



**DOI REPORT AND RECOMMENDATIONS ON THE  
CITYWIDE CONSTRUCTION FRAUD TASK FORCE'S  
INVESTIGATION OF A PROCUREMENT FRAUD SCHEME AT THE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
AND OTHER CORRUPTION SCHEMES**

April 2018

## EXECUTIVE SUMMARY

The New York City Department of Investigation (DOI) has conducted an investigation with its partners on the Citywide Construction Fraud Task Force<sup>1</sup> that identified several corruption schemes attacking the integrity of government procurement processes involving professional service contracts relating to construction. These schemes included (1) a bribery scheme; (2) a Minority and Women Business Enterprises (MWBEs) scheme; and (3) a straw donor scheme. On April 18, 2018, following this investigation and the unsealing of indictments, Task Force partners arrested 12 individuals and 9 companies in connection with one or more of these schemes on felony charges including corrupting the government, bribery, scheme to defraud, and filing false documents with government agencies.<sup>2</sup>

The bribery scheme between a now former employee of the New York City Department of Environmental Protection (DEP) employee and several construction management firms circumvented procurement rules and allowed these firms to unlawfully secure millions of dollars in government contracts. Ifeanyi “Manny” Madu (Madu), the employee, misused his position at DEP and gave these contractors a competitive advantage by providing them with inside procurement information such as the identities of evaluation committee members, scopes of work, and internal cost estimates. In exchange, contractors provided Madu with benefits, including subcontracts to MWBEs controlled by Madu on projects where Madu assisted the contractors, as well as free meals and tickets to Broadway shows.

The MWBE scheme misrepresented ownership and control of MWBEs that were contractors or subcontractors on government projects to illegally reap the benefits of participation in government MWBE programs. Due to HAKS’ ineligibility to qualify as an MWBE based on its net worth, Husam Ahmad, HAKS’ Chief Executive Officer (CEO), and Shahid Akhtar, its Chief Financial Officer (CFO), provided the funds for a nominal majority owner to purchase his interest in a company called SIMCO. However, Ahmad was the effective owner of SIMCO and exercised control over the company, which was awarded a number of government contracts and subcontracts as a MWBE. Similarly, as noted above, Madu effectively controlled several MWBEs that were

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<sup>1</sup> The Citywide Construction Fraud Task Force was created in 2015 to identify and prosecute fraud and corruption in the City construction industry. The Task Force partners include the New York County District Attorney’s Office, DOI, the Metropolitan Transportation Authority’s Office of the Inspector General, the Port Authority of New York and New Jersey Office of the Inspector General, and other agencies.

<sup>2</sup> The indictment charges the following 13 individuals: (1) Ifeanyi “Manny” Madu, former employee of the New York City Department of Environmental Protection; (2) Husam Uddin Ahmad, Chief Executive Officer of HAKS; (3) Shahid Akhtar, Chief Financial Officer at HAKS; (4) Mohammed Siddiqui, President of SIMCO; (5) Muhammad Haque, Civil Engineer at HAKS; (6) Joyce Harvey-Madu, the wife of Madu and original owner of record of CIM Associates, LLC; (7) Betty Campbell, the mother of Madu’s wife and owner of record of MCC General Office Services; (8) Shelley Mohan, de facto owner of MCMS Associates, LLC; (9) Henry Chlupsa, former President of D & B Engineers & Architects, P.C.; (10) Syed Haider, owner of Haider Engineering, P.C.; (11) Walter Gross, former President of Shaw E & I Engineering of NY; (12) Kyriacos Pierides, former Associate Vice President/Project Director for Black & Veatch New York, LLP; and (13) David Henley, former Vice President for New York State Metropolitan Transit Authority. The indictment charges the following 9 companies: (1) HAKS Engineers and Land Surveyors, P.C.; (2) D&B Engineers and Architects, P.C.; (3) Haider Engineering, P.C.; (4) SIMCO Engineering, P.C.; (5) CIMC Assocs., LLC; (6) JCMS Assocs., LLC; (7) JCMS Associates of New York, LLC; (8) MCMS Assocs., LLC; and (9) MCC General Office Services, LLC.

awarded subcontracts on government projects, despite the fact that these companies were nominally owned by his family members and associates.

The straw donor scheme involved the HAKS' CEO and CFO reimbursing HAKS employees' campaign contributions through bonuses. Filings with the City's Campaign Finance Board contained false representations regarding employee contributions based on this scheme.

