



## DCMA Instruction 906

### Contractor Fraud or Corruption

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<b>Approved by:</b>	G. L. Masiello, Lieutenant General, U.S. Marine Corps, Director

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**Purpose:** This issuance, in accordance with the authority in DoD Directive 5105.64, establishes policy, assigns responsibilities, and provides instructions for the DCMA Contract Integrity Center to function as DCMA's Centralized Organization in accordance with DoD Instruction 7050.05, and to take actions necessary to ensure the coordination of criminal, civil, contractual, and administrative remedies to ensure the integrity of DoD programs and operations.

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## **SECTION 1: GENERAL ISSUANCE INFORMATION**

### **1.1. APPLICABILITY.**

This Instruction applies to all DCMA activities unless higher-level regulations, policy, guidance, or agreements take precedence.

### **1.2. POLICY.**

It is DCMA policy to:

- a. Establish and maintain the Contract Integrity Center (CIC) to provide guidance to the DCMA workforce about reporting suspected contractor fraud or corruption.
- b. Continually enhance the DCMA workforce's capability to identify and report contractor fraud and corruption indicators. Promote effective coordination of remedies in order to preserve and maintain fraud deterrence, mitigation, and remediation.
- c. Promote close coordination between the DCMA workforce and CIC Counsel and among DCMA Counsel at all levels of the agency.
- d. Establish recurring fraud awareness training requirements for the DCMA workforce.
- e. Require Contracting Officers to be cognizant of the statute of limitations for timely coordination of remedies with Assigned Counsel and CIC Counsel pursuant to (or in accordance with) Sections 7101 through 7109 of Title 41, United States Code, also known as the "Contract Disputes Act of 1978," when they learn of a claim impacted by a matter involving contractor fraud or corruption.
- f. Execute this Instruction in a safe, efficient, effective, and ethical manner within all DCMA workplaces.

### **1.3. SUMMARY OF CHANGES.**

This Instruction was rewritten. Agency users and stakeholders should read it in its entirety. The following are the most notable changes:

- Renames DCMA Instruction 906, "Fraud, Waste and Abuse," to "Contractor Fraud or Corruption"
- Distinguishes responsibilities of the CIC DCMA Office of General Counsel (GC) and those of the DCMA Office of Internal Audit and Inspector General

## **SECTION 2: RESPONSIBILITIES**

### **2.1. DIRECTOR, DCMA.**

The DCMA Director will:

a. Designate the CIC as the Agency's Centralized Organization to monitor the progress of each significant investigation affecting DCMA and take necessary actions to ensure the coordination of criminal, civil, contractual, and administrative remedies, pursuant to DoD Instruction (DoDI) 7050.05.

b. Ensure DCMA personnel attend mandatory annual Fraud Awareness training and report suspicions of contractor fraud or corruption to the CIC.

### **2.2. CONTRACTING OFFICERS.**

The term Contracting Officer as used in this Instruction refers to all DCMA contracting officers to include Procuring Contracting Officers, Administrative Contracting Officers (ACOs), Divisional ACOs, Corporate ACOs, Commercial Determination Contracting Officers (CD-ACOs), Defective Pricing ACOs, and Termination Contracting Officers (TCOs). When a potential claim against a contractor involves fraud or corruption, the Contracting Officer will:

a. Review and gather all facts pertinent to the claim and report the fraud indicators to CIC Counsel before taking any action on the claim.

b. Coordinate with CIC Counsel prior to taking contractual action that could affect any investigation or litigation involving alleged fraud or corruption.

c. Support CIC Counsel, investigative agencies, and/or the Department of Justice (DoJ) in any investigation or litigation involving alleged fraud or corruption.

### **2.3. GC.**

GC will:

a. Assign Counsel to serve as the primary legal advisors to DCMA personnel at (or near) Contract Management Offices (CMOs), Region Headquarters, Centers, and Commands (including DCMA International and DCMA Special Programs Directorate (DCMAS)). Assigned Counsel will:

(1) Coordinate with CIC Counsel on contractor fraud and corruption matters.

(2) Support CIC Counsel, investigative agencies, and/or the DoJ in any investigation or litigation involving alleged fraud or corruption.

b. Oversee the operation of the CIC and coordinate with the Director, CIC, on resourcing necessary for mission accomplishment.

