Highway Fraud Awareness

Office of Inspector General

Mark Peters
National Contract/Grant Fraud Coordinator
(312) 353-0106
PURPOSE OF TRAINING

• To define fraud and to provide examples and indicators of OIG fraud cases.

• To assist government officials in detecting fraud in transportation programs.

• To encourage cooperation between government officials and OIG Special Agents.
OIG Investigative Project Hours by Operating Administration
(April-September 2005)
OIG Investigative Priority Areas by Percentage of Time
(April-September 2005)

- Contract/Grant Fraud: 37%
- Aviation Safety: 17%
- Employee Integrity: 16%
- Hazmat Safety: 6%
- Motor Carrier Safety: 13%
- Other: 13%
The Office of Inspector General

- Contract Fraud Initiative Is Our Number One Priority

- Statistics From FY-2000 - Present
  - 301 Indictments
  - 234 Convictions
  - $153 Million in Fines & Restitution, etc.
  - 747 Years in Jail, Probation, etc.
Types of Investigations

- Criminal
- Civil
- Parallel Proceedings
- Administrative Action
MISTAKE OR FRAUD?
WHAT IS FRAUD?

• To commit fraud is to misrepresent for financial gain.

• Fraud involves an intent to deceive, often characterized by altered or concealed documents.

• An isolated mistake is not fraud, but a pattern of “mistakes” consistently favoring the contractor indicates fraud.
Common Rationalizations about FRAUD

- “Everybody Does It”
- “The Government Can Afford It”
- “It’s For a Good Purpose”
- “It’s Not That Serious”
- “I Deserve It”
- “Victimless Crime”
Who Reports Fraud?

- Disgruntled Employee
- Qui Tam Relator
- State DOT
- Newspaper
- Self-Disclosure
ROLES IN FRAUD INVESTIGATION

State or Local Engineers and Inspectors—Observe fraud indicators, listen to disgruntled employees, and report fraud concerns to Federal officials.

OIG Special Agents—Interview witnesses, obtain and analyze documents and other physical evidence, and present facts to Federal prosecutor.

Assistant US Attorney—Assess case facts and prosecute cases when warranted.
Both Government Engineers and Inspectors and Special Agents have the same overall objectives:

- To spend transportation dollars to improve roads and bridges, not to line the pockets of unscrupulous contractors.
- To identify and remove “bad apples” from the transportation construction industry.
COMMON TYPES OF OIG FRAUD CASES

- Bid Rigging & Collusion
- Materials Overcharging
- Time Overcharging
- Product Substitution
- Minority-Owned Business Fraud
- Quality-Control Testing Fraud
- Kickbacks
- Bribery
Types of Crimes

- False Statements
- Mail and Wire Fraud
- Corruption/Bribery
- Obstruction of Justice
- Racketeering
BID RIGGING & COLLUSION

Definition
Contractors *misrepresent* that they are competing against each other when, in fact, they agree to cooperate on the winning bid to *increase job profit*.

Example
Three asphalt-paving contractors agreed at the beginning of the construction season on which company would win each job. They then shared “winning bids” by telephone immediately in advance of electronic bidding, so the other two contractors could ensure their bids were higher than the winning bid.
Case Example: Vinton et al

- Company executives from Vinton Construction, Streu Construction, and an area manager from James Cape & Sons (unbeknownst to his employer) agreed to rotate bids and submit inflated bids on projects totaling over $100 million.

- The illegal activities spanned several years.

- By engaging in a bid rotation and a complementary bid scheme, the trio gave the false perception of competition.
Case Example: Vinton et al

• Based upon limited initial information, the FBI attended a bid workup session at James Cape & Sons in a covert capacity.

• After observing furtive activities on behalf of the employee, the FBI confronted him.

• Upon being confronted, the employee informed the FBI of a scheme to rig bids and agreed to co-operate with the Government.
WisDOT list of upcoming projects
Upon learning what was planned for the upcoming January 13, 2004 bid letting, several plans were put into action…

• It was determined to initially let the rigged bids go through to WisDot and notify them the morning of the letting.

• At the same time the letting occurred, DOT OIG and FBI agents conducted simultaneous search warrants at Vinton Construction and Streu Construction locations.