As a result of this investigation, DOI has issued policy and procedure recommendations to DEP and other City agencies to improve management and oversight of City procurement processes. DOI's recommendations include, among other things, requiring employees and contractors involved in procurement and contracting to certify their understanding of certain procurement rules and prohibitions; disclosure of employees' family members who do business with the City; a zero tolerance gift policy; and needs-based limits on employee and consultant access to database and procurement information. DEP was proactive in identifying reforms to address procurement fraud vulnerabilities, has accepted these recommendations, and is currently implementing the recommendations. DOI is working with other City agencies on these recommendations to enhance procurement oversight and address potential risks of corruption.

This report is divided into three parts. First, this report provides background on the rules governing New York City government procurements and the relevant parties. Second, the report outlines the underlying fraud schemes uncovered by the investigation. Third, with respect to the procurement fraud schemes, the report sets forth recommendations to reform DEP and City agency procurement processes to protect against the risk of a similar fraud.

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## **I. Background**

### **A. City Procurement Process**

#### **1. The New York City Procurement Policy Board (“PPB”)**

The New York City Procurement Policy Board (PPB) is a five member board<sup>3</sup> that has promulgated rules governing the City’s procurement process.<sup>4</sup> The purpose of these rules is to promote fair competition, protect public funds, and enhance trust and confidence in the procurement process.<sup>5</sup> As a result, the PPB rules require City employees to place their professional obligations ahead of their personal obligations<sup>6</sup> and, therefore, to use any information gained as a City employee solely for the City’s interest.<sup>7</sup> The rules also prohibit City vendors from engaging in anticompetitive conduct or acting to encourage City employees to violate their duties and obligations to the City under these rules and other laws.<sup>8</sup>

#### **2. Competitive Sealed Proposal Procurement Procedure**

The PPB’s procurement rules prefer procurements based on competitive sealed bids that award contracts to the lowest bidder.<sup>9</sup> However, the rules recognize situations where factors other than cost, such as technical expertise, competence, and other factors may be relevant in determining a contract award. In these instances, the City follows the PPB rules governing competitive sealed proposals.<sup>10</sup> The contracts at issue in this investigation were awarded pursuant to this competitive sealed proposal process.

Competitive sealed proposal procurements largely follow a three-step process. First, the City publishes a request for proposals (RFP),<sup>11</sup> which includes the City’s anticipated scope of

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<sup>3</sup> N.Y.C. Charter § 311(a).

<sup>4</sup> N.Y.C. Charter § 311(b).

<sup>5</sup> In the Matter of *New York State Chapter, Inc. v. Assoc. Gen. Contractors of America et al.*, 88 N.Y.2d 56, 67 - 68 (1996). *See also* 2000 Model Procurement Code for State and Local Governments § 3-203(1) Commentary (2) (“The competitive sealed bidding and competitive sealed proposal methods assure price and product competition.”).

<sup>6</sup> 9 R.C.N.Y. § 1-03(a)(1)(ii).

<sup>7</sup> 9 R.C.N.Y. § 1-03(a)(1)(v). The rules further require City employees to promote competition, 9 R.C.N.Y. § 1-03(a)(1)(i), and deal with vendors with “even-handedness.” 9 R.C.N.Y. § 1-03(a)(1)(iv).

<sup>8</sup> 9 R.C.N.Y. § 1-03(a)(3).

<sup>9</sup> N.Y.C. Charter § 312(b)(1); 9 R.C.N.Y. § 3-01(b).

<sup>10</sup> 9 R.C.N.Y. § 3-03(g).

<sup>11</sup> 9 R.C.N.Y. § 3-03(d)(1)(i).

services<sup>12</sup> and factors for “grad[ing]” each proposal.<sup>13</sup> Consistent with the procurement rules’ emphasis on promoting fair competition, the timing of the publication of the RFP must be such that it is “accessible by the public simultaneously.”<sup>14</sup>

Second, after providing vendors a “reasonable time to prepare their proposals,”<sup>15</sup> an evaluation committee composed of persons who possess the requisite knowledge, experience, or expertise reviews the submitted proposals.<sup>16</sup> During this review, the committee, also referred to as the “technical advisory committee” or “TAC,” can engage the proposers to gain a better understanding of their proposals and otherwise ensure that the City will obtain the best price and quality contract.<sup>17</sup> Significantly, TAC members must submit a signed statement “agreeing to prohibitions on any conflicts of interest.”<sup>18</sup> Though the PPB rules do not address disclosure of the identities of evaluation committee members to proposers, DEP’s own internal practices and policies strictly prohibit the disclosure of TAC members’ identities.<sup>19</sup>

