



THE UNITED STATES ATTORNEY'S OFFICE
SOUTHERN DISTRICT *of* NEW YORK

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Department of Justice

U.S. Attorney's Office

Southern District of New York

FOR IMMEDIATE RELEASE

Wednesday, February 20, 2019

**Manhattan U.S. Attorney Announces \$5.3 Million
Proposed Settlement Of Lawsuit Against New York City
For Fraudulently Obtaining FEMA Funds Following
Superstorm Sandy**

Geoffrey S. Berman, the United States Attorney for the Southern District of New York, Mark Tasky, Special Agent in Charge of the New York Regional Office of the Department of Homeland Security Office of Inspector General ("DHS-OIG"), and Margaret Garnett, Commissioner, New York City Department of Investigation ("DOI"), announced today that the United States filed a civil fraud lawsuit today against the CITY OF NEW YORK (the "City") alleging that the NEW YORK CITY DEPARTMENT OF TRANSPORTATION ("NYCDOT") fraudulently obtained millions of dollars from the Federal Emergency Management Agency ("FEMA") by falsely claiming that numerous NYCDOT vehicles were damaged during Superstorm Sandy ("Sandy"). The United States also submitted a proposed settlement of the lawsuit to the U.S. District Court for review and approval. Under the proposed settlement, the City agreed to pay and revert to the United States a total of \$5,303,624 and admitted to conduct alleged in the Government's complaint, including seeking reimbursement from FEMA for vehicles that were not damaged by Sandy.

Manhattan U.S. Attorney Geoffrey S. Berman said: "FEMA serves a critical role in providing emergency relief to those who are tragically struck by disaster. When people lie to FEMA about the cause of property damage in order to reap a windfall, it compromises FEMA's ability to provide financial assistance to legitimate disaster victims in desperate need. This Office will take decisive enforcement action to protect FEMA and its vital programs from fraud, waste, and abuse."

DHS-OIG Special Agent in Charge Mark Tasky said: "Taking advantage of Federal funds intended for disaster relief misappropriates taxpayer dollars, reduces funds available to true victims, and erodes public confidence in relief efforts. Through DHS OIG's criminal and civil investigative oversight function of DHS programs, and working closely with our partners in the

New York City's Department of Investigation and the United States Attorney's Office for the Southern District of New York, we ensured that over \$5.3 million in disaster relief funds were repaid to the United States, and ultimately the U.S. taxpayer. With so many New York residents impacted by Superstorm Sandy, it is critical to ensure every dollar of appropriated relief funds are properly used and accounted for."

DOI Commissioner Margaret Garnett said: "Today's settlement is the successful outcome of a joint investigation with our federal partners, which uncovered falsified submissions by the City to the federal government that allowed the City to wrongly obtain millions of dollars in federal emergency funds. Our investigation found that a lack of vigilant management and inadequate training of City personnel at the City Department of Transportation led to this wrongdoing in connection with a federal public assistance program. As New York City's independent watchdog, DOI is grateful for our effective partnership with the United States Attorney's Office for the Southern District of New York and the New York Regional Office of the United States Department of Homeland Security Office of the Inspector General on this investigation."

According to the Government's Complaint, the City participated in FEMA's Public Assistance program, which allows municipalities to obtain indemnification funds from FEMA to repair or replace property damaged by natural disasters, such as Sandy. As part of the program, the City was required to certify that the property damage was incurred as a direct result of the disaster.

The City was also required to provide training to employees on program rules and requirements, including the importance of ensuring that costs for which indemnification is sought are directly attributable to a disaster.

Following Sandy, the NYCDOT created a list of vehicles within the agency's fleet that had been damaged by the storm and submitted it to FEMA for indemnification pursuant to the Public Assistance program. The NYCDOT personnel responsible for generating the list of damaged vehicles, to whom the City provided no training on the Public Assistance program, made no effort to inspect the vehicles or otherwise determine whether any reported damage was attributable to Sandy. In fact, a number of the vehicles included on this list were inoperable long before Sandy.

In 2014, based on this faulty list, the City submitted a request for indemnification to FEMA seeking to recover the full cost of replacing 132 NYCDOT vehicles. The City submitted a certification to FEMA as part of the program and a request for indemnification that falsely attested that all costs were incurred as a direct result of Sandy. Many of the vehicles for which the City sought full replacement costs had been nonoperational or not in use prior to the storm. As a result of these false certifications, FEMA paid the City millions of dollars to which it was not entitled.

As part of the proposed settlement, the City will pay the United States a total of \$5,303,624.

Specifically, the City will make a cash payment of \$4,126,227.34 and relinquish rights to an additional \$1,177,396.66 that FEMA had previously approved for disbursement. During this Office's investigation, the City withdrew another \$3,196,376 in indemnity requests, acknowledging that the costs were ineligible for reimbursement.

In connection with the proposed settlement, the City also admitted conduct alleged in the Complaint, including:

- The Deputy Commissioner from NYCDOT who signed the certification lacked personal knowledge about the vehicles sufficient to make a certification about how and when they were damaged and did not personally undertake or direct others to undertake any investigation of the vehicles prior to signing the certification.
- The list of vehicles for which the City was seeking reimbursement included a number of vehicles that were not damaged as a direct result of Sandy to a state beyond repair. A number of the vehicles that the City included had not been operational prior to Sandy.
- Prior to making the submission and certification to FEMA, neither the City nor NYCDOT undertook a sufficient review to ascertain whether all of the vehicles listed had been operational and in use prior to Sandy; or whether the amounts presented to FEMA for reimbursement accurately represented the losses the City incurred from Sandy.
- In June 2014, a NYCDOT employee notified the Deputy Commissioner that certain of the vehicles for which the City had sought reimbursement from FEMA were not eligible. Yet, it was not until after it became aware of this Office's investigation that the City took steps to notify FEMA.

The proposed settlement must be approved by the District Court.

Mr. Berman praised the outstanding investigative work of DHS-OIG and DOI. This case is being handled by the Office's Civil Frauds Unit. Assistant U.S. Attorney Jessica Jean Hu is in charge of the case.

Attachment(s):

[Download final.nycdot.complaint.ecf_.stamped.pdf](#)

[Download final.nycdot.settlement.stip.stamped_0.pdf](#)

Topic(s):

False Claims Act

Component(s):

[USAO - New York, Southern](#)

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