

# Whistleblower Protections



OIG protects current and former HHS employees, HHS employment applicants, HHS contractors, subcontractors, personal services contractors, grantees, and subgrantees who disclose information to OIG. They and other authorized recipients are protected from retaliation under the following:

- Whistleblower Protection Act of 1989,
- National Defense Authorization Act of Fiscal Year 2013, and
- Presidential Policy Directive 19 (PPD-19).

Visit this website to determine whether you are eligible to report whistleblower retaliation.

<https://oig.hhs.gov/fraud/report-fraud/eligibility.asp>

The Government considers the report protected if it meets the following criteria:

1

The disclosure is based on a reasonable belief that the alleged wrongdoing occurred.

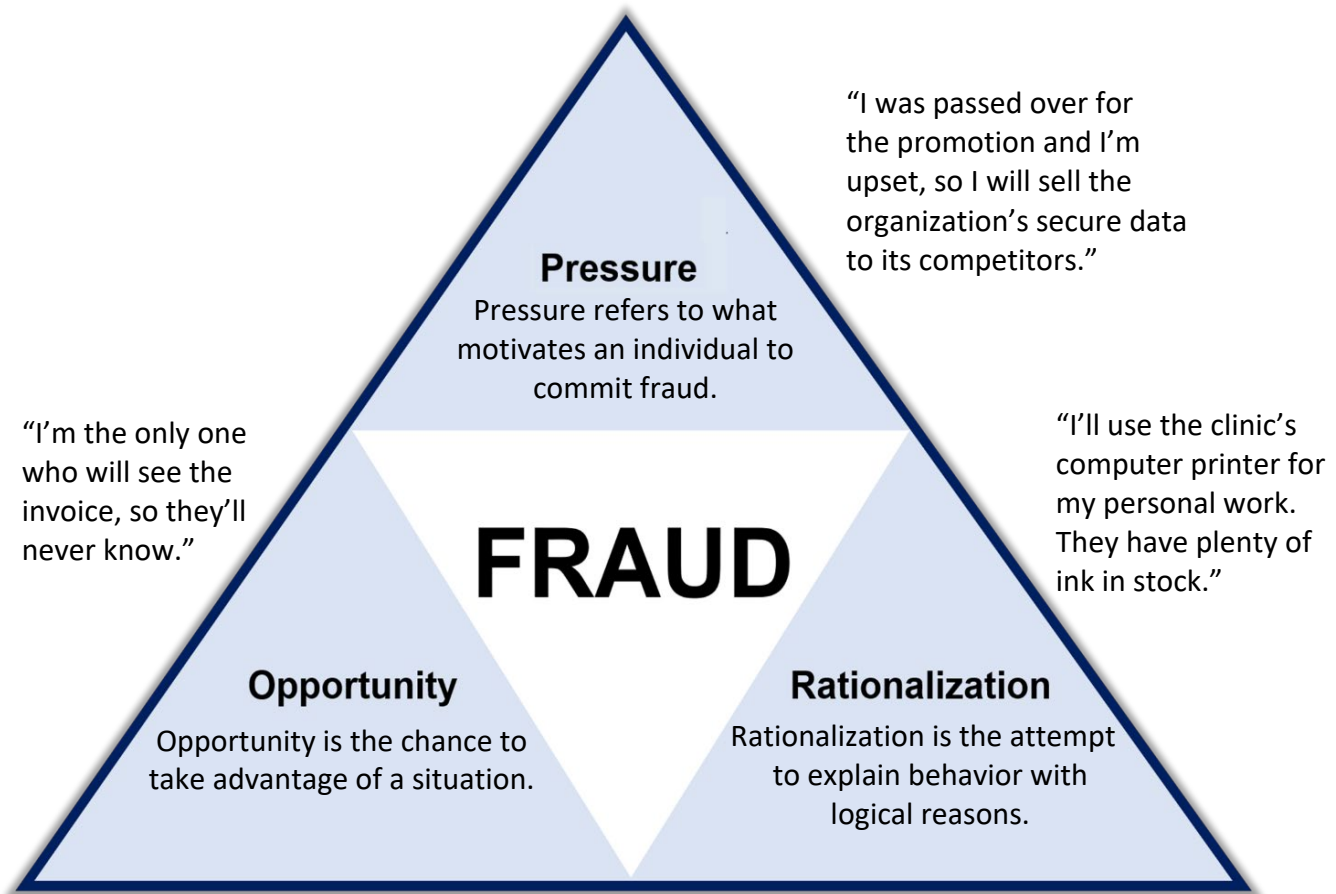
2

The disclosure is made to a person or entity authorized to receive it (i.e., authorized recipients). OIG protects employees who reasonably believe that they submitted evidence of wrongdoing to the OIG Hotline. However, some limitations exist as to who is authorized to receive a disclosure. Please visit <https://oig.hhs.gov/fraud/report-fraud/whistleblower.asp> to review these limitations.



# The Fraud Triangle

The Fraud Triangle illustrates the three elements that are present in environments where fraud occurs.



Adapted from Donald Cressey’s *The Fraud Triangle*

## What Can My Organization Do To Prevent Fraud?

Your organization can establish a compliance program to proactively avoid the vulnerabilities in The Fraud Triangle. Additionally, your organization can identify issues early and, as part of your compliance program, build robust internal controls to prevent them.

See our website for more information! [WWW.OIG.HHS.GOV](http://WWW.OIG.HHS.GOV)



**Office of Inspector General**  
U.S. Department of Health & Human Services

# Reporting Fraud, Waste, and Abuse to OIG

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We are all responsible for preventing fraud, waste, and abuse in HHS programs. You can help by reporting suspected fraud, waste, or abuse, or by self-disclosing if you suspect you have inadvertently violated the law or your program's requirements. OIG accepts tips and complaints from all sources about potential fraud, waste, abuse, and mismanagement in HHS programs. Complaints can be anonymous, and confidentiality can be requested.

**If you report or self-disclose suspected fraud, waste, or abuse, be sure to do the following:**

- **Review the information**

- Review the information related to the types of complaints OIG investigates and does not investigate on the OIG website:  
<https://oig.hhs.gov/fraud/report-fraud/before-you-submit.asp>.

- **Be prepared**

Be prepared to provide as much information as possible about the allegation and those involved, including:

- The name and contact information of the individual or business related to your complaint. This includes, if available, addresses, telephone numbers, email addresses, etc.;
- The narrative explaining the nature, scope, time frame, and how you came to learn about the activity in question;
- The name and contact information of any individual who can help corroborate the information you are reporting; and
- Supporting evidence in electronic format that can be included with your report. This may include email communications, documents, billing records, or photographs.

- **File the complaint**

You can file a complaint in the following ways.

- Online at <https://tips.oig.hhs.gov/>
- By Telephone at: 1-800-HHS-TIPS (1-800-447-8477)
- By Fax at: 1-800-223-8164
- By TTY at: 1-800-377-4950



# OIG Exclusion and Screening for Exclusions

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OIG has the authority ([42 U.S.C. § 1320a-7](#)) to exclude an individual or entity from participating as a provider or supplier in Federal health care programs, including Medicare, Medicaid, and Indian Health Services, among others.

The effect of an OIG exclusion is that no Federal health care program payment may be made for any items or services furnished (1) by an excluded person or (2) at the medical direction or on the prescription of an excluded person.

This payment prohibition applies to all methods of Federal health care program payment and applies even if the payment is made to a State agency or a person that is not excluded. For example, no payment may be made to a hospital for the items or services furnished by an excluded nurse to beneficiaries of Federal health care programs, even if the nurse's services are not separately billed and are paid for as part of a Medicare diagnosis-related group payment received by the hospital.

Read more about OIG's exclusion authorities here:

<https://oig.hhs.gov/exclusions/authorities.asp>

The exclusion and the payment prohibition continue to apply to an individual even if he or she changes from one health care profession to another while excluded.

If a health care provider arranges or contracts (by employment or otherwise) with a person that the provider knows or should know is excluded by OIG, the provider may be subject to Civil Monetary Penalty (CMP) liability if the excluded person provides services payable, directly or indirectly, by a Federal health care program. A provider could be subject to CMP liability if an excluded person participates in any way in the furnishing of items or services that are payable by a Federal health care program.

To address this risk area, health care providers should screen their employees and contractors against OIG's List of Excluded Individuals and Entities (LEIE) at the time of hire and routinely thereafter.