Third, once the TAC’s review is complete, TAC members complete a rating sheet or other written evaluation form.<sup>20</sup> Based on these evaluations, the City selects the most “responsible” proposer whose proposal represents the “best value” and is the “most advantageous to the City.”<sup>21</sup>

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<sup>12</sup> 9 R.C.N.Y. § 3-03(a)(2).

<sup>13</sup> 9 R.C.N.Y. §§ 3-03(a)(1), (3) & (4). Only the criteria expressly listed in the RFP can be used in evaluating the proposal. N.Y.C. Charter § 319; 9 R.C.N.Y. § 3-03(g).

<sup>14</sup> 9 R.C.N.Y. § 3-03(d)(1)(i) (emphasis added). Similar to the principles underlying RFP’s notice requirements, any notice of a “pre-bid” or “pre-solicitation” conference to further explain the RFP must be “provided to all prospective vendors.” 9 R.C.N.Y. § 3-03(f)(1).

<sup>15</sup> 9 R.C.N.Y. § 3-03(c)(1)

<sup>16</sup> 9 R.C.N.Y. § 3-03(g)(1). The proposals are not opened publicly. Instead, once the deadline has expired for submitting proposals, only the identity of the proposer as well as the number of any proposal modifications, if any, are publicly disclosed. 9 R.C.N.Y. § 3-03(f)(9).

<sup>17</sup> 9 R.C.N.Y. § 3-03(g)(3)(i) – (iii). TAC members are strictly prohibited from disclosing information from competing proposals. 9 R.C.N.Y. § 3-03(g)(4)(iv).

<sup>18</sup> 9 R.C.N.Y. § 3-03(g)(1). The evaluation committee need not be members of the relevant City agency. In certain circumstances, the evaluation committee can be composed of persons not employed by the relevant City agency or even non-City employees. 9 R.C.N.Y. § 3-03(g)(1)(b).

<sup>19</sup> Indeed, if the evaluation committee does engage the vendors to further discuss their proposals, during these vendor discussions, DEP sits individuals on the TAC who, in fact, have no say in the procurement. The purpose of this approach is to prevent vendors from attempting to improperly influence the evaluation committee and, thereby, taint the contract award process.

<sup>20</sup> 9 R.C.N.Y. § 3-03(g)(2).

<sup>21</sup> 9 R.C.N.Y. § 3-03(k).

### **3. The Minority and Women Business Enterprise (MWBE) Program**

The New York City Department of Small Business Services (SBS) certifies businesses as MWBEs<sup>22</sup> when the businesses demonstrate, among other things, ownership by minorities or women that is “real, substantial and continuing”<sup>23</sup> where those owners “exercise the authority to control independently the day to day business decisions of the enterprise.”<sup>24</sup> City agencies are required to establish MWBE “participation goals” in City contracts<sup>25</sup> in an attempt to “address the impact of discrimination . . . and to promote the public interest in avoiding fraud and favoritism in the procurement process.”<sup>26</sup> This requirement applies to City procurements through the competitive sealed proposal process.<sup>27</sup>

As a result, the contractor must include a “utilization plan” in its proposal that identifies the MWBEs it intends to use on the contract, if awarded.<sup>28</sup> Additionally, if selected, the contractor must submit to the City agency as part of its voucher for payment, “under penalty of perjury,” the amounts it paid to MWBEs identified in its utilization plan.<sup>29</sup> Credit towards the contract’s MWBE participation goals is only awarded if, among other things, the MWBE performs a “commercially useful function,”<sup>30</sup> which is defined as “a real and actual service that is a distinct and verifiable element of the work called for in a contract.”<sup>31</sup>

#### **B. The Relevant Parties**

##### **1. The New York City Department of Environmental Protection (DEP)**

DEP is a New York City agency whose main focus is to provide an adequate supply of clean drinking water to all New Yorkers.<sup>32</sup> To this end, DEP, through its nearly 6,000 employees, provides approximately one billion gallons of drinking water to nine million New Yorkers on a

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<sup>22</sup> N.Y.C. Charter § 1304(e)(6).