• DOT OIG and FBI agents also served arrest warrants on Ernest Streu, John Streu, James Maples and Michael Maples.
• Streu Construction, Vinton Construction, and the five individuals pled guilty

  – All were removed from bidding on Federally funded projects
  – Approximately $3 million in fines and restitution
  – Three defendants jailed, one home confinement
BID RIGGING & COLLUSION

Sample Indicators

- Bids submitted by contractors are very close in dollar value.

- Different contractors make identical errors in contract bids.

- Unsuccessful bidders submit bid protests advising of collusive practices.

- Bids submitted by contractors are close to or slightly higher than government estimate—inside information.
MATERIALS OVERCHARGING

Definition
Contractor *misrepresents* how much construction material was used on the job and then charges for more material than was used to *increase job profit*.

Example
Erosion-control contractor submitted grass seed tickets plus fertilizer and mulch weight slips in excess of materials applied on the job to cause the state DOT to make excessive payments for work performed.
Plant production report shows 1,380 tons more asphalt shipped than produced on this day.
MATERIALS OVERCHARGING

Sample Indicators

- Contractor regularly creates opportunities to load job materials into equipment away from job inspectors.

- Truck drivers state that handling characteristics indicate their trucks are under weight.

- Use of reproduced copies, rather than originals, when providing quantity documentation.

- Irregularities in color or content of weight slips or other contractor documents used to calculate pay quantities.
TIME OVERCHARGING

Definition
Consultant *misrepresents* how many hours employees work on jobs in order to charge for more work hours, or a higher overhead rate, to *increase job profit.*

Example
Engineering consultant regularly altered his employees’ time cards to add hours to cost-plus jobs, and to add administrative hours to increase the company’s overhead rate charged on job invoices.
Professional Service Industries, Inc.

• Professional Service Industries, Inc. (PSI) is a consulting engineering and testing firm with 125 offices nationwide.
Many of the Claims Were False or Fraudulent

- Non-Existent Testing
- Non-Certified Welding Inspectors
- Fictitious Meal & Lodging Receipts
- Excessive Miles Charged
- Excessive Labor Hours
Non-Certified Welding Inspectors

- PSI billed the government for the work of “certified welding inspectors” when the inspectors who performed the inspections were not so certified.
- Amount at issue: $93,394.47
Fictitious Meal & Lodging Receipts

• PSI billed the government for the inspectors’ actual costs (NTE $60/day) based on fictitious meal and lodging receipts.

• Amount at issue: $45,383.71
Damages

- We calculated that the government’s damages were: $173,745.30
- The False Claims Act provides for trebling of the amount: $521,235.90
Penalties For False Claims Submitted

- PSI submitted 125 non-duplicative invoices to the government containing false or fraudulent claims.
- The False Claims Act provided for $5,000 to $10,000 penalty per false claim submitted.
TIME OVERCHARGING

Sample Indicators

- Unauthorized alterations to time cards and other source records.

- Time cards filled out by supervisors, not by employees.

- Use of reproduced copies of time cards, rather than originals.

- Inconsistencies between consultant’s labor distribution records and employee time cards.
PRODUCT SUBSTITUTION

Definition
Contractor *misrepresents* what product was used in order to *reduce costs* of construction materials.

Example
Contractor caused false statements--false stenciling on exterior of coated steel pipe and false certificates of compliance for this unapproved pipe--to conceal the use of cheaper, substitute pipe installed in highway drainage culverts.
They are the guys who build the things that catch the water...
Project Engineer observed that the basin units had writing on the sides, “4’ SUMP STANDARD STOCK”.
WE SHOULD HAVE GOT THIS...
..INSTEAD WE GOT THIS
UNITED further admitted that their accompanying product certifications were submitted to create the appearance that the supplied items conformed with custom specifications.

“This is to certify that the products listed above conform to all the requirements of contract specifications and plans.”
Thanks in large part to field personnel diligently doing their jobs, this case resulted in:

- United pleading guilty to providing false statements
- Over $500,000 in criminal and civil penalties
PRODUCT SUBSTITUTION

Sample Indicators

- Contractor restricts or avoids inspection of goods or service upon delivery.
- Contractor refuses to provide supporting documentation regarding production or manufacture.
- Use of reproduced copies, rather than originals, when providing necessary certifications.
- Irregularities in signatures, dates, or quantities on delivery documents.
MINORITY-OWNED BUSINESS FRAUD

Definition
Contractor *misrepresents* who performed contract work in order to *limit costs* while appearing to be in compliance with contract goals for use of minority / women-owned businesses.