## **Who can be excluded?**

- Any individual or entity.

## **What is the effect of a program exclusion?**

- No payment may be made by any Federal health care program for any items or services furnished, ordered, or prescribed by an excluded individual or entity.
- The prohibition applies to the excluded person, anyone who employs or contracts with the excluded person, and any hospital or other provider or supplier where the excluded person provides services. The exclusion applies regardless of who submits the claims and also applies to all administrative and management services furnished by the excluded person.

## **How long do exclusions last?**

- Certain exclusions are imposed for a defined period, but others may be indefinite in length, such as those derived from licensing board actions.
- Reinstatement is NOT automatic. Any individual or entity wishing to again participate in the Medicare, Medicaid, and other Federal health care programs must apply for reinstatement and receive authorized notice from the OIG that reinstatement has been granted.

## **How do you check to see if an individual or entity is excluded?**

- Consult the LEIE at <https://oig.hhs.gov/exclusions>.
- The list is downloadable or searchable online by name or business name. Remember to check former names and variations of names.



## U.S. Department of Health and Human Services Office of Inspector General



### Oversight and Collaboration with American Indians/Alaska Natives



U.S. Department of Health and Human Services Office of Inspector General (HHS-OIG) provides oversight over all HHS federal health care programs and grant programs that serve American Indian/Alaska Native (AI/AN) communities through audits, evaluations, and investigations. HHS-OIG is committed to helping protect HHS programs from fraud, waste, and abuse so that tribal beneficiaries receive the health and human services that are so important to their well-being.



**Collaborating with the HHS-OIG can help safeguard the Infrastructure Investment and Jobs Act** funding for the Indian Health Service (IHS) Sanitation Facilities Construction Program.

- HHS-OIG reviews allegations of fraud, waste, and abuse in programs designed to provide AI/AN homes and communities with essential water supply, sewage disposal, and solid waste disposal facilities.
- We conduct audits and evaluations that provide recommendations for reducing risks and improving program operations.
- Our Office of Investigations launched a new effort to prevent and detect fraud in the IHS Sanitation Facilities Construction Program. Please email [IJAIOversight@oig.hhs.gov](mailto:IJAIOversight@oig.hhs.gov) to schedule a briefing on this work.

#### RESOURCES

HHS-OIG's Indian Health and Human Services webpage has compliance program resources that can help you prevent and detect fraud. Visit [OIG.HHS.GOV/AIAN](https://OIG.HHS.GOV/AIAN)



#### REPORT FRAUD, WASTE, AND ABUSE

If you suspect fraud, report it immediately online at

[TIPS.OIG.HHS.GOV](https://TIPS.OIG.HHS.GOV), or call  
**1-800-HHS-TIPS (1-800-447-8477).**



# Health Care Fraud Self-Disclosure Process



If your organization discovers that it has violated Federal laws, it can self-disclose violations and, if certain requirements are met, reduce its monetary and exclusion liability. The Health Care Fraud Self-Disclosure Protocol is available to facilitate the resolution of matters that, in the disclosing party's reasonable assessment, potentially violate Federal criminal, civil, or administrative laws for which Civil Monetary Penalties are authorized.

## Who Should Use the Health Care Fraud Self-Disclosure Protocol?

- All health care providers, suppliers, or other individuals or entities who are subject to OIG's Civil Monetary Penalty authorities are eligible to use the Self-Disclosure Protocol.

## How to Use the Health Care Fraud Self-Disclosure Protocol

- Acknowledge that the conduct is a potential violation.
- Identify the laws that were potentially violated.
- Submit your information through OIG's website here: [Health Care Fraud Self-Disclosure Protocol](#).

## Health Care Fraud Self-Disclosure Protocol Timeframes

- OIG expects disclosing parties to disclose with a good faith willingness to resolve all liability within the Civil Monetary Penalty Law's six-year statute of limitations.
- Prior to disclosure, the disclosing party should ensure that the conduct has ended or, at least, in the case of an improper kickback arrangement, that corrective action will be taken, and the improper arrangement will be terminated within 90 days of submission to the Self-Disclosure Protocol.