<sup>23</sup> N.Y.C. Charter § 1304(e)(6)(ii).

<sup>24</sup> N.Y.C. Charter § 1304(e)(6)(iii).

<sup>25</sup> 6 R.C.N.Y. § 6-129(i)(3).

<sup>26</sup> 6 R.C.N.Y. § 6-129(b).

<sup>27</sup> 9 R.C.N.Y. § 3-03(a)(17). These MWBE participation goals are issued before soliciting contract proposals. 6 R.C.N.Y. § 6-129(i)(1). MWBE participation goals can be changed or modified. 6 R.C.N.Y. §§ 6-129(i)(11) (governing changes based upon the requests from bidders and/or proposers) & 6-129(i)(12) (governing modifications at the request of the contractor or city agency itself).

<sup>28</sup> 6 R.C.N.Y. § 6-129(i)(5)(a) – (c).

<sup>29</sup> 6 R.C.N.Y. § 6-129(i)(7).

<sup>30</sup> N.Y.C. ADMIN. CODE § 6-129(j)(1)(g); 6 R.C.N.Y. § 6-129(g).

<sup>31</sup> N.Y.C. ADMIN. CODE § 6-129(c)(8).

<sup>32</sup> N.Y.C. Charter § 1403.

daily basis through its systems of aqueducts, reservoirs, and water treatment facilities originating in the Catskill Mountains, hundreds of miles away from the City. DEP necessarily relies on public works contractors to help fulfill its mission.

## **2. Ifeanyi “Manny” Madu**

Ifeanyi “Manny” Madu (Madu) is a former DEP employee with over 25 years of service at the agency. He began working at DEP in 1991 and retired in February 2017. At the time of his retirement, Madu held the title of Assistant Deputy Director in Engineering Audits, where he was responsible for auditing DEP expense contracts.

Before serving in this audit role, Madu was assigned to DEP’s Bureau of Engineering, Design and Construction (BEDC), where Madu was extensively involved in DEP’s procurement process relating to the planning, design, and construction of DEP’s major water quality related capital projects. Specifically, during his tenure at BEDC, Madu was responsible for coordinating and managing the RFP process for DEP’s professional services contracts, including reviewing contract specifications and overseeing the TAC’s analysis of proposals and contract cost negotiations.

## **3. The Contracting Parties (collectively, the “Contractors”)**

HAKS Engineers and Land Surveyors, D.P.C. (HAKS) is a 650-employee construction management and consulting company, with its principal place of business in New York City.

D&B Engineers and Architects, P.C. (D&B) is an environmental engineering, science, and architecture firm with its principal place of business on Long Island with offices throughout the tri-state area and Florida.

Haider Engineering, P.C. (Haider) is a construction management, design and materials testing firm with its principal place of business on Long Island.

DEP, specifically BEDC, retained HAKS, D&B, and Haider (collectively, the “Contractors”) on numerous large scale professional services contracts to provide expertise on various matters ranging from a multimillion dollar project to enhance the aeration levels of the Newtown Creek to general construction management services at different water treatment facilities throughout the Catskills. As such, these DEP contracts had varying MWBE participation goals, ranging generally from 10 percent to 30 percent. As Contractors working on various BEDC projects, these firms had dealings with Madu. Significantly, these dealings continued even after Madu was reassigned to DEP’s Engineering Audits Unit.

## **4. MWBE Firms**

### **a. SIMCO Engineering, P.C.**

SIMCO Engineering, P.C. (SIMCO) is an engineering and inspection services company that has been certified as an minority business enterprise by SBS, among other agencies, since

around October 2011.<sup>33</sup> According to documents filed with SBS, SIMCO provides various engineering, construction inspection, and planning services.

Muhammad Siddiqui, President of SIMCO, owns a 55 percent interest in SIMCO, while Husam Ahmad (Ahmad), CEO of HAKS, owns a 45 percent interest in the company. However, as discussed further below, Ahmad and Shahid Akhtar (Akhtar), the HAKS' CFO, provided Siddiqui with the capital to purchase his majority ownership stake. Additionally, despite being a minority owner of SIMCO, Ahmad exercised control over managerial and business decisions pertaining to SIMCO.