Example
Prime contractor and minority-owned subcontractor submitted false payroll records and prepared false job-cost records to indicate that a minority-owned business performed specialty painting of highway structures, when a majority-owned subcontractor actually controlled and supervised the painting work.
THE MTA SUBWAY PROJECT

- Rehabilitation of 3 Brooklyn subway stations;
- The FTA provided over $28 million in grants;
- DBE participation set at 20% of contract value;
- EXCEL was one of 9 bidders for project;
- EXCEL was awarded the $38 million contract.
FRAUD IN POST-AWARD PHASE

• The MTA contract required that EXCEL submit copies of executed subcontracts with the DBEs within 30 days of award;

• EXCEL was also required to submit monthly DBE progress reports;

• Various arrangements with the DBEs.
DUAL CONTRACTS: TLH

• In April 1999, SAVVIDES met with the owner of TLH, a DBE, and execute two subcontracts for the same project;

• $1 million and $3 million versions;

• The $1 million version honored between the parties;

• EXCEL submitted only $3 million version to the MTA.
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ARREST OF SAVVIDES

• On 11/16/04, SAVVIDES was arrested for conspiring with others to violate:

• 18 USC §666 [Embezzlement/Theft of Federal Program Funds];

• 18 USC §1341 [Mail Fraud]; and,

• 18 USC §1956/1957 [Money Laundering].
MINORITY-OWNED BUSINESS FRAUD

Sample Indicators

- Minority owner lacks background, expertise, or equipment to perform subcontract work.
- Employees move back and forth between prime contractor and minority-owned business payrolls.
- Business names on equipment and vehicles are painted over or covered with magnetic signs.
- Orders and payment for necessary supplies are made by individuals not employed by minority-owned business.
QUALITY-CONTROL TESTING FRAUD

**Definition**
Contractor *misrepresents* QC test results to falsely earn contract incentives or avoid contract disincentives, or to avoid production shutdown or required removal of deficient material in order to *limit costs* or *increase profits*.

**Example**
After distracting the state inspector, an asphalt-paving crew foreman discarded road cores from random QC locations designated by the inspector and replaced them with “test cores” known to qualify for density-incentive payments under the contract.
QUALITY-CONTROL TESTING FRAUD

**Sample Indicators**

- Contractor employees regularly contrive to take or label QC samples away from inspector oversight.

- Contractor insists on transporting QC samples from the construction site to the lab.

- Contractor does not maintain QC samples for later Quality-Assurance (QA) testing.

- Contractor challenges results, or attempts to intimidate Quality Assurance inspectors obtaining conflicting results.
KICKBACKS

Definition
Contractor or subcontractor *misrepresents* the cost of performing work, in that he secretly pays a fee for being awarded the contract and therefore *inflates the job cost* to the government.

Example
Contractor bought gifts for, and paid cash to, a contracting officer in return for tailoring contract specifications to preferentially benefit the contractor in the contract-award process.
Case Initiation

• Summer 2003, DOJ Antitrust division referred allegations of public corruption by a senior DC DOT official: Wilhelm DerMinassian
  – Initial focus on anti-competitive practices between DC DOT contractors
  – Developed into a more traditional public corruption case, i.e., crimes involving graft
• Shortly after we were notified, OIG brought the FBI WFO into the investigation
Schemes

- Investigation revealed DerMinassian solicited a job, six figure salary and $300,000 bonus from a current DC DOT contractor in exchange for the award of a $2.5 million contract

- DerMinassian accepted $6,000 cash from Dunn Engineering and Associates, a NY engineering firm, who was serving as the prime contractor on a $17.5 million contract

- He accepted approximately $20K in cash and other items of value from another contractor, in connection with his administration of a $12.9 million procurement
Schemes

• DerMinassian commandeered two fully loaded SUVs for over a year which were funded under a DC contract
DISPOSITION

• DerMinassian:
  – Accepting gratuities
  – Wire fraud
  – $50K criminal fine and $50K restitution to DC
  – Currently serving 30 months in prison

• Dunn Engineering and Associates:
  – Providing gratuities
  – Agreed to pay a $75K criminal fine
  – FHWA/DC Government possible debarment actions pending
KICKBACKS

Sample Indicators

- Unexplained or unreasonable limitations on the number of potential subcontractors contracted for bid or offer.

