
Federal Acquisition Regulation: Mandatory Disclosure Rule Adopted

Date: 12/15/08

On December 12, 2008, the "Mandatory Disclosure Rule" (the "Rule") became effective. The Rule amends the Federal Acquisition Regulation ("FAR") and requires government contractors and subcontractors to:

- disclose to the contracting agency's Office of Inspector General ("OIG") known "credible evidence" of a violation of federal criminal law involving "fraud, conflict of interest, bribery or gratuity," (1)
- disclose to the specific Contracting Officer ("CO") known "credible evidence" of a significant overpayment by the government, and
- within 90 days of contract award develop effective compliance programs and internal controls sufficient to permit discovery of potential fraud and criminal violations.

A failure to comply with the Rule is an independent ground for suspension or debarment from government contracting. The Adopting Release for the Rule states that the purpose of the FAR suspension and debarment policies is not to punish, but to "ensure that the Government does business only with responsible contractors." (2)