**b. CIMC Assocs., LLC, JCMS Assocs., LLC, JCMS Associates of New York, LLC, MCMS Assocs., LLC and MCC General Office Services, LLC (collectively, the “Madu Companies”)**

Madu's family members and associates were the nominal owners of several companies: CIMC Associates, LLC (CIMC), JCMS Associates, LLC (JCMS), JCMS Associates of New York, LLC (JCMS-NY), MCMS Assocs., LLC (MCMS), and MCC General Office Services, LLC (collectively, the “Madu Companies”). CIMC, JCMS, and MCMS have been certified under MWBE program by the City and New York State.<sup>34</sup> According to documents filed with SBS, these MWBEs provide a variety of construction management and construction inspection services, as well as general clerical, administrative, and office support functions. As discussed further below, Madu managed, directed, and controlled the Madu Companies.

## **II. The Fraud Schemes**

### **A. The Madu Bribery Scheme**

As alleged in the indictment, Madu misused his position at DEP to provide inside information to contractors in exchange for benefits including subcontracts to MWBE firms controlled by Madu and his family members, free meals, and tickets to Broadway shows. In his positions at DEP, particularly in BEDC, Madu had access to nonpublic procurement information pertaining to DEP RFPs and contracts including but not limited to RFP release dates, scopes of work, evaluation criteria, identities of evaluation committee members, ratings sheets, and internal DEP cost estimates. Madu shared this nonpublic information prior to the bidding process or in advance of the release of RFPs, thereby providing Contractors with advantages against their competitors which did not receive such information.

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<sup>33</sup> SIMCO also obtained a minority business enterprise certification in December 2006, but the certification lapsed, and they needed to reapply. Under reciprocity agreements, firms certified as MWBEs by New York State are similarly certified as MWBEs by New York City. Nevertheless, while both the City and State require minority members to be at least 51% owners, 5 N.Y.C.R.R. § 140.1(aa)(1) (State requirements); N.Y.C. Charter § 1304(e)(6) (City requirements), the State, unlike the City, imposes an additional requirement that such owner's net worth cannot exceed \$3.5 million, 5 N.Y.C.R.R. § 140.1(aa)(5).

<sup>34</sup> CIMC is certified as a MWBE and continues to hold its MWBE certification. The remainder were previously certified under these programs, but no longer certified as such.

The Contractors lavished Madu with bribes in exchange for supplying this information. The Contractors used the Madu Companies, which were controlled by Madu, as MWBE subcontractors on DEP projects. This arrangement allowed the Contractors to disguise their bribe payments to Madu as payments to MWBE subcontractors on their projects.

In addition, the Contractors provided Madu with expensive meals, tickets to shows, and other benefits including:

- Numerous meals at high-end restaurants including restaurants located near DEP's headquarters in Lefrak City, Queens;
- Expensive tickets to award-winning Broadway shows and musicals;
- Hotels room in Manhattan's Theatre District; and
- Jobs and internships for family members, friends, and associates of Madu, despite these individuals' lack of qualifying prior work or educational experience.

## **B. Fraud Involving SIMCO and the Madu Companies**

As alleged in the indictment, the investigation also revealed a scheme to misrepresent ownership and control of MWBEs on government projects.

### **1. SIMCO**

SIMCO was nominally owned by Siddiqui, but the funds for that ownership were provided by HAKS' executives, who effectively controlled SIMCO. Ahmad, HAKS' CEO, arranged for Siddiqui to become the majority owner of SIMCO in order for SIMCO to maintain its minority business enterprise status for government contracts. Given Ahmad's ownership of HAKS and its earnings, SIMCO could not qualify as a minority business enterprise if he became its majority owner.<sup>35</sup> While Ahmad had a minority ownership stake in the company, he and Akhtar provided the funds to Siddiqui for Siddiqui's purchase of a majority ownership stake. Documents show that: (1) HAKS CFO Shahid Akhtar loaned Siddiqui the money to purchase his interest in SIMCO in 2011 on or about 24 days before the purchase; and (2) Ahmad reimbursed Akhtar in 2014 via a check of the same amount.

SIMCO was hired as a contractor or subcontractor on various government projects due to its minority business enterprise status. In addition, HAKS retained SIMCO on various DEP professional services contracts to provide construction management and consulting services. However, Ahmad exercised effective ownership and control over SIMCO. Nonetheless, filings with government agencies by SIMCO represented that Siddiqui owned and controlled SIMCO.