#### **2.4. OFFICE OF INSPECTOR GENERAL, DCMA.**

The Director, DCMA Office of Inspector General will:

a. Receive and review all Action and Information Hotline Referrals sent from DoD Inspector General (DoDIG).

b. Assign DoDIG Action and Information Hotline Referrals alleging contractor and/or contractor employee fraud or misconduct to CIC.

c. Monitor Action Referral Suspense dates and provide DoDIG statuses and closures.

d. Receive and review Hotline Completion Reports assigned to the agency for compliance with Quality Standards for Hotline Inquiries in accordance DoD Instruction 7050.01.

e. The Defense Criminal Investigative Service and Military Criminal Investigative Offices have primary jurisdiction for investigating all allegations of contract and procurement fraud offenses in contracts awarded by DoD components. DCMA does not perform contract fraud investigations.

#### **2.5. COMMANDERS/DIRECTORS.**

Commanders/Directors will:

a. Ensure annual Fraud Awareness Training is provided to employees on a fiscal year basis. Computer Based Training (CBT) is available on the CIC website at: <https://dod365.sharepoint-mil.us/sites/DCMA-PH-GC/SitePages/Contract-Integrity-Center.aspx> and on the Issuance Resource Page. Live training performed by the CIC is also available.

b. Ensure each new employee, including all military members and civilian personnel, are provided Fraud Awareness Training within 90 days of assignment to DCMA.

#### **2.6. CIC DIRECTOR.**

The CIC Director will:

a. Assign CIC Counsel to advise and train the DCMA workforce on suspected contractor fraud and corruption matters.

b. Assign CIC Counsel to maintain remedies and plans and support investigative agencies within geographic areas for investigations connected to DCMA.

c. Assign CIC Counsel to support Assistant United States Attorneys and DoJ in the litigation of civil or criminal fraud issues having a DCMA connection in Federal Courts.

d. Develop and maintain a database of contractor fraud and corruption matters impacting or relating to DCMA.

## **2.7. CIC COUNSEL.**

Attorneys assigned to the CIC will:

a. Provide Fraud Awareness Training for DCMA employees in their geographic area of responsibility to ensure they are familiar with various procurement fraud indicators or “Red Flags” (available on the Resource Page) used to help identify fraud as well as reporting procedures.

b. Receive and screen all reports of alleged contractor fraud and corruption from DCMA employees within their area to ensure Defense Criminal Investigative Organization referrals have substance and investigative potential.

c. Monitor all aspects of open matters within their assigned geographic area, maintain remedies plans, and ensure associated CIC database entries are properly completed.

d. Coordinate remedies so relevant individuals and functions are included in, and informed of, decisions and actions.

## **2.8. DCMA EMPLOYEES.**

DCMA Employees will:

a. Report suspected contractor fraud or corruption in accordance with Paragraphs 3.2.d. through 3.2.i.

b. Report agency internal fraud, waste, or abuse matters unrelated to contracts in accordance with Paragraph 3.2.j.

c. Support CIC Counsel, investigative agencies, and/or DoJ in any investigation or litigation involving fraud or allegations of fraud as referenced in Paragraph 3.3.b.

## SECTION 3: PROCEDURES

### 3.1. RECOGNIZING CONTRACTOR FRAUD AND CORRUPTION.

a. Procurement fraud involves any deception designed to deprive the United States of something of value or to secure from the United States a benefit, privilege, allowance, or consideration to which a person or entity is not entitled. Such practices include, but are not limited to:

- Offering payment or accepting bribes or gratuities
- Making false statements
- Submitting false claims
- Using false weights or measures
- Evading or corrupting inspectors or other officials
- Deceiving either by suppressing the truth or misrepresenting material fact
- Adulterating or substituting materials
- Falsifying records and books of accounts
- Arranging for secret profits, kickbacks, or commissions
- Conspiring to do any of the acts described above
- Conflict of interest cases, criminal irregularities, and the unauthorized disclosure of official information relating to procurement and disposal matters

b. Corruption related to procurement activities involves the breach of an employee's duty of loyalty where, for example, government employees collude with one or more contractors to effectuate the fraud. Pursuant to DoDI 7050.05, all investigations of corruption involving bribery, gratuities, or conflicts of interest are significant investigations, regardless of dollar amount.

c. Contractor fraud and corruption can result in increased costs to the Government and can present safety hazards for military personnel and other end-users of manufactured equipment and/or services. DCMA employees, as the front-line interface with contractors, play an important role in the prevention and detection of fraud, and in the reporting of suspected misconduct, thereby assuring our warriors receive quality products at a fair price. This is especially true where a DCMA employee is a frequent visitor to, or has a duty station in, a contractor's plant.

d. DCMA employees should be continually alert for indications of fraud or other irregularities on the part of contractors and/or contractor employees. To assist in this process, the CIC provides annual Fraud Awareness Training either in person or by CBT to all DCMA employees in order to maintain and enhance their ability to detect and report suspected fraud and other irregularities and publicizes “Red Flag” indicators (available on the Resource Page).

