



Disadvantaged Business Enterprise (DBE) Fraud in Transportation



***U.S. Department of Transportation
Office of Inspector General***

**Senior Special Agent
Pamela Castleberry**

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Overview



- **Mission and Priorities**
- **Fraud Discovery, Schemes, and Indicators**
- **DBE Fraud and Case Studies**
- **Detection and Deterrence of DBE Fraud**





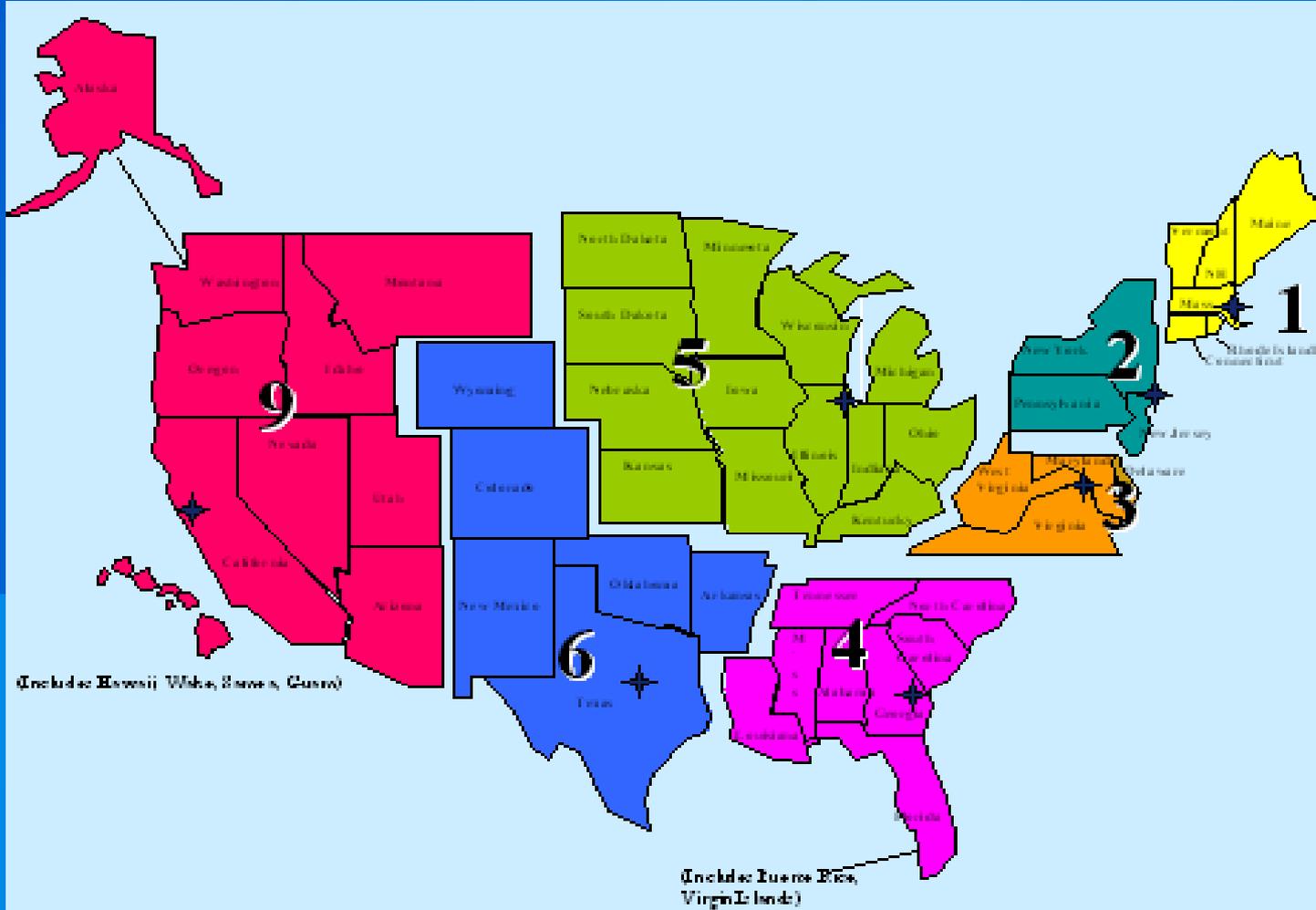
OIG Mission



- **To conduct objective audits and investigations of DOT's Programs and Operations**
- **To promote economy, effectiveness, and efficiency within DOT**
- **To prevent and detect fraud, waste, and abuse in the Department's Programs**
- **To review existing and proposed laws or regulations affecting the Department and make recommendations about them**
- **To keep the Secretary of Transportation and Congress fully informed about problems in Departmental Programs and Operations**



