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PRESS RELEASE

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Washington Metropolitan Area Transit Authority Pays United States More Than \$4.2 Million to Resolve False Claims Act Allegations Whistleblower's Lawsuit Alleged Transit Agency Violated Federal Contracting Rules

WASHINGTON - The Washington Metropolitan Area Transit Authority (WMATA) has paid \$4,240,341 to resolve allegations that it filed false claims in connection with using federal funds to impermissibly award a contract for a financial management information technology project without using competitive procurement procedures.

The settlement, in a lawsuit filed in the U.S. District Court for the District of Columbia, was announced today by U.S. Attorney Ronald C. Machen Jr. and Kathryn Jones, Regional Special Agent-in-Charge of the U.S. Department of Transportation Office of Inspector General.

The conduct at issue involves a contract that WMATA awarded on or around July 10, 2010, to Metaformers, Inc., a Virginia-based business, to integrate the Authority's financial and business systems. The total cost of this integration project was approximately \$14 million. WMATA funded the project with approximately \$9 million in grant funds from the Federal Transit Administration (FTA).

As a condition of receiving grant funds, WMATA certified that it would comply with statutes, regulations, and FTA rules mandating full and open competition when procuring goods and services using FTA grant funds. Also, as a condition of receiving the funds, WMATA certified that it would not award contracts in a manner that created a conflict of interest – for example, giving an unfair advantage to one bidder or contractor over others. WMATA allegedly violated both the competition requirement and avoidance of “conflict of interest” rule in awarding the financial management information technology contract.

“The American people have a right to know that their government is following rules and regulations in spending the taxpayers’ money,” said U.S. Attorney Machen. “Our office has

targeted government contractors who fail to meet their obligations, and this settlement shows that we expect agencies that receive federal funding to honor the integrity of the contracting process as well.”

“This investigation and settlement agreement demonstrates our commitment to ensuring the integrity of the acquisition process and protecting taxpayer dollars from waste, fraud and abuse, which is a top priority for both the Office of Inspector General and the Department of Transportation,” said Special Agent-In-Charge Jones. “Working with the Department, as well as our law enforcement and prosecutorial partners, we will continue our efforts to prevent, detect, and prosecute the improper use of federal grant funds.”

In or around August 2009, WMATA awarded Metaformers, using full and open competition procedures, a relatively modest contract valued at approximately \$256,000 to assess WMATA’s financial system. Less than one year later, in July 2010, WMATA awarded Metaformers the \$14 million contract to integrate the Authority’s financial and business systems. WMATA awarded the contract non-competitively and allegedly without legitimate justification for doing so, foreclosing an opportunity for other contractors and companies to submit proposals for the lucrative project. WMATA’s conduct was allegedly in violation of its certification – and commitment - to administer the FTA grant funds using full and open competition.

In awarding the \$14 million integration contract, WMATA also allegedly violated “conflict of interest rules” governing use of FTA grant funds. WMATA’s noncompetitive award to Metaformers was based, in part, on the work completed by Metaformers under the assessment contract. By competitively awarding the smaller assessment contract and then non-competitively awarding the far more lucrative integration project both to the same contractor, WMATA violated federal procurement conflict of interest rules by giving one contractor an advantage over others who might have been interested in competing for the integration project.

Because of WMATA’s conduct, contractors who might have been interested in submitting proposals or bids for the integration project never had the opportunity to do so. Thus, WMATA’s conduct was allegedly in violation of its certification and commitment to administer the FTA grant funds avoiding conflicts of interest in procurements.

The settlement resolves a *qui tam*, or whistleblower, lawsuit filed on behalf of the government by former WMATA employee Shahiq Khwaja, under the *qui tam*, or whistleblower provisions, of the False Claims Act. The False Claims Act is one of the government’s most powerful tools in the effort to combat fraud on federal programs. The Act allows private citizens to bring lawsuits on behalf of the United States and share in any recovery obtained by the government. Mr. Khwaja will receive approximately \$996,480 as his share of the recovery.

Mr. Khwaja’s *qui tam* lawsuit also includes allegations on behalf of Virginia and the District of Columbia. The settlement with the federal government does not resolve the state and local allegations.

In February 2012, Mr. Khwaja also filed a separate complaint with the U.S. Department of Transportation against WMATA for violating the American Recovery and Reinvestment

Act's (ARRA) provisions protecting whistleblowers. Mr. Khwaja alleged that WMATA terminated him from his position as an information technology functional manager because he expressed concerns about the manner in which WMATA was financially and technically administering the integration project which was funded, in part, with ARRA funds. In or around August 2012, the U.S. Department of Transportation's Office of Inspector General, based on its separate investigation of Mr. Khwaja's ARRA-related claims, found that the weight of evidence indicated that Mr. Khwaja's disclosures were a contributing factor in his termination and that WMATA failed to show by clear and convincing evidence that it would have terminated Mr. Khwaja notwithstanding his disclosures. As reflected in the settlement agreement, WMATA negotiated with Mr. Khwaja's counsel to resolve Mr. Khwaja's wrongful termination claim for \$390,000.

In announcing the settlement, U.S. Attorney Machen commended the work of those who investigated the case from the Department of Transportation's Office of Inspector General and the Federal Transit Administration. He also acknowledged the efforts of those who worked on the matter from the Commercial Litigation Branch of the Justice Department's Civil Division, including Trial Attorneys Jennifer Koh and Elizabeth Young. Finally, he expressed appreciation for the work of those who handled the case from the U.S. Attorney's Office, including Investigator Karen D. Caudill, Paralegal Specialist Cindy Parker, and Assistant U.S. Attorney Beverly M. Russell, who worked on the investigation and settlement of the matter.

The claims settled by the agreement are allegations only, and there has been no determination of liability. Additionally, the settlement agreement is not based on any allegation that the contractor, Metaformers, engaged in any wrongdoing.

The case is captioned *United States, Virginia and the District of Columbia, ex rel. Shahiq Khwaja v. Washington Metropolitan Area Transit Authority, et al.*, Case No. 1:12-cv-00268-RJL (D.D.C.).