### **3.2. REPORTING CONTRACTOR FRAUD AND CORRUPTION.**

a. Executive Order 12731, “Principles for Ethical Conduct for Government Officers and Employees,” requires all Executive Branch employees to report fraud, waste, abuse, and corruption to appropriate authorities.

b. Section 2635.101(b)(11) of Title 5, Code of Federal Regulations, “Basic Obligation of Public Service, General Principles,” requires DCMA employees to report the discovery of any instance that indicates the possibility of fraud or other irregularity by a contractor.

c. DoDI 4140.67 requires reporting of suspected and confirmed counterfeit material.

d. DCMA employees will notify CIC Counsel of contractor fraud and corruption allegations. CIC Counsel may notify chain of command, investigative agencies, and contracting officers as appropriate. Commanders/Directors must ensure there is no formal or informal policy that requires DCMA employees to report contractor fraud through the chain of command. Doing so violates DCMA policy and may result in management liability in the case of any reprisal investigation.

e. Employees assigned to the DCMAS should contact assigned counsel within DCMAS GC. If desired, employees may report anonymously through the DCMA FraudNET. Alternatively, reports of suspected fraud, waste, or abuse of any kind may be made to the DoD Hotline (see below for details) and internal agency fraud, waste, and abuse matters to the DCMA Inspector General Hotline (see below for details).

f. When reporting suspected activity, DCMA employees should provide a summary of the suspected contractor fraud or corruption, which identifies the contractor and describes the circumstances. The summary should include pertinent background information such as the contract number, description of the product or service, when the activity occurred, and how the suspect activity affects the Government. Substantiating documentation will be retained.

g. Reports involving SECRET information must be made through FraudNET on the Secure Internet Protocol Router Network (SIPRNET) system, registered mail, or courier. Although the SIPRNET system cannot be reached from an unclassified website, the link is provided on the DCMA FraudNET page.

h. If an employee prefers not to submit a complaint involving SECRET information via the online complaint form on the SIPRNET, the employee may use the form as a guide to format the complaint document to send by registered mail or courier. Employees must ensure the complaint content complies with DoD Manual 5200.01 and DCMA Manual 3301-08, “Information



Security.” If applicable, send complaints via registered mail to DCMA FraudNET, 1222 Spruce Street, St. Louis, MO 63103. Alternatively, contact the DoD Hotline Classified Complaints Site (link available on the Resource Page).

i. Reports involving any TOP SECRET information or above must be made by calling the Defense Hotline at 1-800-424-9098, or by coordinating with the employee’s servicing security office on courier options. TOP SECRET complaints cannot be sent via postal systems. Alternatively, contact the Defense Hotline at 1-800-424-9098 (unsecured line) to coordinate delivery. Further coordination to speak on a classified, secured line can be arranged, if requested or deemed necessary.

j. In accordance with DCMA Instruction 931, “Inspector General: Investigations,” all allegations of non-contractor fraud matters, such as internal criminal and non-criminal incidents that affect DCMA personnel, facilities, activities or property, and misconduct by DCMA employees, must be reported to the DCMA Hotline.

k. Any reports of contractor fraud or corruption made to the DCMA Inspector General hotline, as well as contractor fraud or corruption allegations contained in DoDIG hotlines received by the DCMA Office of Internal Audit and Inspector General, shall be forwarded to the CIC for review.

### **3.3. ADMINISTERING CONTRACTS AFFECTED BY A FRAUD INVESTIGATION.**

a. Routine contract management should continue during an investigation, as long as it does not adversely affect the issues under review. DCMA employees must coordinate with the CIC on any contract management activity that might impact the investigation. Coordination examples include contract modifications for waivers or deviations on contracts under investigation for product substitution.

b. During the course of any investigation, DCMA employees will cooperate with investigators and CIC Counsel by providing documents and information available through their normal contract management duties in accordance with DoD Directive 5106.01 and DoDI 7050.05. Investigative requests for information that are not available through performance of routine contract management should be referred to the CIC, as should requests for information from non-government sources.

c. A pending investigation does not necessarily preclude some contract remedies (such as withholding progress payments, issuing corrective action requests, unilateral rate determinations, disallowance of costs, assessing costs for re-inspection, consideration or equitable price reduction, contractor business system withholdings, rejection of non-compliant or non-conforming product or services, termination for default, etc.). DCMA employees should continue to consider appropriate contractual and administrative remedies but should coordinate these actions with assigned CMO Counsel and CIC Counsel prior to initiation. Specifically, DCMA Manual 2303-01, “Surveillance,” requires pre-release coordination of all Level III corrective action requests with CMO Counsel and CIC Counsel.

