



Detecting and Preventing Fraud, Waste, and Mismanagement of DOT Funds

April 19, 2023
CC2023005

Statement of Eric J. Soskin
Inspector General, U.S. Department of Transportation

Before the Committee on Science, Space, and Technology
United States House of Representatives

Chairman Lucas, Ranking Member Lofgren, and Members of the Committee:

Thank you for inviting me to testify today on preventing procurement and grant fraud, waste, and mismanagement in the Department of Transportation's (DOT) programs. Since DOT-OIG was established in 1979, we have been dedicated to providing independent and objective reviews of the economy, efficiency, and effectiveness of DOT programs and operations. A critical component of our work relates to detecting and preventing fraud, waste, abuse, and criminal violations of laws affecting the Department.

For fiscal year 2022, DOT's budget authority included approximately \$355 billion to fund programs and other operations through grants, contracts, and other means. Moreover, following Congress's addition of more than \$660 billion from the Infrastructure, Investment and Jobs Act (IIJA) and \$106 billion in COVID-19 relief multi-year funding, DOT now monitors significantly more contract and grant funds. The significant growth in the number of grants and total disbursement dollars increases the risk of misuse and calls for strong internal controls and oversight.

Of DOT's total appropriations, funds for research and development (R&D) play a relatively small role. In fiscal year 2023, DOT is managing a Research, Engineering, and Development budget of \$1.54 billion across seven Operating Administrations and the Office of Secretary of Transportation. For example, DOT's budget includes approximately \$552 million for Federal Aviation Administration's (FAA) R&D efforts, such as aeromedical and Next Generation Air Transportation System environmental research.

While not unique to R&D funding, our audit and investigative work has identified opportunities to improve DOT's overall oversight of procurement and grants to prevent mismanagement and fraud. My testimony today will focus on (1) OIG's process for investigating procurement and grant fraud, (2) DOT's processes for assessing fraud risks to target oversight, and (3) opportunities to enhance DOT's oversight and outreach to detect and prevent mismanagement and fraud.

Summary

Each year, DOT manages hundreds of billions of dollars to meet its mission—and its oversight responsibilities have increased dramatically following the influx of IIJA and COVID-19 relief funds. To help prevent the loss of these Federal dollars, a significant portion of our office's investigative portfolio pertains to investigating high-risk areas of procurement and grant-related fraud by DOT grant recipients and contractors. DOT has developed a Fraud Risk Management Implementation Plan and incorporated a fraud risk assessment into its improper payment risk

assessment process. However, detecting and preventing mismanagement and fraud also requires increasing fraud awareness outreach efforts and strengthening DOT's oversight of the use of Federal funds, particularly the collection and monitoring of documentation supporting grant expenditures. These and other steps will help the Department better safeguard taxpayer dollars across all its procurement and grant programs, including those related to R&D efforts.

Detecting and Investigating Procurement and Grant Fraud

Our Office of Investigations conducts criminal, civil, and administrative investigations of fraud and other allegations affecting DOT Operating Administrations, programs, contractors, grantees, and regulated entities. We receive allegations of fraud, waste, abuse, and other irregularities concerning DOT programs and operations from various sources, including complaints to the OIG Hotline, referrals from Government entities, and investigative analyses. Based on our review of the allegations, we determine whether our investigative attention is warranted.

A significant portion of our investigative work pertains to procurement and grant fraud. The goal of these investigations is to prevent the loss of Federal transportation dollars by investigating fraud by DOT grant recipients and contractors. Our investigations also help ensure a level economic playing field for American workers and disadvantaged business enterprises (DBE) in the distribution of Federal transportation funds. Further, in November, our OIG joined the Department of Justice's Procurement Collusion Strike Force, partnering with other agencies and offices committed to deterring, detecting, investigating, and prosecuting antitrust crimes and related schemes that target Government procurement, grants, and program funding.

In fiscal year 2022, procurement and grant fraud investigations represented 36 percent of our Office of Investigations' total case inventory. That year, 34 procurement and grant fraud investigations were accepted for criminal prosecution, 2 investigations were accepted for civil prosecution; 12 search warrants were executed; and 12 investigations resulted in suspension and debarment referrals to DOT Operating Administrations. Since fiscal year 2017, our procurement and grant fraud investigations have led to a financial impact of over \$100.9 million in restitution, \$30.7 million in forfeitures, \$29 million in recoveries, and \$10.2 million in fines. For example, a North Carolina engineering firm was recently sentenced to \$7 million in fines and more than \$1.5 million in restitution

for rigging bids for aluminum structure projects that facilitate drainage underneath or around paved roads, bridges, and overpasses.

Based on this and other work, we have identified high-risk areas related to procurement and grant fraud that present challenges for DOT, including bribery and corruption, bid rigging, false claims, labor and materials overcharging, DBE fraud, and product substitution. We have also identified a number of red flags that may indicate such fraud. For example, a major risk area involves bid rigging—collusion between two or more firms to plan the bidding on projects in order to influence pricing and/or project awards. Indicators of such fraud can be unusual bid patterns, such as bids that are too close, too high, round numbers or identical winning margins, or persistently high prices by all bidders.

Assessing Fraud Risks To Target Oversight

Strong processes to assess and identify fraud risks are critical components of safeguarding Federal funds. The Fraud Reduction and Data Analytics Act of 2015 (Fraud Act) required Federal agencies to establish financial and administrative controls to identify and assess fraud risks. In 2015, the Government Accountability Office (GAO) issued *A Framework for Managing Fraud Risks in Federal Programs* (Framework) to aid Federal program managers in combating fraud through a strategic, risk-based application of leading practices. Regarding assessing fraud risks, GAO's Framework emphasizes two main activities: (1) planning regular fraud risk assessments that are tailored to the program and (2) identifying and assessing risks to determine the program's fraud risk profile. Pursuant to the Fraud Act, the Office of Management and Budget (OMB) issued guidelines to Federal agencies to incorporate, as relevant and appropriate, the leading practices from the GAO Framework into their programs.

