

False Claims Investigations

BART Office of the Inspector General

November 18, 2024



Overview

- OIG received two separate allegations of contractor fraud.
- Whistleblowers alleged that contractors failed to perform their contracted services but billed BART for the work.
- Allegations proved to have merit, and we substantiated both after extensive analysis and site observations.



California False Claims Act

- California Government Code §§ 12650 – 12656
- Protects against fraud by imposing penalties on false claims and allows for treble damages.
- Each false claim could be subject to a \$14k to \$28k penalty.
- Liability extends to reckless disregard or deliberate ignorance of the truth.



Investigation 1: Power Washing Contractor

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Contract

- Two contracts totaling \$5.9M for power washing services at BART station plazas.
- Cleaning to be done on a predetermined schedule and completed between 9 p.m. and 4 a.m. Monday – Sunday.
- Change orders allowed for unscheduled cleanings but required written request from BART and written proposal from the contractor.
- Contractor to provide daily work performance reports by 8 a.m. following performance of services to support they performed the cleanings.
- Work to be done to the “highest standards” and includes disposing of all resulting trash, debris, and waste away from District property in accordance with state and local ordinances.

Investigation 1: Power Washing Contractor

- Substantiated allegation.
- Conclusion based on site observations; District video footage; and detailed invoice and contract documentation analysis.
- Contractor refuted allegations but did not provide sufficient evidence supporting their position.



Investigation 1: Power Washing Contractor

Substantiated Allegation

- Contractor submitted \$11,900 in false claims and may be subject to \$330k in penalties and damages under the CFCA.
- Services billed were either not performed or substandard: dirt and waste remained in purportedly cleaned areas.
- Unscheduled cleanings lacked proper contract documentation and led to discrepancies in billing documentation.
- A BART employee withheld \$149k in payments due to poor services, but BART had to pay the invoices because the District did not follow breach-of-contract requirements.
- The employee providing contract oversight was directed to cease communication with the contractor after the contractor claimed the employee was harassing them.

Investigation 1: Power Washing Contractor

September 18 & 19, San Bruno Station Before & After Photos Taken by OIG Investigator

Before Photo

Taken 9/18/23 at 9:58 a.m. showing bird excrement at the San Bruno Station prior to purported cleaning.



After Photo

Taken 9/19/23 at 6:14 a.m. showing bird excrement remains at the San Bruno Station after purported cleaning.



September 13 & 14, South San Francisco Station Before & After Photos Taken by OIG Investigator

Before Photo

Taken 9/13/23 at 8:39 a.m. showing washable chalk at the South San Francisco Station prior to purported cleaning.



After Photo

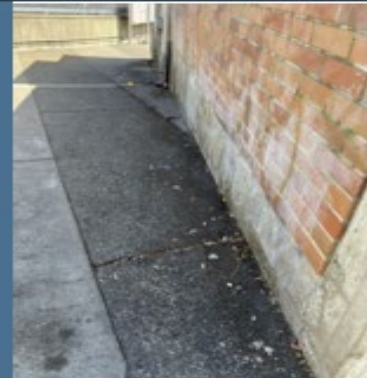
Taken 9/14/23 at 8:30 a.m. showing washable chalk remains at the South San Francisco Station after purported cleaning.



September 12 & 13, Balboa Park Station Before & After Photos Taken by OIG Investigator

Before Photo

Taken 9/12/23 at 1:51 p.m. showing waste at the Balboa Park Station prior to purported cleaning.



After Photo

Taken 9/13/23 at 8:13 a.m. showing waste remained at the Balboa Park Station after purported cleaning.



Investigation 1: Power Washing Contractor

Recommendations

- Recover \$11,900 in false claims from the contractor.
- Seek penalties and damages under CFCFA.
- Enforce contract terms.
- Provide contract management training.
- District agreed to 3 recommendations and declined one.



Investigation 2: Street Sweeping Contractor

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Contract

- \$1.54M contract for overnight street sweeping services at BART parking garages, station plazas, and other areas.
- Cleaning to be done on a predetermined schedule and completed between 8:30 p.m. and 6 a.m. Monday – Friday and 6 a.m. Saturday – 6 a.m. Monday.
- Contractor to provide daily work performance reports by the morning following performance of the services to support they performed the cleanings.
- Contract to use a combination of mechanical (vehicle power sweepers) and manual methods to remove trash and debris. *“Areas not immediately accessible to vehicle power sweepers shall be cleaned by power blowers, other manually operated mechanical devices, or manual sweeping.”*

Investigation 2: Street Sweeping Contractor

- Substantiated allegation.
- Conclusion based on site observations and detailed invoice and contract documentation analysis.
- Contractor acknowledged that the work was not done or not done properly and agreed to repay the District.



