



United States Attorney District of New Jersey

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SCHEME TO DEFRAUD GOVERNMENT ON RECONSTRUCTION CONTRACTS LEADS TO CRIMINAL CHARGES AND CIVIL PENALTIES FOR LOUIS BERGER GROUP, INC.

Two Former High-level Employees Plead Guilty; Company Enters into Deferred Prosecution Agreement, Agrees to Pay Over \$69 Million in Criminal Penalties and Civil Settlement

NEWARK, N.J. - The Louis Berger Group, Inc. (LBG), a New Jersey-based engineering consulting company awarded millions in reconstruction contracts in Iraq and Afghanistan, has resolved criminal and civil fraud charges related to its international work on behalf of the United States Agency for International Development (USAID) and the U.S. Department of Defense. Paul J. Fishman, U.S. Attorney for the District of New Jersey, Rod J. Rosenstein, U.S. Attorney for the District of Maryland, and Tony West, Assistant Attorney General of the Civil Division of the Department of Justice, announced the developments today.

The components of the settlement include:

- a Deferred Prosecution Agreement (DPA), pursuant to which the U.S. Attorney's Office in New Jersey will suspend prosecution of a criminal Complaint charging LBG with a violation of the Major Fraud Statute; in exchange, LBG will, among other things, pay \$18.7 million in related criminal penalties; make full restitution to USAID; adopt effective standards of conduct, internal controls systems, and ethics training programs for employees; and employ an independent monitor who will evaluate and oversee the company's compliance with the DPA for a two-year period;
- a civil settlement that requires the company to pay the government \$50.6 million to resolve allegations that LBG violated the False Claims Act by charging inflated overhead rates that were used for invoicing on government contracts; and
- an administrative agreement between LBG and USAID, which was the primary victim of the fraudulent scheme.

An outside, independent monitor will evaluate and oversee LBG's compliance with the agreement. The monitor will be selected by the U.S. Attorney's Office for the District of New Jersey, consistent with U.S. Department of Justice guidelines, after a review of monitor candidates and in consultation with the company.

In addition, two former senior LBG employees pleaded guilty this morning to their roles in the scheme. Salvatore Pepe, LBG's former Chief Financial Officer, and Precy Pellettieri, the

former Controller, admitted today in Newark federal court to conspiring to defraud USAID by obtaining contract payments billed at falsely inflated overhead rates. Pepe, 58, of Tuckahoe, N.Y., and Pellettieri, 54, of Rahway, N.J., pleaded guilty before United States Magistrate Judge Patty Shwartz to separate Informations charging them with conspiring to defraud the government with respect to claims.

According to documents filed in these cases and statements made in court:

LBG provides engineering and other consulting services to private and public entities, including federal agencies, state agencies, and foreign governments. Several of LBG's largest contracts were with USAID, an independent federal government agency that advances U.S. foreign policy by supporting economic growth, agriculture, trade, global health, democracy, and humanitarian assistance in developing countries – including countries destabilized by violent conflict. USAID awarded several multimillion-dollar contracts to LBG for rehabilitative and reconstructive work in Iraq and Afghanistan.

From at least 1999 through August 2007, LBG, through its former executives and management employees, intentionally overbilled the U.S. government in connection with contracts for work performed overseas. The scheme to defraud the government was carried out by Pepe and Pellettieri, at the direction of a former executive.

Pepe directly supervised Pellettieri, who supervised LBG's general accounting division. Both were responsible for ensuring the integrity of LBG's cost data with respect to the calculation of overhead rates that LBG charged to USAID and other agencies. LBG charged the federal government these rates on "cost plus" contracts, which enabled contractors to pass on their overhead costs to the agency in general proportion to how much labor LBG devoted to the government contracts.

Pepe and Pellettieri admitted that from September 2001 through August 2007, they agreed with each other and others to bill USAID and other federal agencies for LBG's overhead costs at falsely inflated overhead rates. They agreed to target an overhead rate above 140 – meaning that for every dollar of labor devoted to a USAID contract, LBG would receive an additional \$1.40 in overhead expenses and total profits allegedly incurred by LBG. As part of this conspiracy, Pepe and Pellettieri agreed to classify non-federal overhead as federal overhead, which had the effect of increasing the rate charged to the government. For example, Pepe supervised Pellettieri in reclassifying the work hours of LBG's corporate employees, such as those in the general accounting division, to make it appear as if they worked exclusively on federal projects when they did not. The defendants reclassified these hours without the employees' knowledge and without investigating whether the employees had correctly accounted for their time.

