



May 1, 2014

**MADIGAN, U.S. ATTORNEY STRIKE \$12 MILLION WHISTLEBLOWER SETTLEMENT WITH McHUGH FOR ILLEGALLY SECURING FEDERAL, STATE CONSTRUCTION FUNDS**

*Attorney General's Joint Investigation Reveals Women-Owned Business Fraud in Wacker Drive, CTA, Illinois Highway Construction Projects*

**Chicago** — Attorney General Lisa Madigan and U.S. Attorney Zachary T. Fardon today announced a \$12 million whistleblower settlement with James McHugh Construction Company over allegations it used women-owned businesses to fraudulently secure multimillion dollar, public projects funded by the state and federal governments for work on Chicago area roads, highways and public transit systems, including Wacker Drive and the Chicago Transit Authority's Red and Brown lines.

A joint investigation by Madigan's office and the U.S. Attorney's Office for the Northern District of Illinois found the Chicago-based company falsely represented that its subcontracting companies Perdel Contracting Corp. and Accurate Steel Installers (ASI) – two certified disadvantaged business enterprises (DBE) – would meet the legal requirements that a portion of the work be completed by women- or minority-owned businesses. The investigation revealed Perdel and ASI did not fulfill the DBE requirements on seven public construction contracts that McHugh obtained and for which it submitted false claims from 2004 to 2011 to the state and federal governments.

"Our investigation revealed that McHugh Construction falsely used subcontractors to help secure bids for major construction projects funded by and for Illinois taxpayers," Attorney General Madigan said. "The company used women-owned businesses to submit false claims to the state and federal governments for millions of dollars when in fact, those businesses never completed the level of work required by law."

"It was more costly in the long run for McHugh to avoid its obligations to hire women- and minority-owned businesses than it would have been simply to comply with the requirements and retain disadvantaged businesses to actually participate in these public construction projects," said U.S. Attorney Zachary T. Fardon. "It's important that McHugh and other companies realize that compliance with these requirements is both a good business decision and the right thing to do."

The public contracts included construction work in Chicago on the Washington Boulevard and Monroe Street viaducts over Interstate 90/94, the Wacker Drive viaduct from Randolph to Monroe streets, the North Avenue Bridge, the Chicago Transit Authority's Red Line Howard Station and portions of the Brown Line, and the east and westbound Interstate 88 Fox River Bridge in North Aurora. The contracts were funded in whole or in part by the state, the federal government, the Illinois State Toll Highway Authority and the Regional Transportation Authority.

The State of Illinois and the U.S. Department of Transportation both have disadvantaged business enterprise (DBE) requirements which seek to increase participation in public contracts by small businesses owned and controlled by minorities and women. Payments to a DBE contractor may be counted toward DBE requirements only if the DBE contractor performs a "commercially useful function," meaning it must perform, supervise and manage work allocated to it, including determining the quantities and qualities of the materials needed for the work, negotiating and paying for materials and installing the materials.

The investigation into McHugh revealed that Perdel and ASI did not perform all of the work that McHugh represented to the state and federal governments that they would perform. Instead of Perdel and ASI, McHugh Construction itself conducted some of the required work, such as selecting certain suppliers, determining the quantity and quality of the materials and supplies, negotiating prices directly with those suppliers, and, in some cases, continuing to coordinate with those suppliers after orders were placed. McHugh also routinely drafted

purchase orders, which it then forwarded to Perdel or ASI to put on their letterhead. McHugh also frequently managed union workers hired by Perdel and ASI, and, at times, directed Perdel and ASI as to which union work crews to hire.

The joint investigation originated from a whistleblower complaint filed by a former employee of Perdel and ASI, Ryan Keiser. The U.S. Attorney's Office previously charged Perdel and ASI owner Elizabeth Perino for her role in the scheme.

A separate administrative and compliance agreement was also reached between McHugh and the Federal Transit Administration, Federal Highway Authority and the chief procurement officer for the Illinois Department of Transportation as well as the chief procurement officer for agencies including the Illinois State Toll Highway Authority. Under that agreement, McHugh agreed to take steps to ensure future DBE compliance:

- Hire and retain an independent monitor who will report at least quarterly to the state, federal government and city of Chicago on its evaluation of McHugh's efforts to comply with DBE requirements on its public construction contracts statewide;
- Create and publicize a dedicated, independently administered private hotline through which anonymous complaints of improper conduct may be reported;
- Establish a separate, independent position at McHugh for a corporate compliance officer, whose responsibilities include conducting training sessions and investigating any reported complaints of non-compliance;
- Initiate a corporate compliance program to train and educate McHugh employees about DBE rules and regulations; and
- Present information about DBE requirements at informational events to promote DBE compliance by construction companies around the state.

McHugh has also terminated two employees as a result of the allegations: Michael Gould, former senior vice president of infrastructure, and Ben Johnston, former general counsel. McHugh must not hire or retain either individual in any capacity.

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