

# DOT Office of Inspector General

*Presentation at the OIG Suspension and Debarment  
Workshop, Arlington, Virginia, October 28, 2010*

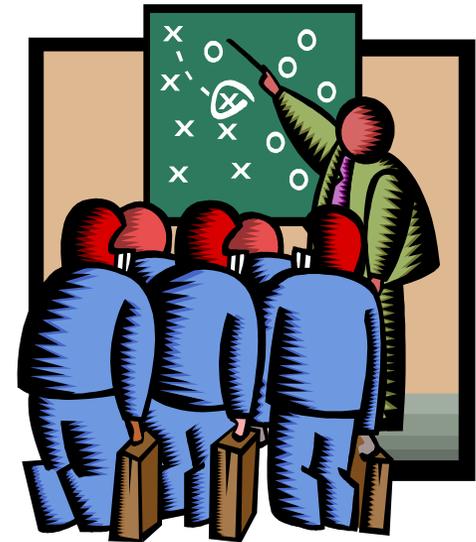


## **Suspension and Debarment in the U.S. Department of Transportation**

# Game Plan

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- Background
- OIG Participants and Audit Objectives
- Audit Results
- OIG Synergy/Tips
- Recent OIG Products
- Congressional Interest and Media Coverage



# Background – *What are Suspension & Debarment Actions?*

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- Under federal regulations, agencies shall exclude unethical, dishonest, or otherwise irresponsible parties from receiving contracts and grants involving Federal funds to protect the Government's interest.

- Overview of terms:**

| Suspension   | Debarment   |
|--|---|
| Temporarily prevents party (usually less than 1-year) from participating in most government-funded procurement and non-procurement transactions pending completion of an investigation or legal proceedings. | Final determination that a party is not presently responsible and thus ineligible (usually not to exceed 3-years) to participate in federally funded contracts or grants. |

Source: DOT Order 4200.5D, Government-wide Debarment, Suspension and Ineligibility, 2 CFR, Part 180, OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement), and Federal Acquisition Regulation, Subpart 9.4.

- Government-wide impact.** One agency's action is applicable to other agencies. Thus, S&D actions are among the Government's strongest tools to deter unethical and unlawful uses of Federal funds.

# Background – *Why is Suspension & Debarment Important in DOT?*

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- DOT's significant contract and grant obligations
  - Averaged \$56 billion annually over last 4 years
- American Recovery and Reinvestment Act of 2009
  - Added \$48 billion requiring DOT's management oversight



- The OIG has included DOT's S&D Program in its Top Management Challenges report since 2007.

# OIG Participants and Audit Objectives

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## Primary Participants

- Acquisition and Procurement Audits (audit lead)
- General Counsel
- Investigations

## Audit Objectives

- Self-initiated audit due to our concerns about DOT's S&D Program.
- We assessed:
  1. The efficiency of DOT's S&D decisions and reporting and
  2. The effectiveness of DOT's policies and oversight to exclude prohibited parties from receiving DOT contracts and grants.

# Audit Results - Summary

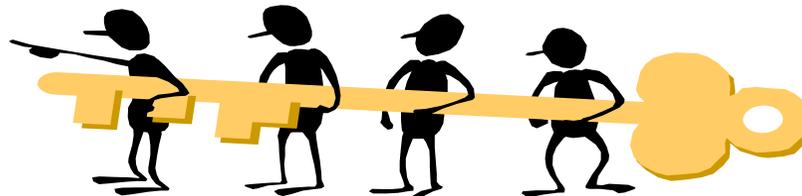
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- **DOT Operating Administrations' S&D decisions and reporting significantly delayed.**
  - Slow decisions - did not rely on indictment/convictions.
  - Untimely reporting - S&D decisions not entered in Excluded Party Listing System (EPLS) within 5 days, as required.
  
- **Weaknesses exist in DOT's S&D policies, procedures, and internal controls.**
  - Policy did not clearly establish that Operating Administrations must suspend or propose debarment within 45 days.
  - Insufficient management oversight by the Office of the Secretary of Transportation (OST) to ensure effective S&D Program.
  - DOT lacks controls to identify weaknesses in its S&D data in the EPLS.

# OIG Synergy

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- Team consisted of staff from audit, investigations, and legal counsel. For example, during the OIG's work on S&D:
  - Audit – consulted with other agencies for best practices and enlisted assistance from other DOT audit groups.
  - Investigations – provided S&D referral data and documentation, case example for audit report.
  - Legal Counsel – provided interpretation of DOT's S&D Order, Federal regulations, and overall legal guidance.



