

### FRAUD AWARENESS, DETECTION & PREVENTION



U.S. Department of Transportation Office of Inspector General

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September 17, 2013

# **"IT'S NOT WHETHER OR NOT FRAUD OCCURS ON THIS PROJECT", IT IS "WHEN FRAUD OCCURS."**









# **Overview**

- Organization, Investigative Authority, and Process
- Priorities, Common Schemes, and "Red Flags"
- Case examples
- Reporting Suspected Fraud, Waste, and Abuse
- Additional Sources of Information
- Questions





### **OIG Investigations Outreach Program**

- Fraud Awareness and Education
- Promotion of Stronger Oversight by FHWA and State DOTs
- Partnership with Audit
- Liaison Efforts with DOT Operating Administrations, State and Local DOT Officials, other Law Enforcement, and Industry
- Identify Risks and Oversight Challenges
- Early Detection of Fraudulent Activities



### Investigative Process: Inputs

#### Allegations Received

 About fraud, waste, abuse, and other irregularities concerning DOT programs or operations

#### Assessment

Allegations are preliminarily reviewed to determine if OIG investigative attention is warranted

# • Investigative Activity is conducted through a variety of means

- Document analysis and witness and subject interviews
- IG and grand jury subpoenas and search warrants
- Special techniques such as electronic surveillance, undercover operations, and forensic/laboratory analysis
- Coordination with other law enforcement agencies (e.g. FBI)





#### Investigative Process: Outputs & Outcomes

#### • Outputs

 Upon completing the investigation, reports and other documents are written for use by senior decision-makers and other stakeholders, including Congress, U.S. Department of Justice officials, DOT management, and the public

#### Outcomes

- Criminal
- Parallel Proceedings

- Civil 🕯
  - Civil False Claims
  - Qui Tam (Latin for "He who sues for the king as well as for himself")
- Administrative
  - Suspension and Debarment
  - Departmental management actions
- Ultimately supports DOT's strategic goals





### **Contract & Grant Fraud Investigations**

- Help protect the Nation's substantial investment on surface transportation and aviation systems and infrastructure
- OIG also has a proactive fraud awareness and educational outreach program with stakeholders at all levels of government, industry, and the public to:
  - heighten awareness of fraud schemes, and
  - deter, detect, and report fraud in DOT-funded programs, operations, and projects





### **2012 ACFE Report to the Nation**



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#### **3 Major Categories of Occupational Fraud** Frequency

	riequency	Amount
Asset Misappropriation theft or misuse of organization's assets	86.7.5%	\$120K
<b>Corruption</b> person uses influence to obtain a benefit contrary to his duty to employer	33.4%	\$250K
<b>Fraudulent Statements</b> —falsifying organization's financial statement to make it appear more or less profitable	7.6.6%	\$1M







### **2012 ACFE Report to the Nation**

How is fraud first discovered?

•	Tip	43.3%

- Management Review 14.6%
- Internal Audit 14.4%
- By Accident 7.0%
- External Audit 3.3%
- Notified by Police

3.0%





### **2006 ACFE Report to the Nation**



### Who provides tips alleging fraud?

- Employees 50.9%
- Customer 22.1%
- Anonymous 12.4%
- Vendor 9.0%





# **Fraud Prevention**

- Tone at the Top
- Ethics training and policies
- •Designated corporate compliance officer
- "Known" reporting procedures
- Employees required to report violations
- Awareness and common sense





### Need for More "Effective" Oversight

- Effective communication with the DOT Operating Administrations and/or State DOTs, Transit Grantees, Airport Sponsors who are our "eyes and ears" on these projects.
- Effective Oversight For
  - Site inspections
  - Document review
  - Asking questions





## Grant (Contract) Oversight

- Protect the public
- Do they have enough inspectors
  - How well trained are the inspectors
  - Are people looking behind the certifications
  - If they are contracting out the inspecting who is doing it. Do they have a conflict of interests





### **Project Management Fundamentals**

- prepare a realistic cost estimate
- hold contractors to their bids
- penalize contractors for their mistakes
- monitor progress





## **Fraud Prevention**

#### Certification Statements

I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.





