

TIPS FOR SUCCESS IN THE OIG SELF-DISCLOSURE PROTOCOL

- Follow ALL the requirements in the Federal Register AND the 2008 Open Letter in your written submission. Common mistake = missing contractor information.
- Mail it to the address in the Federal Register:
Assistant IG for Investigative Operations, HHS/OIG
330 Independence Ave, SW, Room 5409, Washington, D.C. 20201
- Don't disclose prematurely. Your investigation and damages audit either needs to be completed or you commit to completing within three months after acceptance.
- Provide a complete description of the conduct and investigation:
 - What happened?
 - What is the time period?
 - Why did it happen?
 - Why is there potential legal liability for the conduct?
 - Who was involved?
 - How was the conduct discovered?
 - What corrective actions have been taken?
- Identify the fraud laws at issue. Just "Federal laws, rules, and regulations" or "the Social Security Act" is not sufficient.
- Pay attention to the sampling requirements in the Protocol at Section V.
- Stark-only conduct that does not also have a colorable kickback claim is not eligible for OIG's protocol.
 - CMS has created its own disclosure protocol for Stark-only conduct – <http://www.cms.gov/PhysicianSelfReferral/>
- Expect that disclosure will result in a settlement agreement for an amount that is a multiplier of damages. Simple overpayments are not appropriate for the SDP.
- Full cooperation is essential.