Investigative Regions



Cambridge, MA
(617) 494-2701

New York, NY
(212) 337-1250

Washington, DC
(202) 260-8580

Atlanta, GA
(404) 562-3850

Chicago, IL
(312) 353-0106

Ft. Worth, TX
(817) 978-3236

San Francisco, CA
(415) 744-3090



Investigative Priorities: Four Imperatives



- Transportation Safety Program
- Grant and Procurement Fraud Program
- Employee Integrity Program
- Consumer and Workforce Fraud Program



The Process:



Referral-Investigation- Prosecution



OIG - Investigations



U.S. Courts





Characteristics of an Administrative/Civil Action



- Non-compliance with DOT Regulations
- Inadvertent/not deliberate
- Proved by a Preponderance of Evidence
- Sanctions can include Orders to take Corrective Action, Repayment of funds, Withhold funding, Return of funds



FRAUD



A Generic Term That Embraces All the Ways One Person Can Falsely Represent Something to Another in Order to Induce That Person to Surrender Something of Value.





Disadvantaged Business Enterprise (DBE) Fraud



- **Definition:** Under this scheme, a contractor *misrepresents* who performed the contract work in order to increase job profit while appearing to be in compliance with contract goals for involvement of minority- or 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 in fact a majority-owned subcontractor controlled and supervised the painting work.



Disadvantaged Business Enterprise Fraud “Red Flag” Indicators



- **DBE owner lacks background, expertise, or equipment to perform subcontract work**
- **Employees shuttle back and forth between prime contractor and minority-owned business payrolls**
- **Business names on equipment and vehicles are covered with paint or magnetic signs**
- **Orders and payment for necessary supplies are made by individuals not employed by DBE-owned business**

DBE Fraud

“Red Flag” Indicators Continued—



- Prime contractor facilitated purchase of DBE
- DBE owner never present at job site
- Prime contractor always uses the same DBE



What is a DBE?

➤ Behind the Scenes: What is a Disadvantaged Business Enterprise? King 5 News Report, Seattle

➤ <http://www.king5.com/community/blogs/investigators/Behind-the-Scenes-What-is-a-Disadvantaged-Business-Enterprise-158205915.html>





Why Employees Do Not Report Fraud



➤ **According to a Business Ethics Study, employees do not report fraud because they:**

- ✓ **Believe nothing will happen.**
- ✓ **Don't know who to contact.**
- ✓ **Think the report will not be kept confidential, so supervisors or co-workers might retaliate.**
- ✓ **Believe the situation has no personal impact on them.**