### When Prevention doesn't work

- Goal is to prevent fraud, but be involved early if fraud is detected
- We know from experience that we can't stop all of it
- Joint Initiatives or Task Forces with Federal, State and Local are key
- Communication between agenciescomparing problem contractors or fraud schemes is also key

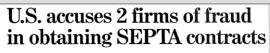






# **Fraud Defined**

- What is Fraud? There are a number of different definitions, but essentially it is...
  - Deliberate deception to secure an unfair gain
- Review of Select:
  - Common Schemes
  - "Red Flag" Indicators
  - Case Examples









### **Bribery** Its not just a few bucks between friends

- A contractor misrepresents the cost of performing work by compensating a government official for permitting contractor overcharges to increase contractor profit
  - Other government inspectors at the job site notice a pattern of preferential contractor treatment
  - Po Government official has a lifestyle that exceeds their salary
  - ▶ Contract change orders lack sufficient justification
  - Po Contracting employee declines promotion to a non-procurement position
  - Oversight officials socialize with, or have business relationships with, contractor or their families







#### "Former FDOT worker sentenced to prison in bribery scheme"

- In April 2013, former Florida DOT employee was sentenced to serve 3 years & 3 months incarceration
  - Pay approx. \$243K in restitution to FDOT
  - Forfeit \$30K (amount of the bribe she received)
- This individual conspired with a contractor to process fictitious claims submitted to FDOT

### Steel Grit Not Removed and Painted Over

# BRIBERY IN BRIDGE PAINTING SCAMS





# **Conflict of Interest**

Do I need to let anyone know about my other interests?

- A contracting or oversight official misrepresents that he or she is impartial in business decisions when they have an undisclosed financial interest in a contractor or consultant who inflates the job cost to the Government
  - B Government official disclosing confidential bid information to a contractor or assisting the contractor in preparing the bid
  - Pulling Unexplained or unusual favoritism towards a particular contractor or consultant
  - Close socialization with or acceptance of inappropriate gifts, travel, or entertainment from a contractor
  - Employee discusses employment with a current or prospective contractor or consultant
  - ▶ Vendor or consultant address is incomplete or matches employee's address





#### Conflict of Interest Case Example

"Tennessee Contractor Sentenced For Obstruction of Justice"

	United St	ates District	Court	
MIDDLE	2	District of	TENNESSEE	
UNITED STAT	ES OF AMERICA	JUDGMENT	IN A CRIMINAL CASE	
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		USM Number:	20796-075	
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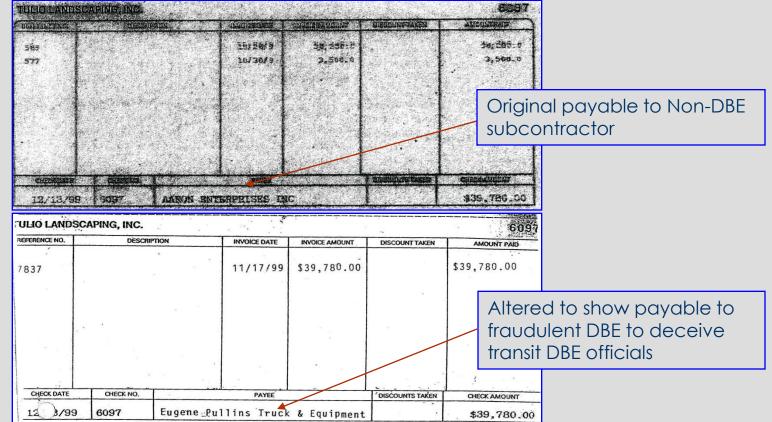
### Disadvantaged Business Enterprise Fraud

