Stories of fraud aren't that interesting unless they contain little nuggets of "lessons learned." If our readers can't learn something from such stories, we tend to not discuss them. Today we present two stories that might provide fodder for more managerial oversight or perhaps for process improvements. Unfortunately both stories involve CEOs. What do you do about a corrupt CEO?

The **first story** is simple. If you submit an invoice to the U.S. Government, and that invoice includes subcontractor costs, and you never paid the subcontractor, then you may be accused of committing fraud.

Which is a lesson learned by M. Cleve Collins who, on November 30, 2017, entered a guilty plea admitting to one count of "major fraud" after two days of a court trial. Collins was indicted a year ago for executing "a scheme to defraud the United States on a construction contract valued at approximately one and one-half million dollars … for the replacement of the roof and the air conditioning system at the Ed Jones Federal Courthouse and Post Office in Jackson, TN. As part of the scheme to defraud, Collins caused the roofing subcontractor, a small Memphis-area business, to perform work for which he was never fully paid. Additionally, Collins filed false and fraudulent certifications with the U.S. Government indicating he had, in fact, paid the subcontractor. The value of the funds obtained because of this scheme was over $580,000."

From the DOJ press release: "'Federal contractors are obligated to follow through on their promises to make payments to their subcontractors,' said GSA Inspector General Carol Fortine Ochoa. 'When contractors fail to meet their obligations, we will hold them accountable.'"

FAR 32.009-1 provides that the government "shall ensure" that prime contractors pay subcontractors on an accelerated schedule to the maximum extent practicable, when the primes receive accelerated payments. There is a contract clause (52.232-40) that implements this policy. Clearly, the government is concerned that small businesses get paid. Prime contractors may also want to review the FAR at 32.112, especially 32.112-1 ("Subcontractor Assertions of Nonpayment").

Early payment is better; on-time payment is tolerated. But if a prime contractor isn't paying its small businesses on time or—worse yet—not paying them at all, there may well be trouble ahead.

In the case of Cleve Collins, he seems to be a smallish construction contractor who thought he could float his company's cash flow on the back of his small-business subcontractor. That plan didn't work out for him.

Our **second story** is a bit more complex.

Global Services Corporation (Global) was founded in 1997 and employs about 150 people, many of them veterans, to provide various services to the Department of Defense. A noble undertaking, perhaps; but one that was tainted by the actions of its owner, Philip Mearing. Mearing was Global's President and sole owner since 2007. In June, 2017, Mearing pleaded guilty to overbilling the U.S. Government though a fairly complex scheme, according to **this article** at the Virginia-Pilot, written by Scott Daugherty. The article states that Global billed the government "for $13.6 million in work that was never performed" and also "conspired to double-bill the government for nearly $3 million in work that was already performed under another contract."

Apparently the primary scheme started in 2004 (prior to Mearing taking over the company) and ran until 2014. Putting together the Virginia-Pilot story with the DOJ press release, our perception is that Mearing conspired with another Global "executive" (Kenneith Deines) to allow two fake companies, both owned by the same person, to bill Global for services that were never provided.

The two sham companies (Tempo Consulting and Bricker Property Management) were both owned by Ken Bricker. Global paid Bricker $13.6 million over the ten-year period for … nothing. Indeed, neither company had any employees. Hundreds of false invoices were submitted from the two companies and paid by Global. Bricker kept about five percent of the payments ($558K) and then transferred 95% of the payments "to Mearing or [another] company owned by Mearing." That other company, DeShas, was an Ohio LLC that Mearing controlled. Fortunately (or unfortunately, depending on your point of view), Bricker paid Mearing or DeShas via check, leaving a nice paper trail easy to follow, and easy to show a jury.

Mearing was sentenced on December 1, 2017, to five years in prison.

Getting back to the question at the top of this article … how do you detect and/or prevent a conspiracy to commit procurement fraud in which one of the conspirators is the company CEO? How do you deal with a problem where the President or even the Vice-President is a big part of it?

Those are tough questions. In both of these stories, there were no checks and balances. The company President was the sole owner and you did what he said or you found another job. In larger corporations, there would be a Board of Directors or a General Counsel to whom one might go with suspicions of misconduct at the highest levels.

Looking at controls, we have to ask who approved the fictitious invoices? Was it Mearing or was it Deines? (And we don't know Deines' role, other than that he was an "executive.") Who normally approves subcontractor invoices, and who makes sure that services were delivered as being claimed? Are those the same people? What evidence is retained to show that services were delivered? FAR 31.205-33 requires that all consultants provide some evidence of work product. Certainly, that's a pain and a problem during DCAA audits of claimed incurred costs; but maybe there's a good reason for that requirement.

Did anybody perform a background check on DeShas LLC, which perhaps would have revealed that the LLC was controlled by Mearing?

These stories could happen in your company. What would you do if they did? Would you shut up and carry on as if nothing out of the ordinary were happening, or would you report the wrongdoing? Where does your personal boundary of integrity lie? It's something that (thankfully) doesn't come up too often; but when it does, you had better know where you stand.

In the meantime, we suggest you think about what you can learn from these two stories in the design and implementation of control activities within your procurement and accounts payable systems.