Investigation 2: Street Sweeping Contractor

Substantiated Allegation

- Contractor submitted \$5,500 in false claims and may be subject to \$993k in penalties and damages under the CFCA.
- Services billed were either not performed or substandard: trash and debris remained in purportedly cleaned areas.
- Contractor cited parked cars as reasons for OIG investigators finding trash remaining in cleaned garages, but contract requires using other methods to reach areas inaccessible by vehicle power sweepers.
- Contractor admitted to unsatisfactory work and agreed to reimburse the District.
- The employee providing contract oversight was directed to cease communication with all contractors after a harassment complaint by another contractor.
- Contractor's work improved but they appeared to continue to have problems maintaining proper records.

Investigation 2: Street Sweeping Contractor

Colma Station Parking Garage January 11, 2024

Contractor Claimed to have Performed Sweeping Services & Billed District \$489



Daly City Station Parking Garage January 13, 2024

Contractor Claimed to have Performed Sweeping Services & Billed District \$163



Millbrae Station Parking Garage January 14, 2024

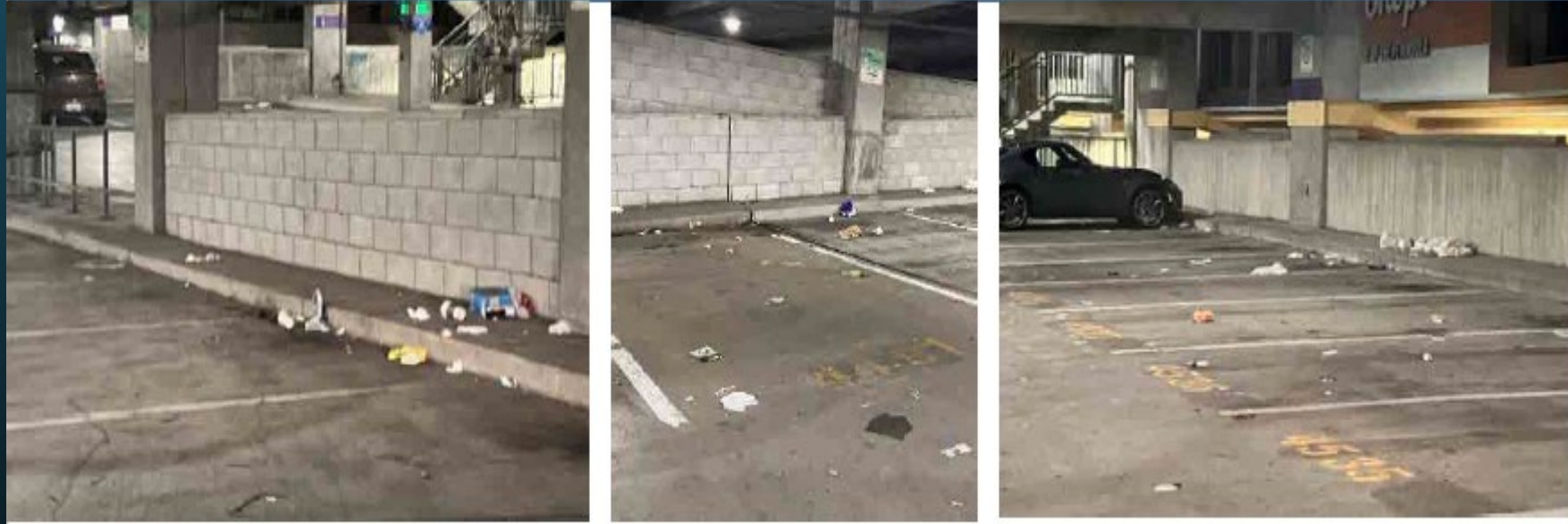
Contractor Claimed to have Performed Sweeping Services & Billed District \$407



Investigation 2: Street Sweeping Contractor

Millbrae Station Parking Garage January 28, 2024

Contractor Claimed to have Performed Sweeping Services & Billed District \$407



South San Francisco Parking Garage/Lot February 28, 2024

Contractor Claimed to have Performed Sweeping Services & Billed District \$407



Investigation 2: Street Sweeping Contractor

Recommendations

- Recover \$5,500 in false claims from the contractor.
- Seek penalties and damages under CFCA.
- Terminate the contract.
- Evaluate invoice accuracy.
- District agreed to two recommendations. Two pending alternative actions.



False Claims Alarming

- Third case of false claims – total identified \$1.7M.
- Approving invoices without verification is potential misfeasance.
- Imperative to approve invoices only when confident work was done satisfactorily.
- OIG recommendations improve contract management and oversight.





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