

Preventing DBE Fraud

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DBE Fraud a National Problem

- DOT/OIG Statistics for 1999
 - 3 DBE fraud cases opened
 - 5 indictments
 - 0 fines and recoveries
- DOT/OIG Statistics for 2000-2006
 - 120 DBE fraud cases opened
 - 70 indictments
 - 51 convictions
 - \$17,300,000 in fines and restitution

Investigative Hours

1999 – We spent less than 6% of our contract fraud investigative hours on DBE fraud

2005 – We spent 24% of our contract fraud investigative hours on DBE fraud

Why the increase in DBE fraud?

- TEA 21 – increase in construction dollars has lead to an increase in DBE contractor participation
- Technology has aided fraud schemes
- Lack of oversight of DBE programs
- Inconsistency in enforcing the regulations
- Contractors have invented new and innovative schemes to commit DBE fraud

OIG Outreach

- Education and Training
- Briefings to more than 15,000 officials in 42 states
- Contract Fraud Conferences
- Liaison with FHWA, FTA and FAA on suspension and debarment
- Liaison with State DOT Officials

Indicators of DBE Fraud

- Large ownership interest in DBE firm by prime contractor
- Financial agreements between prime and DBE contractors
- Joint bank accounts (Prime/DBE)
- Lease agreements between prime and DBE contractors
- Contracts for work for which DBE has no previous history, licenses or equipment
- Prime contractors always using the same DBE

Indicators of DBE Fraud

- DBE contractors who have no business offices and little equipment
- Absence of written contracts
- Change orders and supplemental agreements for work to be done by DBE
- DBE businesses owned by relative of prime contractors (wife, daughter, sister)
- DBE business owners absent for job
- Little or no supervision of DBE contractors

Indicators of DBE Fraud

- Ghost employees or certified payroll irregularities
- Brokering agreements
- Small DBE contractors in unusual businesses (bridges, structural steel)

DBE Fraud Schemes

- Front Companies
- Falsely represent ownership and control of a DBE firm
- The firm is owned by the DBE on paper only
- DBE is usually paid a small sum to allow this scheme to be used

DBE Fraud Schemes

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

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

DBE Fraud Schemes

- Women-owned business enterprises
- Increased fraud in WBE enterprises
- Usually a female relative (wife, daughter, sister, etc.) of a prime or subcontractor
- False statements concerning ownership and control
- False statements concerning financial information and capital
- No knowledge, expertise or licenses in the type of business being operated

New Orleans DBE Investigation

- Requested by Congress to examine DOT DBE programs in New Orleans area
- Three main programs:
 - New Orleans Airport
 - Regional Transit Authority
 - Orleans Levee District

Methodology

- Interviews: We interviewed 134 DBEs, contractors, program officials
- Records Reviews: We reviewed a random sample (20%) of all DBE certification files and DBE contracts
- Conducted Surveillance of Work Sites
- Conducted our own site visits

Summary of Findings

- Lack of oversight
- Program mismanagement
- Site visits not being conducted
- Individuals who exceeded net worth requirements being certified
- DBE fronts
- DBE fraud
- Annual affidavits of no change not being submitted

Findings- Continued

- DBE businesses controlled by non-minorities
- Questionable spending on consultants
- Procurement procedures not being followed
- Woman-owned business enterprise fraud
- Political patronage
- Various DBE regulations not being followed

Case Studies

- DBE Electrical Contractor (VA)
- Won \$14.7 Million Contract
- DBE had submitted false info and had been improperly certified
- Work was satisfactory and completed on time
- Determined to not be a legit DBE
- Company was de-certified, fined \$228,000, facing debarment

Paving and Construction Co (OH)

- Prime set up a DBE front company (WBE)
- DBE paid more than \$1 million
- DBE did not complete any work on job
- DBE and prime contractor both received 6 month prison sentences
- Prime fined \$35,000

USCG Contract (NJ)

- \$1.8 million contract for renovating USCG Training Center
- Prime contractor submitted false claims and made false statement concerning work performed by DBE contractor
- Prime received 6 months prison, fined \$335,000
- DBE de-certified, received probation

Native American DBE Construction Company (NY)

- \$2 million in Construction Contracts
- Native American DBE selected by Prime
- DBE did none of the work
- Only used DBE name
- DBE was paid a few thousand dollars
- Prime and DBE charged under money laundering statutes
- Probation, fines, debarment

The Structural Steel Steal

- DBE claimed to be the structural steel contractor on bridge project, \$2.5 million
- DBE did not complete any work
- DBE paid \$20,000 for use of his name
- AUSA declined prosecution
- FHWA took administrative action
- DBE decertified

The Three Trucking Co. Debacle

- Three trucking companies conspired to commit DBE fraud on \$1.5 million contract
- Used DBE status to obtain work
- Very little work performed by the DBE
- Created false claims, bank accounts, certified payroll, false leases
- Convicted at trial, fines and prison sentences
- Case overturned, Discussion

Paint Contractor pleads guilty to Fraud in \$12 million DBE Scheme

- Prime had \$12 million paint contract on highway and railroad bridges
- Was required to use 10% or \$1.2 million in DBE contracts
- Contractor submitted false payrolls indicating DBE was completing work
- Had no DBE contractors on the job
- Prime is awaiting sentencing and suspension and debarment

Construction Co. fined \$3 million for False DBE Firms

- Prime contractor claimed to have given numerous contracts to two DBE concrete supply companies
- Investigation revealed the prime actually owned the companies
- Plea agreement a \$3 million settlement but no suspension or debarment

Airport contractor found guilty of racketeering in DBE fraud scheme

- Contractor had \$1million contract for cell phone towers at a major airport
- Contract was awarded based on contractor's DBE status
- DBE contractor did none of the work, accepted bribes to allow another contractor to complete the work
- DBE sentenced to 7 yrs in prison and had to pay fines and restitution of over \$600,000
- Contractor who actually completed the work rec'd 5 yrs probation, fined \$10,000, debarred