On June 17, 2011, the U.S. Department of Justice **reported** that Fluor Hanford, Inc., a wholly owned subsidiary of Fluor Federal Services, Inc. and Fluor Corporation, had agreed to pay the U.S. Government $4 million to resolve allegations of violations of the False Claims Act. Flour Hanford is the entity that operates and manages mixed radioactive waste at the Department of Energy's Hanford Nuclear Site in Hanford, Washington.

According to one website—

Hanford is one of five major Department of Energy nuclear processing plants and R&D laboratories in the United States. It has more than ten industrialized areas (most with reactors of some kind) located on a 562 square mile site on the Columbia River in eastern Washington. Originally built in secret to produce plutonium for the Manhattan Project, the installation manufactured nuclear materials used in bombs for decades after the war, and it has become one of the most contaminated sites in the country, with millions of gallons of radioactive waste, much of it migrating through the soil towards the Columbia River. More than 10,000 people work on clean-up issues at the reservation, most of which continues to be closed to the public.

According to the DOJ press release—

Between 2003 and 2008, Fluor employed individuals known as material coordinators, whose job responsibilities included purchasing supplies for use by Fluor on its DOE contract. Between 2003 and 2008, three such material coordinators, Susanna Zuniga, Gregory Detloff and Paul Kempf, made hundreds of fraudulent purchases using government purchase cards, using their positions and exploiting weaknesses in Fluor's internal control system to funnel DOE funds to themselves. … Additionally, between 2005 and 2008, at least 14 Fluor material coordinators solicited, received and accepted kickbacks from a Hanford-area vendor known as Fast Pipe and Supply Company and its owner, Shane Fast. These kickbacks, which took the form of cash, tickets to sporting events, gift cards and other things of value, were intended to influence the material coordinators to purchase from Fast rather than competing vendors. In return for these kickbacks, the 14 Fluor material coordinators did more than $3.5 million in business with Fast.

Notice that the DOJ went out of its way to note that Fluor's internal controls were weak and permitted the miscreants to execute their fraudulent acts. Readers should remember that the False Claims Act permits either civil or criminal prosecution (or both, we suppose). The civil

False Claims Statute explicitly provides that violations include reckless conduct and/or deliberate ignorance of the truth. In other words, no specific intent to defraud the Government is necessary. (NOTE: This is a layperson's interpretation.) In other words, if the DOJ could prove that Fluor's management was aware of lax internal controls but did nothing to address the issues, it would be well on its way to a conviction.

So you'll understand why the DOJ not only pointed out allegedly the weak internal controls, but also announced to the world that—

As early as 2001 and repeatedly between 2001 and 2008, internal audits conducted by Fluor alerted it to weaknesses in its purchase card controls, weaknesses exploited by the three material coordinators. Nonetheless, Fluor failed to address these weaknesses, allowing these schemes to go undetected for years.

Oops! Those are some troubling facts ….

And about those material coordinators – the DOJ also announced that, "Five former Fluor employees have been indicted for their participation in the fraudulent schemes.   Four of the individuals have pleaded guilty, with the fifth awaiting trial."

Lessons learned for the rest of us?

1.

Internal controls are important and enhancing them is an investment in lowering your future litigation (not to mention settlement) costs.

2.

Internal audit reports are important. Internal auditors should be of high quality and so should their reports. Internal audit reports that report bad facts should not be ignored; indeed, management should take quick and decisive action to address the findings.

3.

Internal audit reports that point out lax internal controls, which management ignores, become really effective “smoking guns” that will be used against the organization in a court of law.