- Are they really meeting ALL the contract goals?
- A contractor misrepresents who performs the contract work in order to increase job profit while appearing to be in compliance with contract goals for involvement of minority-or-womenowned businesses
  - DBE owner lacking background, expertise, or equipment to perform subcontract work
  - Employees shuttling back and forth between prime contractor and DBE-owned business payrolls
  - Business names on equipment and vehicles covered with paint or magnetic signs
  - Orders and payment for necessary supplies made by individuals not employed by DBE-owned business
  - Prime contractor facilitated purchase of DBE-owned business



#### Disadvantaged Business Enterprise Fraud Case Example

#### Fraudulent Disadvantaged Business Enterprise



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# **Kickbacks**

Because they will give, doesn't mean you should take...

- A contractor or subcontractor misrepresents the cost of performing work by secretly paying a fee for being awarded the contract and therefore inflating the job cost to the government
  - 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 subcontracts to lowest bidder
  - ▶ Lack of separation of duties between purchasing, receiving, and storing
  - Non-qualified and/or unlicensed subcontractors working on prime contracts
  - Purchasing employees maintain a standard of living exceeding their income
  - ▶ Employees making less than the paper indicates they make (Davis Bacon)





### Kickbacks Case Example

- Several contractors and OH DOT bridge inspectors were indicted on charges of submitting false statements on highway projects, kickbacks, and conspiracy.
  - Bridge inspectors submitted false certifications regarding the quality and quantity of work performed by contractors on bridge painting contracts.
  - Bridge inspectors accepted bribes in exchange for allowing the contractors to provide inferior products.





#### Bid Rigging & Collusion Back room deals are never good...no matter how dark the room is...

- Contractors misrepresent that they are competing against each other when, in fact, they agree to cooperate on the winning bid to increase job profit
  - Unusual bid patterns: too close, too high. Round numbers, or identical winning margins or percentages
  - Po Different contractors making identical errors in contract bids
  - Po Bid prices drop when a new bidder enters the competition
  - Po Rotation of winning bidders by job, type of work, or geographical area
  - Losing bidder submits identical line item bid amounts on nonstandard items, or is hired as a subcontractor
  - Point venture bids by firms that usually bid alone





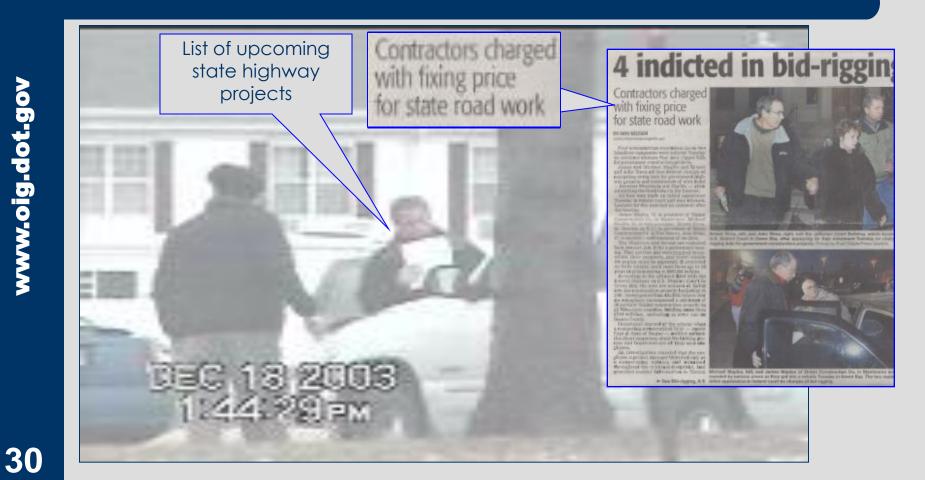
#### Bid Rigging Case Example

- 2 Companies Indicted and Plead Guilty
- 4 Company Principals Indicted, Plead Guilty, with 2 Sentenced to 1 year in Jail; 1 Sentenced to 5 months in jail, 5 months home confinement; and 1 Sentenced to 1 year home confinement and 3 years probation
- Fined \$3.1 Million