Fraud Discovery



- **Association of Certified Fraud Examiners (ACFE)**



- **ACFE 2012 Global Fraud Study –**

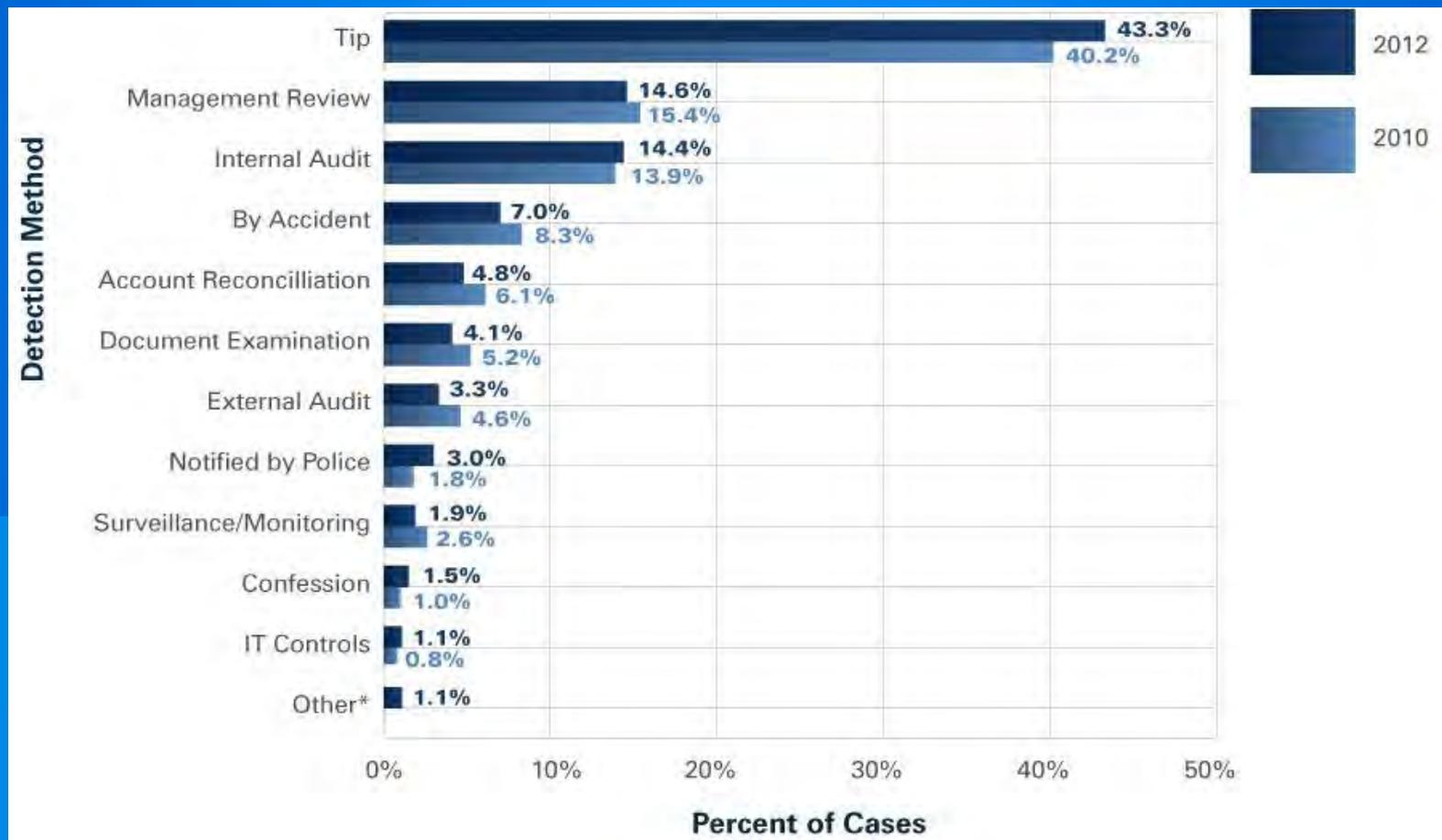
Detection of Occupational Fraud Data... why you are instrumental...

Detection of Fraud Schemes



Frauds are much more likely to be detected by tips than by any other method.

Detection of Occupational Frauds





OIG Focus on DBE Fraud



Disclaimer

This presentation is intended only to reflect a partial summary of our investigation. It represents only one side of the story based on certain facts discovered through the course of the investigation.

Others may interpret this information, and the facts behind them, in a different manner and come to different conclusions.



DBE Fraud Schemes



False Eligibility

- **The DBE does not belong to one of the recognized socially or economically disadvantaged groups**
- **The DBE provides false information concerning size or financial status**
- **Hidden assets or false statements concerning origination of capital**



Bribery to Falsify DBE Certification Background



- **Daniel Pellicciotti, nephew of a former Philadelphia councilman, is a non-disabled white male who incorporated the contractor Philly-Wide Interiors in 1998.**
- **Minority Business Enterprise Council (MBEC) is Philadelphia's agency responsible for certifying DBE's.**





Bribery to Falsify DBE Certification Scheme



- Pellicciotti provided cash and free meals to an MBEC employee to influence his decision to certify Philly-Wide as a DBE. The company was owned and controlled by Pellicciotti's wife, a full-time nurse.
- Philly-Wide used its DBE certification to obtain a \$228K contract in 2001 for demolition and refurbishment work on a transit contract.





