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PRESS RELEASE

**SCHIAVONE CONSTRUCTION TO PAY \$20 MILLION AND COSTS
OF INVESTIGATION TO RESOLVE PUBLIC WORKS HIRING FRAUD**

***Schiavone Admits Fraudulently Reporting That Minority and Disadvantaged Business
Enterprises Performed Subcontracted Work on Contracts with New York City and New
York State***

Loretta E. Lynch, United States Attorney for the Eastern District of New York, today announced that Schiavone Construction Co. LLC (Schiavone), a construction services corporation, will pay the United States \$20 million to resolve a multi-agency joint criminal investigation into fraud the company committed in carrying out various public works contracts. As part of the resolution, Schiavone admitted that between 2002 and 2007, certain now-former employees falsely and fraudulently reported that disadvantaged business enterprises (DBE) and minority and women-owned business enterprises (MWBE) performed subcontracted work on federally funded public works contracts, including the rehabilitation of New York City subway stations and the construction of the Croton Water Filtration Plant in the Bronx, when, in fact, non-DBE and non-MWBE subcontractors performed the work.

Beginning in 2002, Schiavone executed two contracts with the Metropolitan Transit Authority (MTA) to perform rehabilitation work of the New York City Subway stations at Times Square and South Ferry stations, totaling approximately \$350 million. The contracts required that Schiavone comply with the federal DBE program, which was enacted in 1980 to increase participation of DBE subcontractors in federally funded public construction contracts.

Starting in 2004, Schiavone performed work on two contracts, totaling almost \$350 million, it had with the Department of Environmental Protection (DEP) associated with construction of the Croton Water Filtration Plant, which is part of the New York City water supply system. These contracts required that Schiavone comply with the New York State MWBE program, established in 1988 to increase participation of minority and women-owned business enterprises in state and federally funded public construction contracts within New York

State.

For each of these four projects, Schiavone was obligated to (i) make good faith efforts to subcontract with specific percentages of certified DBE and MWBE companies; (ii) ensure that the DBE and MWBE subcontractors actually performed the work subcontracted to them; and (iii) submit regular reports, called “utilization reports,” to the MTA and DEP, respectively, listing the amounts of contract funds Schiavone paid to each subcontractor, as well as the percentage of contract funds paid to each subcontractor out of the overall contract value for that project.

However, as Schiavone today acknowledged, some of its employees engaged in a scheme to defraud the DEP and the MTA by submitting fraudulent utilization reports for all four projects that falsely represented that work was being performed by certified DBE and MWBE companies, when it was actually being done by non-DBE and MWBE companies. By engaging in the scheme, Schiavone violated its contractual obligations under the four contracts, prevented the DEP and MTA from providing certified DBE and MWBE companies with the percentage of work for these projects as stated under the DBE and MWBE program rules and regulations, and denied the work to legitimate DBE and MWBE companies. Schiavone also acknowledged that the resulting overstatement of actual DBE and MWBE company participation amounted, in the aggregate, to approximately \$20,000,000.

Under the terms of its non-prosecution agreement with the government, Schiavone represented that it has undertaken various remedial measures to ensure compliance with the DBE and MWBE programs for its current and future federally funded capital construction projects. These measures include: (i) establishing a position for an Ethics and Compliance Officer at Schiavone; (ii) creating contractor minority compliance manuals, a code of ethics and business conduct, and mandatory compliance courses for its employees; (iii) removing the Schiavone employees directly involved with the scheme; and (4) continuing to assist law enforcement in its ongoing investigation of the fraud regarding the four projects specified in the settlement. Schiavone has also agreed to pay both the Inspector General for the MTA and the New York City Department of Investigation the costs they incurred in investigating Schiavone’s fraudulent conduct, in the respective amounts of \$1,833,500 and \$539,760.

“This financial disposition and the remedial measures it mandates demonstrate that this office will vigorously investigate cases involving violations of federal and state programs designed to assist disadvantaged enterprises and minority and women-owned businesses,” stated United States Attorney Lynch. “I extend my appreciation to New York State Attorney General’s Office - Organized Crime Task Force and to all our partners in law enforcement for their assistance in the investigation and the successful resolution of this case.”

Ned Schwartz, Special Agent-in-Charge for the Inspector General for the United States Department of Transportation, stated, “Federal transportation grant funds come with certain conditions. Contractors who do not live up to their end of the bargain will be held accountable. This investigation and settlement should serve notice that there are severe consequences for fraudulent acts. Working with our law enforcement partners, we will continue our vigorous efforts to protect taxpayers’ investment in our nation’s transportation infrastructure from fraud.”

Marjorie Franzman, Special Agent-in-Charge for the New York Region of the U.S. Department of Labor's Office of Inspector General stated, "Companies that contract with the United States government must do so both fairly and honestly. The company violated the terms of the contract by knowingly using workers from non-DBE and MWBE companies, thereby undermining the goal of these programs. My office will continue to work with its law enforcement partners to fight corruption on federally funded projects."

Rose Gill Hearn, Commissioner, New York City Department of Investigation, stated, "Criminal activity, including fraud, has no place in City contracting. This investigation justly recovered the millions that should have gone to disadvantaged and minority-owned businesses and is bringing needed change to a large construction contractor. DOI was pleased to share its expertise on City construction and procurement and work hand-in-hand with the U.S. Attorney's Office for the Eastern District of New York and its law enforcement partners to expose and stop this corruption."

Barry L. Kluger, Inspector General for the MTA, stated, "Today's case is the result of our office's continued focus on protecting the integrity of the MTA's Minority and Disadvantaged Business Enterprise Program. I want to thank the U.S. Attorney's Office for its vigorous and sustained efforts in pursuing this case. The result announced today should send a loud and clear message to the construction industry that we and our investigative and prosecutorial partners are serious about enforcing the law and that this conduct cannot be business as usual. It will not be tolerated, but will instead cost violators dearly. The absurd defense that 'everyone does it' just does not wash."

Charles R. Pines, Special Agent-in-Charge for the Criminal Investigation Division for the New York Office of the Internal Revenue Service, stated, "Since 1999 the IRS has been committed to its law enforcement partners in detecting and rooting out fraud in the New York metropolitan area's construction industry. This investigation is a result of successful team work and cooperation by all the agencies involved. IRC-CI will continue to lend its expertise in these complex financial investigations, which facilitates the identification and seizure of the proceeds of illegal activity."

The government's case was investigated and litigated by Assistant United States Attorneys Daniel D. Brownell, Roger A. Burlingame, Richard K. Hayes, Kathleen Nandan, and Laura Mantell.