#### **Bid Rigging & Collusion** Select Case Example



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#### **Materials Overcharging** *Dishonest contractors think you aren't checking the bills...*

- A contractor misrepresents how much construction material was actually used on the job and then is paid for excess material to increase job profit
  - Discrepancies between contractor-provided quality documentation and observed data, including yield calculations
  - ▶ Refusal or inability to provide supporting documentation
  - Truck weight tickets or plant production records with altered or missing information
  - Unusually high volume of purchases from one vendor
  - ▶ Invoiced good cannot be located in inventory or accounted for
  - ▶ No receiving report for invoiced goods





#### Materials Overcharging Case Example

DATE 10.9.91 ASPHALT PLANT PRODUCTION REPORT	PLANT NO. 102		
ASPRALT SHIPPED TO JOBS	200 ·	PLANT START PLANT STOPOL (1) UNITS TAHECA TOTAL PLANT HOURS	Plant
LUGE NO. OB NO. SUB NO. OB NO. SUB NO. OB NO. SUB NO. OB NO. SUB NO.	COST CODE ULA DE SIO ULA DE	Алиной Министри К. 2.0 Улт. И ВКАНОЙ Министри Страна 296 Крал 200 Ина 200 Ина	Production Report shows 1,380 tons more asphalt shipped than produced on this day
		COMMENTS	

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- A contractor misrepresents the results of quality control tests to earn contract incentives falsely or to avoid production shutdown in order to increase profits or limited costs
  - Contractor insists on transporting quality control (QC) samples from the construction site to the lab or does not maintain QC samples for later quality assurance testing
  - Photocopies of QC test results are provided when originals are expected
  - Lab test reports are identical to sample descriptions and test results, varying only date and lot number tested
  - Test results cannot be found, are suddenly found after a delay, or have been destroyed
  - Contractor regularly takes or labels QC samples away from inspector oversight





#### Quality Control Testing Case Example

#### • Fraudulent Core Samples

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Special Assignments	Approx. Price Approx. Price Approx. Price State		





### **Time Overcharging** *What's a couple of hours here or there?*

- A contractor or consultant misrepresents the distribution of employee labor on jobs in order to charge for more work hours, or a higher overhead rate to increase profit
  - Unauthorized alterations (erasures, white-out, pencil markings) to timecards and other source records
  - ▶ Billed hours and dollars consistently at or near budgeted amounts
  - ▶ Timecards filled out by supervisors, not be employees
  - Frequent adjustments to journal entries with descriptions such as changed wrong "work order" or "contract number"
  - Inconsistencies between consultant's labor distribution records and employee timecards
  - Personnel files that cannot be found or "found" after a delay
  - Office policies (outside the norm)



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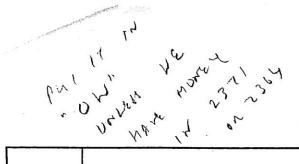


Time Overcharging Case Example: Shah Engineering

- State DOT referred to DOT/OIG
- State DOT gave detailed information on search sites
- Simultaneous warrant of contractor's office and company owner's residence
- State DOT auditors brought in to sites as experts
- Audit & Investigation Findings
  - Total Loss [Fraud] = \$12.3 million







#### Shah Engineering, Inc.

#### Time Sheet 2002

		Week 3							Week 4							
JOB NO.	PROJECT NAME	М	Т	W	TH	F	S	S	M	Т	w	тн	F	S	S	TOTAL
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## **Overhead Fraud**

• State DOT Audit of Engineering Services

- > Timesheets unsigned or unapproved
- > Timesheet corrections not initialed
- > Hours incorrectly applied to jobs or office work
- Employee lists did not match up with payroll reports
- > Related Companies family ownership
- Initial audit findings
  - Contractor received in excess of \$1,500,000 more than its entitlement

1/13/2015





# **Product Substitution**

Maybe it's not quite what you asked or paid for...

