

# 2021 NACA Conference



## Construction Fraud: You Make the Call

September 21, 2021

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## Speaker Background

- Paul Pettit, VP Performance Improvement
- Revenew International LLC
- Over 30 years of progressive roles within industry and professional services
- Project Management Professional (PMP), Construction Controls Professional (CCP), Certified Construction Auditor (CCA), Certified Internal Auditor (CIA), Certified in Risk Management Assurance (CRMA) and Certified Professional EH&S Auditor (CPEA)

## Previous Speaker Topics at NACA

- 2020: Black Swan Risks: How Can Construction Auditors Assess the Unexpected?
- 2019: Auditing Construction Equipment
- 2018: Construction Auditing: Auditing Beyond Cost and Schedule Risks
- 2017: Forget the Money – Show Me the Controls!
- 2016: Construction Auditor Travel Stories: From Local to Exotic to Downright Dangerous!
- 2015: Capital Project Governance: Ensuring Control Throughout the Project Lifecycle
- 2013: Construction Fraud Schemes: Knowing Where to Look When Fraud is Suspected!
- 2012: Applying Data Mining and Analytics to Efficiently Audit Vendors and Contractors

# Learning Objectives

- Learn about the definition of fraud and how it applies to construction projects
- Interact with construction auditors and make your own call on potential construction fraud
- Hear about real construction audit findings that may or may not be fraudulent
- Share your own construction fraud stories

# Construction Fraud: You Make The Call



<https://youtu.be/-Zj0On92Lu4>

# Construction Fraud: You Make The Call

## ■ Fraud Defined

- Fraud is the intentional act to deceive through false representation of some fact.
- This misrepresentation causes another party to rely on the fact to its legal detriment.
- The fraud may result in the victim suing the other party for contract fraud. However, if the fraud is serious enough, the party committing the fraud may also face charges for criminal fraud. (LegalMatch)

# Construction Fraud: You Make The Call

- Construction Fraud Defined
  - Construction fraud is a form of fraud committed by a construction company or a contractor.
  - This type of fraud can include performing substandard repairs or cheating another party involved in the construction project such as the client. (LegalMatch)

# Construction Fraud: You Make The Call

- **Examples of Construction Fraud**
  - **Falsifying Payment Applications:**
    - A party can create false invoices or inflated rates that charge more than the actual project cost.
  - **Subcontractors Working in Collusion:**
    - Subcontractors work together to rig bids and fix prices. The scheme includes providing kickbacks, bribes, bid rotation, or fake subcontractors submitting bids.
  - **Removing Material:**
    - Subcontractors or construction suppliers can use lower-grade or dangerous materials such as low-quality or lead paint, but charge for contractor for more expensive materials.



# Construction Fraud: You Make The Call

- Examples of Construction Fraud (continued)
  - Billing for Underperformed Work:
    - A subcontractor overstates the units of production actually finished. This is considered a false claim via the federal government's False Claims Act.
  - Diverting Lump-Sum Costs to Costs for Time and Material:
    - A subcontractor may budget a lump sum for the project. However, the subcontractor may then bill for materials and time. Both costs are already in the lump sum costs so the contractor is double billed. Same can apply for a contractor to an owner.

# Construction Fraud: You Make The Call



# Construction Fraud: You Make The Call

- Job Cost Data

- In reviewing the contractor's job cost data, you find 10 blank description fields on the line-item detail.
- Upon further inquiry of the line-item detail, you determine that a donation made by the contractor to the client has been included as a cost of the project.

- Construction Fraud?



# Construction Fraud: You Make The Call

- Job Cost Data (continued)
  - In reviewing the contractor's job cost data, you find A/V on the line-item detail.
  - Upon further inquiry, you determine that several large flat screen TVs have been purchased for the project.
  - You ask to inventory the TVs but only 2 of 5 purchased can be located.
  - You contact the vendor and find that 2 were delivered to site and 3 were delivered to a superintendent's rental house.
- Construction Fraud?



# Construction Fraud: You Make The Call

- **Field Equipment**

- During a site walkthrough, you notice several pieces of equipment sitting idle.
- Upon further review of the equipment and fuel logs, you notice the equipment has not been used in several weeks.
- A quick check of the payment application indicates the idle equipment has been billed.

- **Construction Fraud?**



# Construction Fraud: You Make The Call

- **Field Equipment (continued)**
  - In reviewing rental items in the payment application, you notice that similar items were purchased and being charged to the project (i.e., ladders, laptops, trash bins).
  - Upon further investigation, you confirm that several items rented to the project were also charged to the project.
- **Construction Fraud?**



# Construction Fraud: You Make The Call

- Labor

- In reviewing the timesheets within the payment applications, you find lots of workers billing OT.
- A quick review of the contractor's payroll records shows several workers billing OT but only getting paid for 40 hours.
- After further investigation, you find exempt workers billing the OT.

- Construction Fraud?



# Construction Fraud: You Make The Call

- Labor (continued)
  - In reviewing the timesheets within the payment applications, you find several management level staff being billed on the project.
  - A quick review of the contractor's payroll records shows that several management staff have been misclassified as project managers.
- Construction Fraud?





