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NASA Policy Directive

NPD 2086.1Effective Date: December 23, 2008
Expiration Date: December 23, 2018**COMPLIANCE IS MANDATORY**[Printable Format \(PDF\)](#)

Request Notification of Change (NASA Only)

Subject: Coordination of Remedies for Fraud and Corruption Related to NASA Acquisition Activities (Revalidated 9/17/2013)

Responsible Office: Office of the General Counsel

CHANGE HISTORY

Chg#	Date	Description/Comments
1	09/17/2013	Update to comply with 1400 Compliance, with administrative changes, update applicable documents and authorities.

1. POLICY

a. It is NASA's policy to detect and to correct instances of fraud and corruption in order to maintain operational readiness, recoup lost financial resources, maintain public confidence in NASA procurement and nonprocurement activities, and prevent future fraudulent conduct.

b. This NASA Policy Directive (NPD) clarifies the purpose of the Acquisition Integrity Program (AIP) that was established by the NASA Deputy Administrator. The AIP was established to monitor and ensure the coordination of criminal, civil, contractual, and administrative remedies for significant investigations of fraud and/or corruption related to procurement and nonprocurement activities. This NPD defines the roles and responsibilities of those who administer the program and those who interact with the program. This NPD also implements the statutory requirements of 10 U.S.C. § 2307(i) requiring Government agencies to coordinate remedies resulting from investigations of fraud or corruption related to procurement activities.

2. APPLICABILITY

a. This NPD is applicable to NASA Headquarters and NASA Centers, including Component Facilities and Technical and Service Support Centers. This directive applies to the Jet propulsion Laboratory (a Federally Funded Research and Development Center) and other contractors only to the extent specified or referenced in the appropriate contracts..

b. In this directive, all document citations are assumed to be the latest version unless otherwise noted. In this NPD, "shall" denotes a mandatory action, "may" or "can" denotes discretionary privilege or permission, "should" denotes a good practice and is recommended, but not required, "will" denotes expected outcome, and "are/is" denotes descriptive material.

3. AUTHORITY

- a. Inspector General Act of 1978, as amended, 5 U.S.C. App. 3.
- b. Contracting Financing, 10 U.S.C. 2307 § 2307(i).

- c. The Federal Acquisition Streamlining Act (FASA) of 1994, as amended, 41 U.S.C. § 4506.
- d. The National Aeronautics and Space Act of 1958, as amended, 51 U.S.C. § 20113.
- e. NASA Federal Acquisition Regulations (FAR) Supplement, subsection 1832.006-2, Definition.

4. APPLICABLE DOCUMENTS

- a. Crimes and Criminal Procedure - Order of Restitution, 18 U.S.C. § 3663.
- b. The Victim and Witness Protection Act of 1982, October 12, 1982, Pub. Law 97-291,.
- c. Governmentwide Debarment and Suspension (Nonprocurement), as implemented at 2 C.F.R. Part 1880, 2 C.F.R. Part 180.
- d. FAR Subparts 3.1 (Safeguards), 9.1 (Responsible Prospective Contractors), 9.4 (Debarment, Suspension, and Ineligibility), and 33.2 (Disputes and Appeals).
- e. NASA FAR Supplement Subparts 1809.4 (Debarment, Suspension, and Ineligibility), 1832.006-2 (Definition), and 1833.209 (Suspected Fraudulent Claims).
- f. NPD 9800.1, NASA Office of Inspector General Programs.

5. RESPONSIBILITY

- a. The NASA Chief Financial Officer shall serve as the Chief Acquisition Officer (CAO). The CAO promotes effective business practices that ensure the timely delivery of best value products and services to NASA, achieve public policy objectives, and further integrity, fairness, competition, and openness in NASA's acquisition system.
- b. The General Counsel shall have operational cognizance over the AIP and will appoint an AIP Director.
- c. The AIP Director shall:
 - (1) Serve as NASA's Remedy Coordination Official (RCO) responsible for timely and accurate coordination of all remedies both inside NASA and with outside entities concerning matters within AIP cognizance.
 - (2) Advise the Suspension and Debarment Official (SDO) on all matters under the SDO's cognizance.
 - (3) Establish and maintain communications with the NASA Office of Inspector General (OIG) in order to stay abreast of investigative developments in areas of AIP cognizance and to determine, implement, and verify appropriate contractual and administrative actions necessary to recover, when appropriate, NASA funds and to ensure acquisition integrity.
 - (4) Ensure, while recognizing the OIG's responsibilities under the Inspector General Act and NPD 9800.1, the expeditious coordination of appropriate remedies with the OIG and the Department of Justice (DOJ). Following coordination with DOJ and OIG officials as appropriate to the circumstances, contractual or administrative actions may be taken before final resolution of the criminal or civil issues.
 - (5) Establish and maintain procedures for coordination of criminal, civil, contractual, and administrative remedies in areas under AIP cognizance that will facilitate effective communication and coordination between NASA, OIG, and DOJ.
 - (6) Establish and maintain procedures to provide timely and adequate information to the SDO regarding suspension and debarment actions. Suspension and debarment recommendations should begin as soon as practicable to protect NASA's business interests.
 - (7) Ensure that acquisition officials are provided the necessary information and training to properly evaluate risk, preserve evidence, determine if further inquiry is warranted on their part to prevent recurrence and/or detect possible fraud within their activity, and otherwise take actions to protect the Government's interest. Information subject to Federal Rule of Criminal Procedure 6(e), contained in sealed court documents, under court orders, or that is otherwise unlawful to divulge to unauthorized persons, does not come within this provision.
 - (8) Ensure that all possible criminal, civil, contractual, and administrative remedies are identified to the DOJ and to cognizant acquisition officials, as appropriate, and that appropriate remedies are pursued expeditiously. AIP shall coordinate with the OIG and all other affected NASA organizations, as well as other affected agencies.
 - (9) Develop and implement appropriate fraud awareness training for NASA management, the AIP Center attorney (AIP-C), Mission Directorates and Mission Support points-of-contact (POCs), NASA personnel involved with procurement and nonprocurement activities, and NASA employees in general.