- Continuing awards to subcontractors with poor performance records.

- Non-award of subcontract to lowest bidder.

- “No-value-added” technical specifications which dictate contract awards to particular companies.
BRIBERY

Definition
Contractor *misrepresents* the cost of performing work, in that he compensates a government official for not enforcing the contract, or for permitting contract overcharges to *increase contractor profit*.

Example
State engineer received sports tickets and free work on his vacation home in exchange for permitting a paving contractor to submit weight tickets for non-existent loads of fill material.
BRIbery

**Sample Indicators**

- Other government inspectors at the job site notice a pattern of preferential contractor treatment.

- Government official has a lifestyle inconsistent with his salary.

- Contract change orders lack sufficient justification.

- Inspectors socialize with, or have business relationships with, contractors or their families.
Engineer allegedly bilked 3 states of highway funds

By Matt Apuzzo
Associated Press

HARTFORD — A Connecticut engineer bilked millions in federal highway funds from transportation agencies in three states, federal prosecutors charge.

But while Frank S. Chuang and his two firms face more than $21 million in combined fines, his firms continue work on projects worth millions in Connecticut, Massachusetts and New York.

Federal prosecutors said Tuesday that Chuang and his companies inflated overhead and falsified payroll claims, costing highway departments in those states as much as $3 million.

Chuang plead innocent Tuesday to 30 counts of mail and wire fraud and filing false claims. A federal judge released him on $400,000 surety, but allowed him to travel the region on business.

That business includes six ongoing Massachusetts projects worth $3.5 million and two ongoing Connecticut contracts worth more than $1.3 million.

That work continues despite the indictment, officials at the Massachusetts Highway Department and the Connecticut Department of Transportation said.

“This causes a big concern for us,” MassHighway spokesman Jon Carlisle said. “We're looking at what steps we can take.”

Chuang's companies, L-C Associates Inc. and L-C Associate P.C., filed payroll records that included the names of people who had not actually worked on projects, prosecutors charge.

MassHighway officials said the state is paying Chuang's companies to work on bridges in South Hadley, Clinton, Barre, Shirley and Pittsfield.

The companies also have a $1.2 million contract to oversee construction of a communications system on the Danbury branch of the Metro North New Haven line and a $133,000 contract to repair a Salisbury bridge, Connecticut officials said.

New York transportation officials said they are reviewing subcontracts with Chuang's companies in response to the indictment. They were not sure of the value of those subcontracts.

Assistant U.S. Attorney William J. Nardini said additional indictments could be handed up soon.

The FBI, IRS, Treasury Department, Department of Transportation and various state agencies are handling the investigation. A search warrant on file in federal court has been sealed.

The two companies are based out of Rocky Hill, Conn., but Chuang has an office on Madison Avenue in New York and an agent in Boston, according to state records.

Chuang had no comment after court Tuesday.

“He enjoys an excellent reputation in the community,” his lawyer, James Wade said.

Chuang, who was born in Taiwan but is a naturalized citizen, surrendered his passport in court.

Magistrate Judge Thomas P. Smith did not set a date for Chuang's return, saying he would wait until prosecutors are certain they have are seeking no more indictments.
YOU SUSPECT FRAUD—NOW WHAT?

- Seek explanation for irregular activity if possible, but do not alert contractor to suspicions.
- Note observations and conversations.
- Copy all relevant documents.
- Contact OIG Special Agent or Hotline at 1-800-424-9071
Who can join?

Any government organization at the local, state, or federal level providing oversight of surface transportation infrastructure programs (e.g., audits, investigations, compliance reviews.)

How to join?

Joining the Network is simple and free. Click on ‘Members’ to submit your basic information to our system administrator. The administrator will respond to your e-mail address with your user name and temporary password.

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(Introduction)

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For additional information, contact our project manager:

Senior Special Agent Carlos Vazquez
305-716-3124
202-366-8081
carlos.a.vazquez@oig.dot.gov

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