

**REMARKS OF
CALVIN L. SCOVEL III
INSPECTOR GENERAL
U.S. DEPARTMENT OF TRANSPORTATION**

before the

**ILLINOIS DEPARTMENT OF TRANSPORTATION
“ETHICS IN THE WORKPLACE” SEMINAR
Chicago, Illinois**

August 21, 2007

Good morning. Thank you, Secretary Sees and Director Kennelly, for inviting me here today. It is an honor to be included among the many notable speakers who will be sharing their insights with you about the role of ethics in our everyday work environments.

Having recently ended my career as a Marine, I am very familiar with the core values of honor, courage, and commitment that guide Marines and Sailors in their lives, both professional and personal. In my current role as U.S. DOT Inspector General, these values remain central to my daily responsibilities.

I'm proud of the excellent and long-standing relationship between the U.S. Department of Transportation Inspector General and IDOT, which has resulted in many successes in combating fraud and public corruption in transportation. And I thank all of you for your continuing professionalism, hard work, and demonstrated commitment to upholding the public trust.

Our shared experiences include the infamous Palumbo Brothers case, which began more than 15 years ago after an IDOT employee reported unusual activities involving his boss and this big paving company—one that had existed for more than 100 years and had worked on nearly every major expressway in the Chicago area.

The subsequent multiyear investigation revealed large-scale overcharges for road-building materials, altered payroll records, and bribes being paid to an IDOT resident engineer to look the other way. A 37-count Federal grand jury indictment resulted. Close coordination and cooperation between our organizations were essential in closing this landmark case, which culminated in the guilty pleas and convictions of seven individuals and two companies for racketeering, mail fraud, perjury, and other charges. Six individuals were incarcerated, and the Palumbo brothers, their father, and the two companies were debarred from public-road building for life. More than \$10 million in

restitution and fines was ordered by the court. The IDOT resident engineer lost his State pension.

Michelle McVicker, the Special Agent-in-Charge of our Chicago office, informs me that this high level of cooperation and coordination continues today on other investigations, such as one we are currently pursuing with IDOT and the U.S. Attorney's Office alleging large-scale time-card alteration.

Today I would like to discuss the following four issues:

- ✓ *Maintaining integrity in transportation programs;*
- ✓ *Ethics principles and standards followed at the Federal level;*
- ✓ *Examples of ethical choices—both right and wrong; and*
- ✓ *Why unethical conduct is often not reported, and what we can do to better ensure high ethical standards.*

To begin with, how do we maintain integrity in transportation programs? It all comes down to us. Ethics in the workplace is central to detecting and preventing fraud, waste, and abuse. It is also key to upholding the public trust, which I view as the cornerstone of public service.

No program, at any level of government, is immune to fraud and abuse, and the professionals who carry out vital programs such as those involving the construction and maintenance of our Nation's highways represent the first line of defense in ensuring program integrity.

The public relies on professionals such as all of us—construction managers, resident engineers, inspectors, auditors, and compliance officers—as well as, importantly, contractor representatives—to do the right thing every day in conducting the public's business. Your vigilance, in conjunction with effective internal controls and oversight mechanisms, is essential to mitigating the extent to which fraud and abuse involving transportation programs cheat American taxpayers and erode public confidence in the integrity of our transportation system.

From my perspective, fraud and abuse harm USDOT efforts to provide the safe and efficient transportation systems that are essential to America's continued economic vitality, our Nation's ability to compete in a global economy, and most importantly, each citizen's quality of life. I know these conditions also harm your efforts to fulfill the IDOT mission.

We must be vigilant in ensuring that effective internal controls and oversight mechanisms are in place to detect and reduce the instances of fraud that prohibit us from accomplishing our goals. And we must do so in an *ethical* manner.

To my second point: at the Federal level, two core concepts underlie ethics principles and standards. Executive branch employees—including those in DOT OIG—hold their positions as a public trust. The American people have a right to expect that we will place loyalty to the Constitution, laws, regulations, and ethical principles above private gain. We fulfill that trust by adhering to general principles of ethical conduct and specific ethical standards. These principles broadly define the obligations of public service and relate to issues such as financial responsibility, soliciting or accepting gifts, and engaging in outside employment.

Underlying these principles are two core concepts:

- ✓ *Employees shall not use public office for private gain, and*
- ✓ *Employees shall act impartially and not give preferential treatment to any private organization or individual.*

In addition, employees must strive to avoid any action that would create even the *appearance* that they are violating the law or ethical standards.

By observing these general principles and specific ethical standards, Federal employees help to ensure that our citizens can have confidence in the integrity of government programs and operations. I know that requirements similar to these also exist at the State and local levels.

Third, it all comes down to personal decision-making. Unfortunately, ethical lapses by individuals in critical positions do occur on occasion, sometimes resulting in scandals that significantly undermine public confidence in the integrity of government.

