

# An Employer's Rights and Responsibilities During an OSHA Investigation

*presented by*

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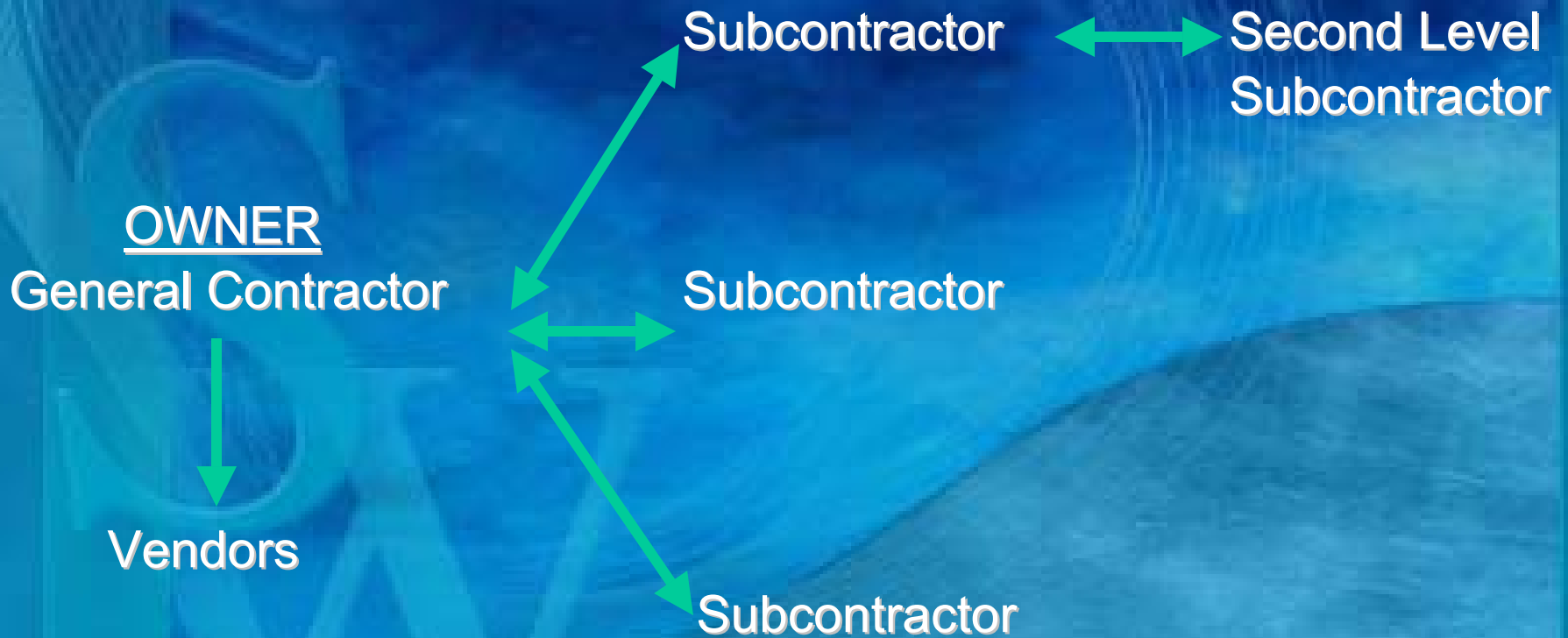
# **OSHA General Rule of Liability**

**An Employer May Only Be Cited  
For Violations To Which Its  
Own Employees Had Access**

# Exceptions to OSHA General Rule of Liability

- Joint Employer
- Multi-Employer Worksite Liability Theory
  - Creating Employer
  - Exposing Employer
  - Correcting Employer
  - Controlling Employer

# Multi-Employer Worksite Theory



# Multi-Employer Worksite Theory

*cont'd*

Independent  
Contractor

Independent  
Contractor

Prime Contractor

Independent  
Contractor

Independent  
Contractor

# Procedure For An Inspection

- CO Presents Credentials
  - Consent from owner's representative, operator, or agent in charge
  - Construction site – general contractor

# Procedure For An Inspection

*cont'd*

- **Opening Conference Held**
  - All employers should be in attendance
    - Delay start of inspection until company official is present
    - General contractor should be the only one to consent to inspection
  - Ask questions
    - Complaint inspection? Demand copy of written complaint
  - Establish walk-around representative
    - Knowledgeable, diplomatic, but firm employee
  - Require subpoena?

# Procedure For An Inspection

*cont'd*

- Conduct Document Inspection
  - OSHA 300 log
  - Written Safety Program
  - Written HazCom program

# Procedure For An Inspection

*cont'd*

- **Conduct Physical Inspection**
  - Limit the scope of inspection
  - Photograph, videotape, tape record
  - Employee Interviews
    - CO has the right to interview privately
    - Voluntary on part of employees
      - Cannot influence employee decision
    - Control the interview process
    - Employee does not have to sign statement or be videotaped
  - Accompany management employees during interviews

# Procedure For An Inspection

*cont'd*

- Closing Conference Held
  - Can be on jobsite or via telephone
  - Ask questions
  - Determine if any violations discovered
  - Clarify any confusion
- Follow-up Investigation
  - Be very cautious of additional requests for information or documentation