# Tips for Project Success

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- Cross-functional teamwork across OIG



- Involve legal counsel early during audit work for interpretations of policies and regulations.

- Use investigations for information sources and research tools not available to auditors.



- Maintain continuous open communications with auditee.
  - Conveyed issues early in audit; and through our ARRA Advisory
  - Consulted with DOT managers to help develop realistic recommendations
  - No *surprises* at the issuance of draft products

# Recent DOT OIG Audit Products

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## ARRA ADVISORY – DOT's Suspension & Debarment Program, May 18, 2009.

- Issued to promptly report potential management and funding risks that could impact the effective and efficient use of ARRA funds.
- Emphasized need for timelier processing and reporting of S&D actions.
- Deputy Secretary of Transportation responded--DOT would maintain continued focus in this area.

|  |                           |
|--|---------------------------|
|   | <b>Memorandum</b>         |
| U.S. Department of<br>Transportation<br>Office of the Secretary<br>of Transportation<br>Office of Inspector General  |                           |
| Subject: <b>INFORMATION:</b> ARRA Advisory – DOT's<br>Suspension and Debarment Program<br>Department of Transportation<br>Advisory No. AA-2009-001   | Date: May 18, 2009        |
| From: Calvin L. Scovel III <br>Inspector General  | Reply to<br>Attn. of: J-1 |
| To: The Secretary<br>Deputy Secretary  |                           |
| Attached is an ARRA Advisory on the Department of Transportation's Suspension and Debarment Program. Consistent with ARRA and OMB guidance, Inspectors General are expected to promptly report potential management and funding risks that could impact the effective and efficient use of ARRA funds. We are not requesting a formal response to this advisory as the key issues and proposed actions included in it were briefed to cognizant Departmental officials and audit liaisons in advance of issuance. We plan to include the information in this advisory in a full audit report to be issued at a later date. |                           |
| We will be posting the advisory on our Web site ( <a href="http://www.oig.dot.gov/recovery">www.oig.dot.gov/recovery</a> ) and <a href="http://Recovery.gov">Recovery.gov</a> . If you have any questions, please call me at (202) 366-1959 or Mark Zabarsky, Assistant Inspector General for Acquisition and Procurement Audits, at (202) 366-5225.   |                           |
| Attachment   |                           |
| cc: Senior Procurement Executive<br>Federal Railroad Administrator<br>All Acting Modal Administrators<br>Martin Gertel, M-1  |                           |
| #  |                           |

# Recent DOT OIG Products (cont.)

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## **Final Report – DOT's Suspension and Debarment Program Does Not Safeguard Against Awards to Improper Parties, January 7, 2010.**

- Findings on timeliness and internal control weaknesses.
- We recommended that DOT improve its policies and internal controls.
- Agency concurred and has initiated actions to address our recommendations.

**DOT'S SUSPENSION AND DEBARMENT  
PROGRAM DOES NOT SAFEGUARD  
AGAINST AWARDS TO IMPROPER PARTIES**

*Department of Transportation*

*Report Number: ZA-2010-034*

*Date Issued: January 7, 2010*

# Recent DOT OIG Products (cont.)

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## Congressional Testimony – *Weaknesses in DOT's Suspension and Debarment Limit Its Protection of Government Funds, March 18, 2010.*

- Inspector General Calvin Scovel testified.
- House Oversight and Government Reform Committee hearing, *Rewarding Bad Actors: Why Do Poor Performing Contractors Continue to Get Government Business?*

Before the Committee on Oversight and Government Reform  
United States House of Representatives

For Release on Delivery  
Expected at  
10:00 a.m. EDT  
Thursday  
March 18, 2010  
CC-2010-036

### **Weaknesses in DOT's Suspension and Debarment Program Limit its Protection of Government Funds**

Statement of  
The Honorable Calvin L. Scovel III  
Inspector General  
U.S. Department of Transportation



# Recent Congressional Interest & Media Coverage

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## Briefings to Congressional Committee Staff



## Media Coverage



- Kentucky Lexington Herald-Leader, "Cabinet learns lessons from trial," 2-24-10.
- CNNMoney.com, "Fraud: A blight on stimulus work," 2-1-10.
- Federal Computer Week, "Transportation Department attempts to fix suspension delays," 1-13-10.
- Washington Times, "Contract cons can exploit Transportation delay," 1-13-10.
- Government Executive, "Transportation IG finds gaps in contractor enforcement," 1-12-10.

# Contacts and Additional Information

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For more information on DOT's  
Office of Inspector General

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