- A contractor misrepresents the product used in order to reduce costs for construction materials
  - Po Any mismarking or mislabeling of products of materials
  - Contractor restricts or avoids inspection of goods or services upon delivery
  - Refusal to provide supporting documentation regarding product or manufacturing
  - Test or Quality records reflect no failures or a high failure rate but contract is on time and profitable
  - P→ Contractor offers to select samples for testing programs
  - ▶ Irregularities in signature, dates or quantities on delivery documents





#### **Product Substitution** Case Example

 A concrete manufacturer provided custom pre-cast concrete catch basins on a road construction project.







#### **Product Substitution** Case Example

- Catch basins should have been constructed with reinforcing steel.
- Destructive testing revealed lack of reinforcing steel.

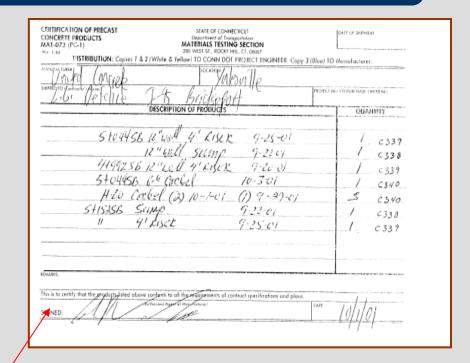






#### **Product Substitution** Case Example

- Supplier admitted product certifications were submitted to create appearance materials met specifications.
- Results
  - Pre-qualification suspension
  - Product failures corrected
  - \$500,000 in criminal & civil penalties



"This is to certify that the products listed above conform to all the requirements of contract specifications and plans."





# Product Substitution- Contractors cutting corners on time and material

- Inferior & foreign steel
- Failure to put in rebar
- Remixed concrete
- Not performing required testing
- Falsifying test results





#### Lying about meeting Grant Requirements

- Buy America
  - Most Federal contracts contain a Buy America Provision
  - Unless the project obtains a waiver, steel iron and manufactured goods must be produced in United States
  - Run into cases where contractor certifies they are using steel from the United States actually imported
  - In most cases no one checks





# **Prevailing Wage Fraud**

But my employees agreed to work for less ...

- A contractor misrepresents how much he is paying his employees in order to increase job profit while appearing to be in compliance with contract goals for payment of prevailing wages
  - Employee complaints about underpayment or non-payment of wages or benefits
  - Payroll sheets completed with different handwriting
  - ▶ Delayed or non-submittal of certified payrolls
  - ℕ No overtime worked in peak construction season
  - ℕ No one conducts wage verification interviews at job site





# **Prevailing Wage Fraud**

NAME OF CONTRACTOR	OR SU	BCONTRACT	OR							ADDRE									
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		5/4/2002								DOT 72 - MITCHELL RD N			IVL #988	S.P. # 2762-0022					
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#### Criminal Statutes Typically Used to Prosecute Fraud

- 18 USC § 286 & 287 False Claims and Conspiracy to Present False Claims
- 18 USC § 371 Conspiracy to Defraud the U.S.
  - 18 USC § 1001 False Statements or Claims on Highway Projects
  - 18 USC § 1020 Highway Projects False Statements

Mail Fraud

Wire Fraud

- 18 USC § 1341
- 18 USC § 1343
- 18 USC § 1519
- 18 USC § 1516
- Obstruction of Justice
- **Obstruction of a Federal Audit**

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# **CLEAR SPAN CONSTRUCTION**

Wire Fraud example

 Williams pleaded guilty for his role in the falsification of engineering documents related FHWA funded FHWA funded projects from 2008-2012.

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

MATTHEW G. WILLIAMS

JUDGMENT INCLUDING SENTENCE UNDER THE SENTENCING REFORM ACT

Case Number 2:13cr00311-001 Electronic Filing

Tina O. Miller, Esquire Defendant's Attorney

THE DEFENDANT: <u>X</u> pleaded guilty to Counts 1, 2, 3, 4 and 5.