An example of this that still reverberates is the conflict-of-interest-related convictions of a former top Air Force procurement official and a Boeing executive involving a major Defense Department contract for tanker aircraft. You may recall hearing in the media about the case involving Darleen Druyun, who helped negotiate a controversial plan to lease Boeing 767 commercial jets to the Air Force for use as aerial refueling tankers.

Druyun and Michael Sears, Boeing's former chief financial officer, were both fired after an internal Boeing investigation found they had violated company policies. Specifically,

Sears had communicated directly and indirectly with Druyun about possible employment with Boeing while she still worked for the Air Force and before she recused herself from official involvement with Boeing contracts. The investigation also uncovered that the two had tried to conceal their misconduct.

What are the most common ethical violations? According to a 2005 study by the Ethics Resource Center, these violations include:

- ✓ *Misreporting actual time or hours worked (16%),*
- ✓ *Stealing, theft, or related fraud (11%),*
- ✓ *Misuse of confidential information (7%),*
- ✓ *Giving or accepting bribes, kickbacks, or inappropriate gifts (3%).*

USDOT, too, has seen its share of cases involving conflicts of interest, outright fraud, improper financial activities, and other ethical lapses.

For example, in one case we investigated, two George Washington University engineering professors, who were cousins, embezzled nearly \$1 million in Federal Highway Administration cooperative agreement funds for a National Crash Analysis Center program administered by the university.

As program directors, the professors had been entrusted to manage the center on behalf of the university. The 4-year embezzlement scheme was uncovered only after a university official identified a potential conflict of interest involving a plan to use funds from the cooperative agreement to contract with a firm controlled and partially owned by one of the directors.

In the end, the university agreed to reimburse the government more than \$1.8 million for the overcharges plus penalties. The directors pled guilty to the embezzlement charges and were sentenced to a total of 43 months in prison and restitution of almost \$953,000.

Another case involved a Federal Aviation Administration supervisor no longer employed by FAA. This individual pled guilty to charges of wire fraud and money laundering in connection with a procurement fraud scheme in which he received about \$159,000 in corrupt payments for steering government contracts valued at about \$8 million to an information technology services company headed by a former FAA employee.

This was done by structuring the contracts in a manner designed to favor the contractor and avoid competition by secretly allowing the contractor to participate in drafting contract specifications and improperly disclosing confidential FAA information.

We have investigated other cases involving ethical lapses that, while not criminal, posed serious administrative implications for both the employee and DOT. For example, in one DOT agency, a senior executive attended social functions paid for by a contractor who was the executive's previous employer. The executive exerted perceived pressure on subordinates to award more than \$1 million in contract task orders to this contractor for a strategic plan and marketing services. The senior executive was disciplined.

In still another case, a 1,700-space parking garage was built with \$20 million in Federal Highway Administration funds near the FedEx Forum Arena in Memphis, Tennessee, home of the National Basketball Association Grizzlies. The approved plan had called for the garage to be used to provide free or discounted parking for transit passengers, with parking proceeds used to manage and maintain the structure. Instead—and I know you see this coming—we found the garage being used for profit by a contractor associated with the Grizzlies. The Federal Highway Administration was subsequently reimbursed \$20 million from the Tennessee Department of Transportation for the Federal share of this project.

Situations like these can exist in any organization. While these examples highlight cases in which wrong choices were made, there are many examples where State DOT employees and others have made the right choices to uphold the public trust by demonstrating high standards of ethical conduct.

For instance, a member of an asphalt-paving crew told a resident engineer for the Missouri Department of Transportation that his bosses were switching asphalt cores to fraudulently earn quality bonuses under at least two Federal-aid contracts in St. Louis.

After corroborating the allegation by surreptitiously marking quality control core locations with special paint, the resident engineer, materials supervisor, and district engineer referred the matter through their headquarters to us. Our investigation resulted in payment of a \$200,000 civil settlement and termination of the responsible paving crew chief and supervisor.

Another example of the right choice being made includes a Connecticut DOT inspector and resident engineer assigned to an Interstate 95 reconstruction project in Bridgeport. The inspector noted that a concrete supplier had delivered a truckload of pre-cast concrete catch basins only a day after the custom design, including a framework of reinforcing steel, was approved by ConnDOT. Pre-cast concrete structures normally must cure for at least a week before shipment.

The inspector reported the discrepancy to the resident engineer, who noted handwritten markings on one of the catch basins indicating that the basin was standard stock, not a

custom product. The resident engineer directed destructive testing on one of the oversized catch basins and found no reinforcing steel.

After twice blaming the discrepancy on truckers who “mistakenly” loaded the wrong stock, the concrete supplier finally admitted that his company had falsely certified that it provided materials meeting contract specifications. The supplier was suspended from the State’s prequalification program, had to identify and replace deficient structures at a substantial cost, and paid \$500,000 in criminal and civil penalties.

Finally, we must all encourage the reporting of unethical conduct and help foster high ethical standards. Cases on both ends of the ethical spectrum clearly exist, yet according to the 2005 survey that I mentioned earlier, only 55 percent of employees who were aware of misconduct reported it—a decrease of 10 percent from a 2003 survey. These numbers are disappointing at best, and we need to find a way to increase them.

