related to Procurement Activities," to require coordinated actions in procurement fraud matters. The Directive requires DoD Components to monitor and coordinate "significant" procurement fraud or corruption cases,² to pursue appropriate contractual and administrative actions to recover funds lost through fraudulent or corrupt activities, and to coordinate with all other affected DoD Components. The Directive also mandates that DoD Components "establish a centralized organization to monitor and ensure the coordination of criminal, civil, administrative, and contractual remedies for each significant investigation of fraud or corruption related to procurement activities affecting the DoD Component." In FY 1995, DCIO procurement fraud investigations resulted in 515 indictments or convictions; 314 suspensions or debarments from Government contracting; and \$404 million in criminal, civil, and administrative fines, penalties, and settlements (\$86.2 million criminal, \$221.2 million civil, and \$96.6 million administrative).

Evaluation Objectives. We reviewed the implementation of DoD Directive 7050.5 by the Army, Navy, Air Force, Defense Criminal Investigative Service, and the Defense Logistics Agency to determine the effectiveness and efficiency of the efforts to coordinate and monitor the remedies process throughout the DoD, whether remedies were sought in a timely manner for significant cases (as defined by DoD Directive 7050.5), whether problems arose between the DoD Components that worked joint investigative cases, and whether case files and databases were accurate. We also solicited recommendations for program changes that might make the coordination of remedies process more effective and efficient.

Evaluation Results. The Army, Air Force, and Defense Logistics Agency have sound coordination of remedies programs (Appendix C). All cases sampled at these activities (154) were referred for administrative action, when appropriate. Cases were referred to the suspension and debarment officials for action, and the suspension and debarment

¹The DCIOs are the U.S. Army Criminal Investigation Command, the Naval Criminal Investigative Service, the Air Force Office of Special Investigations, and the Defense Criminal Investigative Service. The Defense Criminal Investigative Service is the criminal investigative arm of the Inspector General, DoD.

²The Directive defines "significant" cases as those involving an alleged loss of \$100,000 or more; corruption cases related to procurement that involved bribery, gratuities, or conflicts of interest; and any investigation into defective products or product substitution in which a serious hazard to health, safety, or operational readiness is indicated, regardless of loss value.

officials notified the coordination of remedies program managers once action was taken. In all cases sampled, program managers had processes for tracking on-going cases and, in all cases, remedies plans were prepared, when appropriate. Program officials were organized and thorough and had good communication and support for the program within their commands. Program officials and suspension and debarment officials were dedicated to ensuring program success.

While overall the DoD Components had good communication within their own organizations, information flow with and between investigative organizations needed improvement. This lack of communication hindered the suspension and debarment officials' ability to take prompt action in certain cases and to notify their contracting officers and business community of proposed actions against contractors who may have other contracts pending with the Government. Communication at the suspension and debarment level was good but not always at the investigative level. DoD Directive 7050.5 directs:

Secretaries of the Military Departments and the Inspector General, DoD shall: Discuss regularly with the centralized organization such issues as the current status of significant investigations and their coordination with prosecutive officials. If the DoD criminal investigative organization has prepared any documents summarizing the current status of the investigation, such documents shall be provided to the centralized organization. Completed reports of significant investigations also should be provided to the centralized organization.

In some cases, suspension and debarment officials had difficulty obtaining case information from Defense Criminal Investigative Organizations. This difficulty hampered efforts by suspension and debarment officials to effectively and expeditiously pursue remedies. (Finding A)

The Navy's Coordination of Remedies Program was overly complex and its implementation involved too many contingencies. The process had many participants and little information flowed between the main program elements: the Naval Criminal Investigative Service; the Naval Inspector General; and the Naval Procurement Integrity Office, Office of the General Counsel. Responsibility for monitoring the program was assigned to the Naval Inspector General. Due to budget and personnel reductions, only one person was assigned to the program. This process impacted the program in three ways:

- o With more than 800 procurement fraud cases, the centralized organization was unable to do much more than perform in a limited oversight capacity.

- o Other DoD Components would bypass the Naval Inspector General's office and work directly with the Procurement Integrity Office.

- o Information was not exchanged effectively between the Navy and the other DoD Components. (Finding B)

The Defense Criminal Investigative Service works closely with the Assistant U.S. Attorneys and the Department of Justice, but relies on the Defense Logistics Agency to initiate and pursue administrative remedies on cases involving contracts administered by the Defense Logistics Agency. Remedies coordination for the Defense Criminal Investigative Service is accomplished by other DoD Components. The Defense Criminal Investigative Service Coordination of Remedies Program tracks cases and exchanges information with other centralized organizations to enhance communication and joint case efforts. (Appendix C)

Summary of Recommendations. Until the Defense Criminal Investigative Organization Information System or a similar system is implemented by the DoD investigative community and is capable of satisfying the need for information exchange, we recommend that Commanders and Directors of the Defense Criminal Investigative Organizations re-emphasize the importance of the Coordination of Remedies Program and the critical role the criminal investigator plays in that process. Of particular importance is the timeliness of sharing factual information derived during the investigation so that the appropriate remedies officials can use it in an effective manner.

We also recommend that the Navy transfer overall responsibility for its Coordination of Remedies Program to the Office of General Counsel, Procurement Integrity Office.

Management Comments. The Army, Navy, Air Force, Defense Criminal Investigative Service, and Defense Logistics Agency concurred with Finding A. The Marine Corps, or the Navy on behalf of the Marine Corps, was non-responsive.

The Navy concurred with Finding B and stated it will take the recommendations "under advisement at the highest levels of the Navy." See Parts I and II for a summary of management comments and Part III for the complete text of management comments.

In response to the Defense Criminal Investigative Service (DCIS) portion of the report, the DCIS provided additional clarification.

Evaluation Response. DoD Component comments were responsive, with the exception of the Marine Corps. No comments were received from the Marine Corps or the Navy on behalf of the Marine Corps. As a result of the clarification from DCIS, we changed the discussion of the Defense Criminal Investigative Service.

We request the Director, Procurement Integrity Office, Office of the General Counsel, Department of the Navy, provide additional comments with an effective date for planned actions to meet the requirements of Recommendation B.1. by May 30, 1997. We also request the Marine Corps, or the Navy on behalf of the Marine Corps, provide comments to the final report by May 30, 1997.