Accordingly, the court has adjudicated that the defendant is guilty of the following offenses:

	Nature of Offense	Date Offense Concluded	Count Title and Section Number
18 USC § 1343	Wire Fraud	3/9/2011	1
18 USC § 1343	Wire Fraud	4/28/2011	2
18 USC § 1343	Wire Fraud	5/18/2011	3
18 USC § 1343	Wire Fraud	8/12/2011	4
18 USC § 1343	Wire Fraud	9/2/2011	5

The defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$500, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of residence or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Date

35101068 Defendant's USM No.

September 2, 2014 Date of Imposition of Sentence

DScenore

Signature of Judicial Officer DAVID STEWART CERCONE U.S. District Judge

9-5-14



### **CASE STUDIES AND OPEN DISCUSSION**







# Classic Example of Oversight gone wrong- Big Dig

- Oversight provided by a Joint Venture that ended up paying \$407 million because of inadequate oversight.
- Inadequate oversight led to
  - Overpayments to contractors
  - Substandard concrete
  - Water leaking into the tunnel; and
  - Tragically, the collapse of the tunnel roof resulting in the death of a motorist





## **Substandard Concrete**

- Concrete was being delivered that did not meet specifications. It was left over from other jobs or was more than 90 minutes old.
- There should have been more and better testing
- Inspectors should have
  - Challenged the times on the concrete batch tickets
  - Conduct additional tests on site
  - More lab analysis of concrete quality



### CONSULTANT'S ROLE

- Manage the design of the Big Dig
- Manage the construction of the Big Dig
- Coordinate billing
- Quality Assurance
- Monitor construction in the field
  - Resident Engineer
  - Field Engineer
- Act as owner's eyes and ears





## **Tunnel Leaks Investigation**

- On September 15, 2004, at approx. 11:45 am, a leak was discovered in a wall panel on the east side of the northbound I-93 tunnel
- The leak flooded two traffic lanes and led to closure of the lanes
- The leak flow rate was equal to water and debris (sand, shells) flowing through an 8-inch pipe





## **Investigation Results**

- The Company- AI- Pleaded guilty to Conspiracy to defraud the government with respect to false claims for delivery of substandard concrete to the Big Dig
- Al agreed to pay Restitution of \$50 Million Dollars/\$75 million insurance
- Six employees indicted and convicted
- B/PB role was to test the concrete upon receipt at the project and run the materials testing laboratory- B/PB failed to properly oversee the delivery of the concrete





# **Ceiling Collapse**

- July 10, 2006
- Two Ceiling Modules consisting of ten ceiling plates Collapse and fall in the I-90 East Bound Connector Tunnel
- Milena Del Valle, traveling with her husband in a vehicle was killed by the concrete plates





# **Tunnel Ceiling Collapse**

- One of the contractors installed an anchor bolt with a quick setting epoxy. This is not appropriate for holding up a concrete tunnel ceiling.
- Inspectors observed the creeping of the epoxy bolts. However, they failed to investigate the cause of the failures or correct the problem.