Bribery to Falsify DBE Certification Disposition



- **Following cooperation and a guilty plea, the MBEC employee was sentenced to pay \$1,500 in restitution and probation for 36 months.**
- **After pleading guilty, Pellicciotti and Philly-Wide were sentenced to pay more than \$135,000 in fines and restitution, plus 8 years probation. Both were debarred from working on Federal-aid contracts for 3 years.**





DBE Fraud Schemes

Conduit Companies



- **DBE firm does not complete any of the contracted work**
- **The DBE sells its status to another company who completes the work**
- **Usually allows the use of the DBE name on invoices, trucks, equipment**



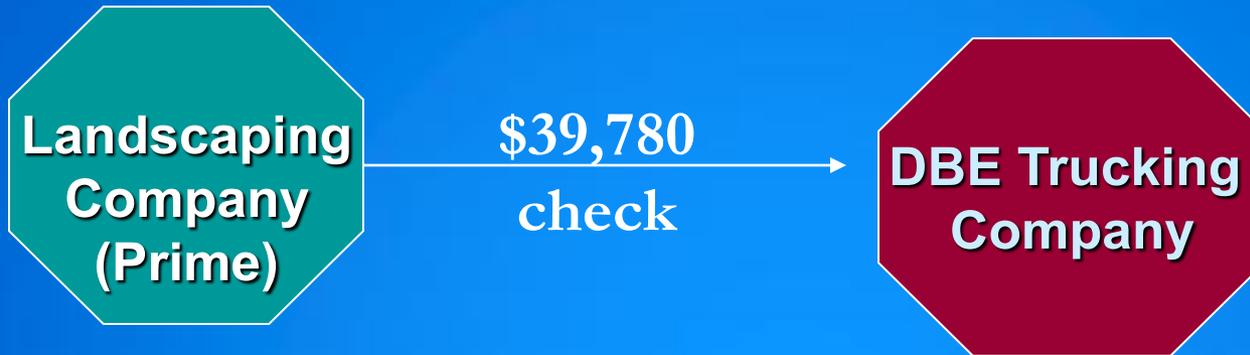
DBE Fraud Case Study



The owner of a modest excavating & landscaping business in Philadelphia took pride in his business but could not resist the temptation to misuse the DBE program.



DBE Fraud Case Study



\$383,000 Contract

The landscaping contractor altered a check and submitted it to a Pennsylvania Transportation Authority as proof that the DBE performed work actually done by a non-DBE subcontractor.

Federal prosecutor declined case based on low dollar loss.



DBE Fraud Case Study

**Landscaping
Company
(Prime)**

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graph TD; A[Landscaping Company (Prime)] --> B[DBE Trucking Company]; C[Large Excavating Company (Prime)] --> B;
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The landscaping company paid the DBE \$4,810 to use its name for \$67,995 in DBE credit on two jobs awarded for \$418,000 to replace collapsed culverts.

**DBE Trucking
Company**

Both prime contractors submitted altered checks, false DBE utilization and invoice payment reports, and phony invoices misrepresenting that the DBE had performed the work.

**Large
Excavating
Company
(Prime)**

A large excavator paid the same DBE to use its name for \$1.28M in DBE credit on several jobs.

Triple Culvert



DBE Fraud Case Study

Landscaping
Company
(Prime)

The landscaping company claimed the DBE refused to work and demanded 20% of the DBE contract as a fee for use of its name. After a jury found the owner and company guilty of conspiracy and mail fraud, he was sentenced to 15 months in prison and a \$143,000 fine.

DBE Trucking
Company

DBE owner admitted he received a small contract percentage for little or no work. He was not charged after being diagnosed with terminal cancer.

Large
Excavating
Company
(Prime)

The large excavator pled guilty to DBE fraud charges and was sentenced to 5 years probation and restitution of \$1.28 M. The company also consented to debarment for 5 years and agreed to 20% DBE participation on all private contracts.

DBE Investigation

- **News Report:** KING 5 story prompts governor to call for criminal investigation in Seattle, WA

- <http://www.nwcn.com/home/?fld=149179935&fPath=/news/local&fDomain=10212>





ANOTHER DBE FRONT ?



- AGW STEEL PRODUCTS was an Illinois Certified DBE firm.
- Operated by Mr. & Mrs. Williams, and an occasional part time employee.
- Williams claimed he was **certified** in **seventeen states** as a DBE steel supplier.
- **In Nebraska**, he was certified as a steel manufacturer.