The top reasons for not reporting, according to the survey, included:

- ✓ *The perception that no corrective action would be taken,*
- ✓ *Concerns about confidentiality,*
- ✓ *Fear of retaliation by superiors and coworkers, and*
- ✓ *Not knowing whom to contact.*

So what steps can we take to promote and reinforce high ethical standards? We can start by being sure we have addressed all of the reasons—including those just cited—for not reporting unethical conduct. But this is not enough. We must also continually promote and reinforce ethical standards to help guard against lapses in integrity.

In my view, prevention and deterrence of ethical lapses in any organization depend on both the effectiveness of internal controls and oversight processes and a *robust* ethics awareness and training program. No ethics program will be a panacea; ethical conduct ultimately derives from individual moral judgment. Yet it is nonetheless imperative that government employees, grantees, and contractors alike actively foster a culture of ethical awareness and behavior.

The survey confirmed that ethics and compliance programs do make a difference. However, their impact is related to the culture in which they are situated. Program success was found to be highest in strong cultures, which the survey defined as including a display of certain ethics-related actions at various levels in the organization, along with accountability for actions.

This starts with the tone at the top. Simply put, we must lead by example.

We must recognize that building and maintaining an ethics-oriented culture involves more than simply requiring employees to submit annual financial disclosure reports and certify that they have completed briefings on standards of ethical conduct. To further instill ethical values and expectations through heightened awareness, ethics programs need to be multifaceted, with increased attention given to those who are involved in awarding and administering contracts, cooperative agreements, and grants—the very areas where we have found fraud and ethical misconduct very likely to occur.

A robust ethics program should include the following:

- ✓ *Recurrent expressions of commitment by the organization's senior leadership, to include stressing the importance of maintaining an arms-length relationship with contractors and grantees and avoiding even the appearance of impropriety;*
- ✓ *Periodic case study discussions of instances in which ethics violations occurred, as well as discussions of hypothetical scenarios;*
- ✓ *Thorough review and follow-up by agency ethics officials of financial disclosure filings to identify potential problems; and*
- ✓ *Ensuring that ethics programs include contractors and grantees.*

Computer and Web-based ethics training, especially interactive courses including questionnaires with automated feedback, is beneficial and efficient, but not a substitute for personal interaction between agency ethics officials and employees.

Moreover, agency ethics officials should routinely consult with *their* ethics advisers—for us at the Federal level, this is the Office of Government Ethics—as a resource for training, best practices, and advisory opinions and updates on statutory and other requirements.

In addition to enhancing ethics awareness and training, I highly encourage working with Inspectors General to strengthen internal ethics programs and improve fraud detection and prevention. Invest time and resources to proactively prevent *and* detect fraud and ethical misconduct. Establish trusted reporting methods, such as anonymous hotlines.

Mandate anti-fraud and ethics training, and reward employees not only for meeting financial goals, but also for displaying outstanding ethical behavior. Aggressively pursue suspected ethics violations, whether potentially criminal or administrative, and refer them in a timely manner to the appropriate authority for review and possible investigation.

This includes allegations of fraud related to false claims, false statements, cost mischarging, kickbacks, and bribes and gratuities. Recognize that many cases involve aberrant behavior by employees who deceive both the government and companies. Don't look the other way: doing so does no one any good.

To heighten deterrence, managers must take appropriately strong disciplinary and other actions when ethical lapses occur. For example:

- ✓ *Find and remove "bad actors" before they engage in major fraud;*
- ✓ *Identify causes and systemic weaknesses;*
- ✓ *Strengthen internal controls to prevent recurrences;*
- ✓ *Realize that self-reporting of known ethical lapses and/or fraud, along with an effective compliance program, can mitigate civil and criminal liability; and*
- ✓ *Continuously communicate expectations.*

It is, ultimately, our individual responsibility to create a culture of doing the right thing. Do the right thing when conducting the public's business. It's what the American taxpayer expects, and deserves.

I wish to thank Secretary Sees, Director Kennelly, and everyone else who helped make this seminar happen. Activities like this send an important message to those working hard to uphold the public trust, as well as those who would take advantage of it. Most of all, however, I wish to thank all of you for your integrity and honesty and for the incredible jobs you are doing.

Before I conclude, I'd like to mention that we will be co-sponsoring, with the American Association of State Highway Transportation Officials, or AASHTO, and IDOT will be hosting, our fifth biennial National Fraud Awareness Conference July 28–31, 2008, here in Chicago. Our last conference in Orlando drew some 325 attendees—a number we look forward to exceeding next year. I hope you will consider attending as your schedule permits.

The goals of this conference are threefold:

- ✓ *To sharpen awareness of fraud schemes,*
- ✓ *To share best practices, and*
- ✓ *To strengthen all-important working relationships.*

Attendees typically include transportation infrastructure professionals and oversight providers, including law enforcement, from all levels of government, as well as contractor and industry association representatives.

Thank you again for allowing me to participate today. I'd be happy to answer any questions you might have.

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