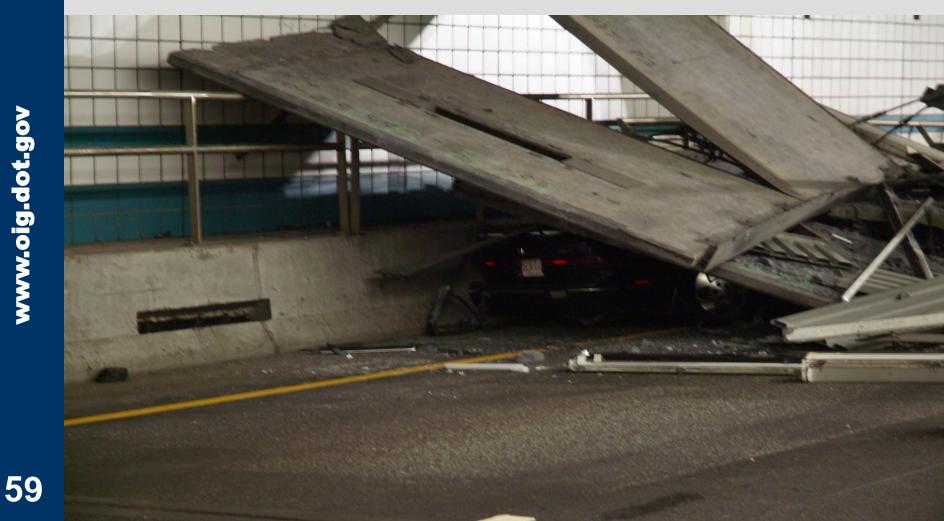
### **Tunnel Ceiling Collapse**







### **Tunnel Ceiling Collapse**







# **The Bottom Line**

# Sweat the small stuff Small and simple violations of law can

be helpful in a large investigation

• No fraud is too small in large projects.



## The Result: Quality Assurance Failure

- B/PB QA Oversight was problematic
- Settlement B/PB to pay over \$458 million in connection with the ceiling collapse, slurry wall defects, T&M fraud and substandard concrete
- Statement of undisputed facts
- Triple all of B/PB's profits on the Big Dig
- Catastrophic event "reopener"





\$21.0M

\$458.2M

\$50.0M

\$58.5M

December 17, 2008. Powers Fasteners, Inc., resolves both criminal manslaughter indictment and civil claims. \$16.0 Million

November 14, 2008. Modern Continental Construction, Co., settlement for damages. In addition, Modern will not perform any further work on the Big Dig. \$21.0 Million

January 23, 2008. Global federal-state settlement with Bechtel/ Parsons Brinckerhoff and other contractors for ceiling collapse, wall leaks, various design errors and problems. In addition, B/PB may be liable for up to \$100 Million for any future catastrophic event. \$458.2 Million

July 27, 2007. Aggregate Industries federal-state settlement (false claims for adulterated cement). Also includes \$75 million additional insurance coverage. \$50.0 Million

May 12, 2007. AlG state settlement (recovery of workers' compensation insurance overcharges). \$58.5 Million





# **Reporting Suspected Fraud to OIG**

- Call: 1-800-424-9071 (Toll Free)
- E-mail: <u>http://www.oig.dot.gov/hotline</u>
  - Mail: DOT Inspector General P.O. Box 708 Fredericksburg, VA 22404
- Directly contact a special agent at an Investigative Regional Office

#### **Other Information**

 "Red Flag" Indicator Fraud Cards (<u>FraudCards@oig.dot.gov</u>)



www.oig.dot.gov





## **Local OIG Contact Information**

Michelle McVicker Special Agent-in- Charge Region 5, Chicago, IL <u>Michelle.T.McVicker@oig.dot.gov</u> 312-353-9088

Kathryn Jones Special Agent-in-Charge Region 3, Washington, DC <u>Kathryn.Jones@oig.dot.gov</u> 202-366-1415





#### YOU SUSPECT FRAUD—NOW WHAT?

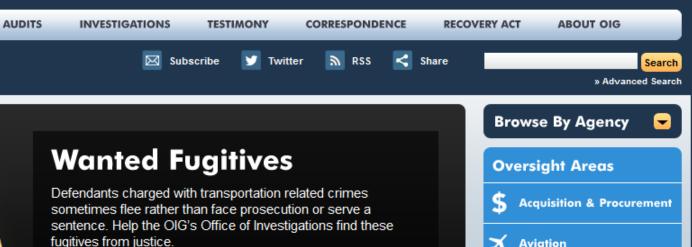
- www.oig.dot.gov
- Seek explanation for irregular activity if possible, but do not alert contractor to suspicions.
- Note observations and conversations.
- Copy all relevant documents.
- Contact OIG Special Agent or Hotline at 1-800-424-9071





#### Office of Inspector General

U.S. Department of Transportation | Calvin L. Scovel III, Inspector General



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