Following the passage of the Fraud Act, DOT developed a Fraud Risk Management Implementation Plan to outline its processes for identifying and assessing fraud risks. In line with its Plan, the Department began formalizing the governance structure for its fraud risk management processes and incorporated a fraud risk assessment into its improper payment risk assessment process. We are conducting ongoing audit work to assess DOT's fraud risk assessment processes. Our audit has focused on comparing the DOT's processes to the leading practices for fraud risk assessment described in GAO's Framework. For example, the Framework states that agencies that effectively manage fraud risks should plan and tailor regular fraud risk assessments for each program. The Framework also emphasizes the importance of identifying nonfinancial fraud risks. While all activity to defraud the United States can have serious consequences for program integrity, not all acts of fraud result in improper payments by the Government—some fraud could have safety or other consequences. We recently issued a draft

report—with recommendations—on our work to the Department. After the Department has had the opportunity to review and respond, we will publish our findings and recommendations on our website.

DOT recognizes the increased risk of fraud associated with the influx of COVID-19 relief and IIJA funding. For example, in its fiscal year 2023 budget submission, DOT described plans to require every program that received IIJA funding to have completed a fraud risk assessment by the end of fiscal year 2023. However, as DOT moves to further develop fraud risk management policy and guidance, it will be critical for the Department to take a comprehensive approach to its programs; consider broader financial and non-financial risks—beyond improper payment risks; and translate assessments into useful information for managers. Successful implementation of these and other enhancements will be important for the Department to target its oversight and better position itself to prevent fraud before it occurs.

Enhancing Outreach and Oversight To Prevent Mismanagement and Fraud

As part of its fraud management efforts, DOT must take steps to mitigate identified fraud risks. A key mitigation strategy includes increasing outreach efforts to enhance understanding among staff, grantees, and their contractors on how to recognize, prevent, and report potential procurement and grant fraud.

DOT and its Operating Administrations have an obligation to report all potential criminal matters to OIG. OIG's Office of Investigations conducts outreach activities to increase awareness on how and when to report suspected fraud, but this outreach does not usually reach the contractors who perform the work and may be knowledgeable about fraud-related activities. For example, in the case of DBE fraud, prime contractors play essential roles in obtaining DBE participation, monitoring change orders for impacts to DBEs, maintaining records, ensuring DBEs engage in commercially useful functions, and otherwise detecting fraud. As such, the Department and its grantees must do their parts to inform contractors of their responsibilities for preventing, detecting, and reporting fraud and help educate them in identifying fraud.

Strengthening oversight procedures is also necessary for detecting fraud, waste, and abuse. For example, grants carry an inherent risk of improper payments because grantees may intentionally or unintentionally use funds in ways that do not align with the program's purpose or guidelines. Collecting and monitoring documentation supporting grant expenditures is critical to detecting and

avoiding misused funds. However, our audit work has found that DOT faces challenges in this area. For example:

- In our recent work on FAA’s Coronavirus Aid, Relief, and Economic Security (CARES) Act grants, we found that the Agency modified policy to expedite review and payments by reducing supporting documentation requirements. This change increased risk and adversely impacted FAA’s ability to assess eligibility and validity.
- In 2020, we reported that the Federal Railroad Administration (FRA) could not reasonably assure that the California High Speed Rail Authority’s requests for reimbursement complied with all Federal requirements. This was in part because the Agency did not have procedures for reviewing grantees’ procedures for certifying expenditures, verifying whether billed costs in sampled invoices were reasonable or appropriate, or following up on findings and recommendations from oversight bodies.
- In a 2019 review, we found that the Office of the Assistant Secretary for Research and Technology did not routinely direct grantees to provide support showing that their cost reimbursement requests were reasonable or allowable.

Another challenge the Department faces is securing sufficient resources to manage and oversee contracts and grants, as well as improving the qualifications and training of oversight staff. For example, in 2021, we reported that FAA may be putting Federal funds at risk by allowing its acquisition workforce to manage complex, costly, and mission-critical contracts without the required training and certifications.

To its credit, DOT has taken steps to address our recommendations from these and other reports. For example, in response to our report on FAA’s CARES Act oversight, FAA has revised its policy on supporting documentation requirements to account for risk level, among other actions. Nevertheless, opportunities remain to enhance the Department’s oversight to safeguard Federal funds. On the whole, DOT will be better positioned to mitigate risks of unsupported and improper payments—and associated fraud risks—by establishing stronger internal controls, such as risk-based methodologies for closely reviewing grantees’ procedures, reimbursement requests, supporting documents, and other recipient-reported information.

Conclusion

Detecting and deterring fraud, waste, abuse, and mismanagement of Federal funds is vital to effective stewardship of taxpayer dollars. Our office is committed

to supporting DOT in meeting its mission while enhancing its oversight of billions in procurement and grant funds, including those related to R&D efforts. Strengthening its fraud assessment, detection, outreach, and mitigation efforts will be important for the Department to better position itself to prevent fraud.

This concludes my prepared statement. I would be happy to address any questions from you or Members of the Committee at this time.

U.S. Department of Transportation
Office of Inspector General

Fraud & Safety Hotline

<https://www.oig.dot.gov/hotline>
hotline@oig.dot.gov
(800) 424-9071

OUR MISSION

OIG enhances DOT's programs and operations by conducting objective investigations and audits on behalf of the American public.



1200 New Jersey Ave SE
Washington, DC 20590
www.oig.dot.gov