d. Information regarding the existence or details of any on-going investigation is Controlled Unclassified Information, Category Investigation, and Limited Dissemination Control FED ONLY. Such information will not be disclosed to contractors or other non-government personnel without the prior consent of investigators or CIC Counsel.

e. Pursuant to Federal Acquisition Regulation (FAR) 3.101 and FAR 33.209, Contracting Officers will report any suspected fraudulent claim or misrepresentation to CIC Counsel. For matters arising in DCMAS, the Contracting Officer will report such matters to assigned Counsel, within DCMAS-GC, who will coordinate with the CIC as security regulations and guides allow.

f. Pursuant to FAR 33.210(b), Contracting Officers are not authorized to decide or resolve claims or disputes that involve fraud. Contracting Officers will not take any action to settle or disposition any contract action while it is under investigation without CIC coordination.

g. Pursuant to FAR 49.106, if a TCO suspects fraud related to the settlement of a terminated contract, the TCO will discontinue negotiations and report the matter. TCOs will not take any action to settle or disposition any contract action while it is under investigation without CIC coordination.

h. If a CD-ACO suspects fraud related to a Commercial Item Determination request, the CD-ACO will contact assigned counsel and CIC Counsel to coordinate on how to proceed with the determination of commerciality on the items under review.

i. There is a 6-year statute of limitations upon Contract Disputes Act claims, including affirmative Government claims against a contractor. Contracting Officers should be cognizant of the accrual of the Contract Disputes Act statute of limitations and maintain frequent communication with assigned counsel, CIC Counsel, and the investigative organization to ensure timely coordination of remedies on matters subject to an investigation.

## GLOSSARY

### G.1. ACRONYMS.

ACO	Administrative Contracting Officer
CAR	Corrective Action Request
CBT	Computer Based Training
CD-ACO	Commercial Determination Contracting Officer
CDA	Contract Disputes Act
CIC	Contract Integrity Center
CIDCO	Commercial Item Determination Contracting Officer
CMO	Contract Management Office
DCMAS	Special Programs Directorate
DoDI	Department of Defense Instruction
DoJ	Department of Justice
FAR	Federal Acquisition Regulation
GC	General Counsel
DoDIG	Department of Defense Inspector General
SIPRNET	Secure Internet Protocol Router Network
TCO	Termination Contracting Officer

## GLOSSARY

### G.2. DEFINITIONS.

<b>Defective Product</b>	A product or the component of a product that fails to function or operate in accordance with the terms of a contract, its specifications or drawings, or with applicable federal or military specifications.
<b>Defense Criminal Investigative Organization</b>	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.
<b>FraudNET</b>	An online web-based form available to facilitate the reporting of unclassified allegations of contractor fraud and corruption.
<b>Non-conforming Product</b>	A product or the component of a product that has not been manufactured, assembled, tested, or inspected in accordance with the terms of a contract, its specifications, or drawings, including military specifications.
<b>Product Substitution</b>	Substitution of a product or a component of a product that does not fully comply with all contract requirements.
<b>Remedies</b>	Actions that should be initiated by an official having responsibility over a matter central to a significant procurement fraud case to protect DoD interests and to deter future incidents of fraudulent conduct.
<b>Remedies Plans</b>	Comprehensive, evolving plans prepared for pursuing all applicable remedies in significant procurement fraud cases. These plans are updated periodically to report new information and provide the status and success of all applicable remedies.
<b>Significant Investigations of fraud or corruption related to procurement activities</b>	Fraud investigations involving an alleged loss of \$500,000 or more; all investigations of corruption involving bribery, gratuities, or conflicts of interest; all defective product, non-compliant or non-conforming product, counterfeit materiel, or product substitution investigations; and investigations otherwise determined to be significant by the cognizant agency official.

## **REFERENCES**

Code of Federal Regulations, Title 5, Part 2635  
Federal Acquisition Regulation, current edition  
DCMA Instruction 931, "Inspector General: Investigations," September 15, 2021, as updated  
DCMA Manual 2303-01, "Surveillance," December 28, 2022  
DCMA Manual 3301-08, "Information Security," January 21, 2019, as updated  
DoD Directive 5105.64, "Defense Contract Management Agency (DCMA), January 10, 2013, as amended  
DoD Directive 5106.01, "Inspector General of the Department of Defense (IG DoD)," August 19, 2014  
DoD Instruction 4140.67, "DoD Counterfeit Prevention Policy," August 31, 2018  
DoD Instruction 7050.05, "Coordination of Remedies for Fraud and Corruption Related to Procurement Activities," May 12, 2014  
DoD Manual 5200.01, "DoD Information Security Program" February 24, 2012  
Executive Order 12731, "Principles of Ethical Conduct for Government Officers and Employees," October 17, 1990  
United States Code, Title 41, Sections 7101 through 7109