# Construction Fraud: You Make The Call

- Labor Burden

- In reviewing the components of the labor burden, you notice that vacation, holidays and sick days are being accrued for every hour billed on the project.
- Furthermore, you find that contractor personnel are billing hours when on vacation or off for holidays and sick days.

- Construction Fraud?



# Construction Fraud: You Make The Call

- Labor Burden (continued)
  - In your continued review of the labor burden, you notice that phones and vehicles are being accrued for every hour billed on the project.
  - Furthermore, you find that the contractor is billing telecom and vehicle lease costs under General Conditions.
- Construction Fraud?



# Construction Fraud: You Make The Call

- Material
  - During a site walkthrough, you see a roll off box full of scrap metal.
  - Upon further inquiry, you find that no credits have been issued to the project for scrap materials.
- Construction Fraud?



# Construction Fraud: You Make The Call

- Subcontractors/Third Parties
  - In reviewing subcontractor Schedule of Values, you see higher percentage of completion than what you observed in the field.
  - After a visit with the foremen from several trades, you confirm that percentage of completion reported on the payment application is inflated.
- Construction Fraud?



# Construction Fraud: You Make The Call

- Quality

- During your site walkthrough, you notice that workers are backfilling trenches with spoils.
- Upon inquiry with the inspector, you determine that the proper backfill material was not available and the project was behind schedule.

- Construction Fraud?



# Construction Fraud: You Make The Call

- Environmental

- In reviewing the environmental permits for the project, there are more charges than available permits.
- Upon further investigation, you find that permits were obtained for projects other than the one you're auditing.

- Construction Fraud?



# Construction Fraud: You Make The Call

- Health & Safety

- In reviewing the OSHA 300 Logs for the project, you notice a list of injured employees that were not allowed to return to work but still charging time.
- Upon further investigation, you determine that they were not reassigned and have not been cleared to return to full duty.

- Construction Fraud?

OSHA's Form 300 (Rev. 01/2004)  
**Log of Work-Related Injuries and Illnesses**

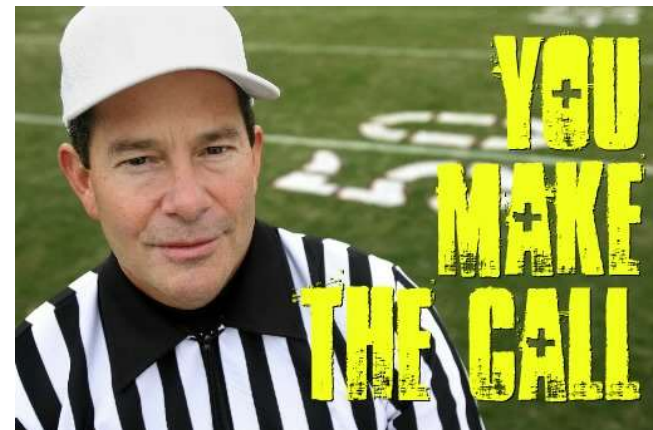
**Attention:** This form contains information on employee health and must be used in a manner that protects the confidentiality of employees to the greatest extent possible while the information is being used for occupational safety and health purposes.

You must record information about every work-related death and about every work-related injury or illness that involves loss of consciousness, restricted work activity or job transfer, days away from work, or medical treatment beyond first aid. You must also record significant work-related injuries and illnesses that are diagnosed by a physician or licensed health care professional. You must also record work-related injuries and illnesses that meet any of the specific recording criteria listed in 29 CFR Part 1904.8 through 1904.12. How to fill out this form for a single case is explained in the instructions. You must complete an injury and illness incident report (OSHA Form 301) or equivalent form for each injury or illness recorded on this form. If you're not sure whether a case is recordable, call your local OSHA office for help.

Identify the person		Describe the case			Classify the case <small>CHOOSE ONLY ONE box for each case based on the most serious outcome in that case.</small>				
(A) Case no.	(B) Employee's name	(C) Job title <small>(e.g., electrician)</small>	(D) Date of injury or onset of illness	(E) Where the event occurred <small>(e.g., loading dock, third rail)</small>	(F) Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g., hand slipped from edge of roof)	Result of this case			
						Death	Days away from work	Job transfer or restriction	Other work-related illness or injury
						(1)	(2)	(3)	(4)
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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# Construction Fraud: You Make The Call

- **Payment & Performance Bond**
  - In reviewing the contractor's job cost data, you find a monthly accrual for Payment & Performance Bond in the line-item detail.
  - Upon further inquiry of the line-item detail, you determine that a Payment & Performance Bond was never purchased from the Surety.
  
- **Construction Fraud?**





# Construction Fraud: You Make The Call



## Conclusion and Takeaways

- It depends and playing the fraud card is risky
- We learned about the definition of fraud and how it applies to construction projects
- You interacted with construction auditors and make your own call on potential construction fraud
- We heard about real construction audit findings that may or may not be fraudulent
- You shared your own construction fraud stories



everything  
to  
gain

**Thank you!**

**Paul Pettit**

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