AGW Shop Facility





AGW Delivery Truck





AGW Projects



- **AGW was identified as the DBE steel supplier on several Kansas highway projects, with a combined value of over two million dollars.**
- **Document review disclosed AGW was purchasing from a broker, and reselling the steel products. They were drop shipped to the project site by the mfg., and never received by AGW.**
- **The review also disclosed that one of the manufacturer's representatives used the AGW DBE status as a selling point, to help prime contractors meet the DBE goals.**



FAX

	The Carter-Waters Corporation	
	2440 WEST PENNWAY P.O. BOX 412676 KANSAS CITY, MO 64141	phone: 816.471.2570 800.444.2570 fax: 816.221.9562

Date: 6-18-02No. of Pages _____
(including cover page)To: Mark Sloop
Tecker, IncFax No. 816-364-4783From: Bill Larges

Fax No. 816.221.9562

Message: _____

D.B.E for KDOT Add 3%A.G.W. Const.2615 N. Dineen St.P.O. Box 25048Decatur, IL 62525Harvey Williams (217) 875-3739



CONSEQUENCES



- Two prime contractors and the DBE supplier reached settlement agreements with the U.S. Department of Justice as follows...

No Admission of Guilt But...

AGW STEEL, INC.

➤ III. TERMS AND CONDITIONS

- 1. A.G.W. Steel, Incorporated agrees to pay to the United States \$50,000.00 (Settlement Amount).
- They further agreed to be debarred
- for five years from the date of the settlement.



Carter Waters



➤ Missing Documents

- **PURCHASE ORDER FROM AGW**

CARTER WATERS INC.

➤ **III. TERMS AND CONDITIONS**

- 1 Carter-Waters agrees to pay to the United States \$176,000.00 (Settlement Amount).
- 7. Carter-Waters also agrees to all of the terms and conditions of the Corporate Compliance Plan,

KOSS CONSTRUCTION

➤ III. TERMS AND CONDITIONS

- 1. Koss agrees to cause to be paid to the United States \$600,000.00 (Settlement Amount).
- 7. Koss also agrees to adopt, as a company policy, the terms and conditions of the Koss Construction Company Corporate Compliance Program, attached hereto as Exhibit 1.

WHERE DID THE MONEY GO?

- After considerable effort by John Ehmen working with FHWA Headquarters, KDOT has finally been credited with the settlement funds from the DBE fraud case that was completed this year.
- Of the \$848,000 Koss/CarteWaters/Ideker/AGW settlement, KDOT received \$822,560 and the Department of Justice (US Attorney) received \$25,440 (3%).



REMEDIES



1. **Contract Specific Remedies:** Restitution, Penalties, Suspension & Debarment...
2. **Civil False Claims Remedies:** Treble Damages (permits the court to triple the amount of damages), Compliance Agreement, Suspension & Debarment...
3. **Criminal Prosecution Remedies:** Individual & Corporate Fines, Jail, Restitutions, Suspension & Debarment...
4. **Department of Transportation Agency Remedies:** Declination to Participate in That Portions of Contract, and Request for a full Refund of Disputed Funding from the Recipient...



\$1,817,619

**WOULD YOUR
COMPANY
SURVIVE THIS
TYPE OF
FINANCIAL HIT
AT THE END OF
A CONTRACT?**

[REDACTED]

Dear Contractor:

The above project includes Disadvantaged Business Enterprises (DBE) participation goals. On your approved plan, you are committed to using PJR & Associates (PJR) in the amount totaling \$1,817,619.00.

Based upon information from your subcontract with PJR, it appears that work committed to PJR is partially being performed by your firm. The subcontract does not appear to support that PJR is performing a commercially useful function (CUF).

To receive DBE goal credit for work performed, the DBE firm must perform CUF. A DBE firm must also be independent. When a DBE firm depends on essentially all, or portions of its equipment and employees from another source, it is dependent on that entity for the resources to perform the work.

You will have five (5) working days from receipt of this letter to submit a revised Utilization Plan indicating how you will make up any DBE shortfall of the work committed to PJR.

Should you have any questions regarding this matter, please contact Ronald S. Brown at (217) 785-7526.

Sincerely,

Carol Lyle, Bureau Chief
Small Business Enterprises



DOT/OIG Hotline



➤ **Call:** 1-800-424-9071

➤ **E-Mail:** Hotline@oig.dot.gov

➤ **Write:** U.S. DOT/OIG
P.O.Box 23178

Washington, DC 20026-0178





Questions?



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