- (10) Report to the Deputy General Counsel for all administrative and operational matters.
- (11) Coordinate the development and implementation of AIP policy with the General Counsel.
- d. The Center Chief Counsel shall:
- (1) Designate an attorney to serve as the AIP-C. The AIP-C is the primary POC for all AIP issues arising or involving that Center.
- (2) Support the AIP Director in oversight and monitoring of all fraud and coordination of remedies matters.
- (3) Ensure that the AIP-C coordinates in a timely manner with the AIP Director on all fraud and remedies matters.
- (4) Establish procedures to ensure that all contractual and administrative remedies contemplated during a criminal or civil investigation impacting the Center are accomplished with the advance knowledge of the OIG and the AIP.
- e. The Mission Directorates and Mission Support Offices shall:
- (1) Designate a directorate or support office POC for AIP matters.
- (2) Support the AIP Director in maximizing the effectiveness of coordination of remedies efforts.
- (3) Pursue appropriate remedies involving resources under their responsibility in all cases of significant procurement and nonprocurement fraud, as defined in Attachment A, after coordination with the AIP, the OIG and the DOJ.
- f. Center Directors shall:
- (1) Support the AIP Director to maximize the effectiveness of coordination of remedies efforts.
- (2) Pursue appropriate remedies in all cases of significant procurement and nonprocurement fraud, as defined in Attachment A.
- g. The OIG, to the extent appropriate and without any limitation on the OIG's discretionary exercise of authority under the Inspector General Act of 1978, as amended, shall:
- (1) Assist the AIP Director in developing and providing training materials concerning fraud and corruption in procurement and nonprocurement-related activities.
- (2) Notify the AIP in all cases of fraud affecting NASA procurement and nonprocurement activity.
- (3) Expeditiously release or transmit information requested by the AIP Director.

6. DELEGATION OF AUTHORITY

None.

7. MEASUREMENTS/VERIFICATION

Compliance will be measured through existing communications and reporting channels.

8. CANCELLATION

NPD 2086.1, Coordination of Remedies for Fraud and Corruption Related to NASA Acquisition Activities, December 23, 2008.

REVALIDATED 9/15/13, ORIGINAL SIGNED BY:

/s/Michael D. Griffin
Administrator

ATTACHMENT A: DEFINITIONS OF KEY TERMS

Chief Acquisition Official (CAO). The CAO promotes effective business practices that ensure the timely delivery of best value products and services to NASA, achieve public policy objectives, and further integrity, fairness, competition, and openness in NASA's acquisition system.

Suspension and Debarment Official (SDO). The NASA Administrator or other designee authorized by the Agency head to impose suspension or debarment.

Fraud. Any intentional deception by an individual, corporation, partnership, or other entity which seeks to unlawfully deprive NASA of something of value or to secure from NASA a benefit, privilege, allowance, or consideration for which there is no entitlement. Where specific intent is not present, knowing acts of fraud in presenting a claim, such as actual knowledge, reckless disregard, or deliberate ignorance, may constitute fraud under statutes such as the False Claims Act (31 U.S.C. § 3829-3733, amended 1985).

Procurement and Nonprocurement Activities. Procurement and nonprocurement activities include, but are not limited to, contracts, grants, cooperative agreements, Space Act agreements, or any other activity where either Federal funds are used and/or the Government receives a direct and/or indirect benefit, service, or product.

Remedies. Actions (including criminal, civil, contractual, and administrative) that could be initiated by an Agency official having responsibility over a matter that is central to a significant investigation of fraud or corruption related to a procurement or nonprocurement fraud case. These actions are taken in order to protect the interests of NASA and to deter future incidents of fraudulent conduct.

Remedies Coordination Official. The AIP Director is the NASA official responsible for monitoring the progress of each significant investigation affecting NASA procurement and nonprocurement activities and for taking action to ensure the coordination of criminal, civil, contractual, and administrative remedies.

Significant Investigations of Fraud or Corruption Related to Procurement and Nonprocurement Activities (Significant Investigations). Investigations that satisfy one or more of the following criteria:

- a. All procurement or nonprocurement-related fraud cases that involve an alleged or actual loss to NASA of \$100,000 or more.
- b. All investigations of corruption related to the NASA procurement or nonprocurement process, regardless of the dollar amount of loss involved. Corruption includes actions taken by those who have unmitigated conflicts of interest; the solicitation, offer, payment, or receipt of bribes, gratuities, kickbacks, or commissions; the unauthorized disclosure of procurement and nonprocurement-related information; and collusion, bid rigging, price fixing, or other antitrust violations.
- c. All cases involving alleged or proven defective products or non-conforming products, or product substitution where the nature of the product defect or substitution presents a serious hazard to health, safety, or operational readiness, regardless of the dollar amount of loss involved.
- d. Investigations otherwise determined to be significant by the AIP Director or other cognizant Agency official.

(URL for Graphic)

None.

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