## How can you protect yourself?

- Establish an effective compliance program to prevent or mitigate violations.
- If a violation is found, submit a timely good faith disclosure to the OIG.
- Conduct an internal investigation and report its findings to OIG in the submission.
- Cooperate with OIG throughout the review and resolution process.



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# Self-Disclosure for Grantees



Recipients and subrecipients of Federal awards must properly manage the Federal funds they are awarded and meet grant program requirements. However, if award recipients or subrecipients learn of a potential violation of law relating to their award—regardless of whether the potential violation is of Federal criminal, civil, or administrative law and regardless of how the recipient learned about the potential violation—they should disclose the violation. OIG's Grant Self-Disclosure Program (SDP) provides HHS award recipients and subrecipients with a framework for disclosing, coordinating, evaluating, and resolving potential violations of law relating to their awards or subawards.

## Who Should Use the Grant SDP?

- Non-federal award recipients or subrecipients should use the Grant SDP to disclose potential violations of Federal criminal, civil, or administrative law relating to their awards or subawards.

## When to Use the Grant SDP?

- **Mandatory Disclosures:** Recipients and subrecipients of (and applicants for) Federal awards are required to timely disclose in writing all violations of Federal criminal law that involve fraud, bribery, or gratuity violations potentially affecting their award.
- **Voluntary Disclosures:** Recipients of HHS awards may voluntarily disclose conduct causing liability under the Civil Monetary Penalty Law or any other conduct that does not clearly fall within the scope of offenses described at [45 CFR § 75.113](#).

## How to Use the Grant SDP?

- Complete the [HHS OIG Grant Self-Disclosure Submission Form](#) by adding basic identifying information and a description of the conduct disclosed.
- Submit the disclosure by email to [grantdisclosures@oig.hhs.gov](mailto:grantdisclosures@oig.hhs.gov).

## How can you protect yourself?

- Establish an effective compliance program to prevent and mitigate violations.
- Promptly disclose the potential violation and conduct an internal investigation.
- Cooperate with OIG throughout the Grant SDP review and resolution process.

**For more information, visit the Grant Self-Disclosure Program website:**

<https://oig.hhs.gov/compliance/self-disclosure-info/grant.asp>



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# Additional Fraud, Waste, and Abuse Resources for Health Care Providers

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- The [OIG Hotline Operations](#) website accepts tips and complaints from all sources about potential fraud, waste, abuse, and mismanagement in HHS programs.
- The [OIG Compliance Resources Portal](#) includes educational materials such as compliance toolkits, videos, podcasts, and advisory opinions.
- The [OIG Fraud Information](#) website includes information such as OIG's Consumer Alerts; criminal, civil, or administration legal actions; a tips and complaints Hotline; and a list of fugitives wanted for health care fraud, abuse, or child support obligations. The website also details OIG's areas of focus including grant and contract fraud. Additionally, the website gives information about OIG's Whistleblower Protections, Fraud Risk Indicators, State False Claims Act reviews, and Operation Care that helps protect the health and well-being of HHS beneficiaries, including residents in long-term care facilities such as nursing homes.

Please check out our website  
[oig.hhs.gov/AIAN](https://oig.hhs.gov/AIAN)  
for additional compliance-based trainings and resources!



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# Additional Fraud, Waste, and Abuse Resources for Grantees

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- The [HHS Grants Policy Statement](#) includes important information on the general terms and conditions for discretionary grants and cooperative agreement awards. The statement covers the grant process, the terms and conditions of grant awards, and HHS Operating Division specific information.
- The [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#), commonly called the Uniform Grant Guidance, is a “government-wide framework for grants management.” The purpose of the Uniform Grant Guidance is to reduce the administrative burden on grantees and guard against fraud, waste, and abuse. The guidance, among other things, directs grantees to focus audits on areas that have previously been identified as risk areas for fraud, waste, and abuse. Additionally, the guidance emphasizes that grantees should have strong internal controls to guard against these risks.
- The [OIG Grant Fraud](#) website provides more information about and examples of OIG’s grant fraud related investigations, audits, and evaluations.
- The [GRANTS.gov](#) website provides more detail about how you can help fight grant fraud across the Federal Government, as well as your responsibilities.
- The [OIG Hotline Operations](#) website accepts tips and complaints from all sources about potential fraud, waste, abuse, and mismanagement in HHS programs.

Please check out our website

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