U.S. Attorney Fishman stated: "This fraud is about more than playing with the numbers to rip off the government. Funds that could have raised hope from the rubble instead padded the

bottom line. This criminal conduct sends the wrong message to the world about what we stand for as a nation. Today's guilty pleas, together with the agreements committing LBG to the highest standards of corporate conduct, send the right message: it is just as intolerable to steal our government's money overseas as it is here at home."

Donald A. Gambatesa, USAID Inspector General, described the agreement "as the culmination of years of investigative and prosecutorial effort that underscores our determination to guard taxpayer dollars against criminal schemes at home and abroad."

"As part of the International Contract Corruption Initiative, the FBI is committed to the prevention of waste, fraud, and abuse in conjunction with reconstructive efforts in Afghanistan and Iraq," said Michael B. Ward, Special Agent In Charge of the FBI's Newark division. "The continuance of fair and honest efforts to develop much needed infrastructure in those countries is a critical component to supporting our country's objectives, and subsequently supporting our troops. Individuals and companies involved in these efforts who seek to profit through fraud make a conscious decision to place profits before patriotism, and dollars above civic duty."

U.S. Attorney Fishman credited special agents of USAID, Office of Inspector General, under the direction of Special Agent in Charge Lisa McClennon; the FBI, under the direction of Special Agent in Charge Michael B. Ward; the U.S. Department of Defense, Defense Criminal Investigative Service, under the direction of Special Agent in Charge Edward T. Bradley; and the Office of the Special Inspector General for Iraq Reconstruction, under the direction of Special Inspector General Stuart W. Bowen Jr., with the investigation leading to today's agreement and guilty pleas. He also thanked USAID for its cooperation with the investigation.

The government is represented regarding the criminal charges by Thomas Eicher, Deputy Chief, and Assistant U.S. Attorneys Lisa Rose, Scott B. McBride, and Joyce Malliet of the New Jersey U.S. Attorney's Office Criminal Division in Newark.

The case against LBG came to light when a former employee who worked in its accounting department filed a whistleblower lawsuit in the District of Maryland charging LBG with several violations of the civil False Claims Act. Under the *qui tam* or whistleblower provisions of the False Claims Act, a private party can file an action on behalf of the United States and receive a portion of the government's recovery.

The government's civil investigation, led by the Justice Department, Civil Division and U.S. Attorney's Office for the District of Maryland, examined LBG's accounting from July 1, 1991, to June 30, 2008. The false claims uncovered by the civil investigation included LBG's mischarging a portion of its headquarters costs and part of its Washington office costs to overhead accounts so they appeared to have originated in LBG's government international division. In addition to mischarging USAID, the false claims also inflated billings on contracts performed overseas for the United States Army and United States Air Force.

“Taxpayers have a right to expect those who do business with the government to act in accordance with the law,” said Tony West, Assistant Attorney General of the Civil Division of the Department of Justice. “As this settlement demonstrates, we will pursue allegations of even the most complex of accounting schemes in order to protect and recover taxpayer money that has been obtained by false claims.”

“This settlement demonstrates the importance of the False Claims Act, which allow us to recover damages for false or fraudulent claims that were paid by the taxpayers,” said U.S. Attorney for the District of Maryland Rod J. Rosenstein.

Under the settlement, LBG will pay \$46.3 million in addition to having already provided credits of \$4.3 million on contracts performed for USAID, commencing in July and August 2007.

This civil investigation was conducted by special agents and auditors within the Office of Inspector General for USAID. Audit support was also provided by the Defense Contract Audit Agency. The settlement was negotiated by the Civil Division of the Department of Justice and the United States Attorney’s Office for the District of Maryland.

The government is represented regarding the civil settlement by Assistant U.S. Attorneys Michael A. DiPietro and Tarra DeShields of the U.S. Attorney’s Office for the District of Maryland.

LBG and parent company Berger Group Holdings, Inc. also entered into an administrative agreement with USAID wherein the companies have agreed to continued cooperation and strategies going forward.

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Additional Contact:

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Defense counsel:

Pepe: Paul G. Nittoly, Esq., Florham Park, N.J.

Pellettieri: Walter F. Timpone, Esq., Morristown, N.J.

LBG: Michael B. Himmel and Robert J. Kipnees, Roseland, N.J.