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<sup>35</sup> As mentioned previously, SIMCO was certified as a minority business enterprise by New York State which, unlike the City, imposes an additional requirement that such owner's net worth cannot exceed \$3.5 million, 5 N.Y.C.R.R. § 140.1(aa)(5), an amount exceeded by Ahmad's net worth.

## **2. Madu Companies**

Though nominally owned by Madu's family members and associates, Madu exercised de facto ownership and control over the Madu Companies. In particular, Madu exercised control over the activities and bank accounts of the Madu Companies. Madu's de facto ownership of the Madu Companies, coupled with these companies' status as MWBEs, allowed the Contractors to not only conceal their bribe payments to Madu, but also, to fraudulently obtain their MWBE credits by using the Madu Companies as subcontractors on projects.

### **C. Straw Donor Scheme**

As alleged in the indictment, Ahmad and Akhtar, HAKS' CEO and CFO, engaged in a straw donor scheme by reimbursing HAKS employees and other individuals for political contributions they made to candidates for elected offices. Records demonstrate that HAKS' administrative employees tracked employee contributions and sent this information to Akhtar immediately before the award of employee bonuses at year end. Records further showed that Ahmad and Akhtar included employee contribution information in bonus files and intended for this information to ultimately be removed from those files. Filings with the City's Campaign Finance Board contained false representations regarding employee contributions based on the straw donor scheme.

## **III. Corruption Vulnerabilities and Recommendations for Reform**

This investigation identified systemic corruption vulnerabilities in DEP's procurement process. At its core, this case revealed how one mid-level manager at DEP and several contractors schemed to control procurement at DEP by providing benefits to that City employee in exchange for information. This case also revealed deficiencies in the vetting of firms for MWBE certification. The case highlights the need for stronger rules and procedures at DEP, as well as other City agencies, to address the risk of similar frauds in the future.

### **A. Stronger Procurement Protections**

Specifically, DOI identified the need for stronger disclosure and certification requirements for employees and contractors, enhanced restrictions on access to contract and procurement databases and applications for employees, limits on the hiring and access rights of consultants, and better security of contractor proposals:

- Madu's and the Contractors' misconduct violated prohibitions and ethics rules designed to protect the integrity of the procurement process and to promote competition, fairness, and the City's best interest.
- Madu's access to DEP's Procurement and Contract Tracking Application ("PACT") provided him with access to information that he gave to Contractors, which then provided him with benefits. Despite Madu's reassignment from BEDC to Engineering Audits, where he was no longer responsible for procurement, he retained access to PACT and continued to obtain confidential information to disseminate to contractors.

- DEP necessarily relies on consultants for technical expertise to supplement its workforce. However, this case demonstrated that the agency has retained some consultants to perform routine procurement functions and provided those consultants with broad access to DEP facilities and databases.
- Despite rules requiring that confidential procurement documents such as proposals be maintained in secure locations, investigators discovered such documents in insecure locations.

DOI made several recommendations to DEP to address vulnerabilities relating to procurement. DEP was proactive in identifying reforms to address procurement fraud vulnerabilities, has accepted these recommendations, and is currently implementing the recommendations. The recommendations are as follows:

1. DEP should require its employees involved in procurement and contracting to certify on an annual basis their understanding of prohibitions against disclosing confidential information; accepting gratuities or bribes; maintaining financial interests in any firm involved in a DEP procurement, whether such interests are maintained by such City employees or their immediate family members; and accepting any benefits from any City contract. DEP should maintain files of these certifications and provide copies to DOI.

2. DEP should require contractors to certify on an annual basis their understanding of prohibitions against soliciting confidential information; accepting gratuities or bribes; and soliciting business with firms which have financial interests maintained by agency employees and/or immediate family members. DEP should maintain files of these certifications and provide copies to DOI.

3. DEP should require employees involved in procurement and contracting on an annual basis to disclose immediate family members who do business with the City.

4. DEP should prohibit employees from inquiring about jobs on behalf of family members with firms that do business with the City.

5. DEP should strictly limit PACT access only to employees whose specific job duties require such access and, once such job duties change rendering access unnecessary, DEP should immediately terminate employees PACT access.

6. DEP should limit its use of consultants to necessary technical services and provide adequate justification of the need for consultants.

7. DEP should limit the physical and virtual access rights of consultants consistent with the scope of their duties as consultants.

8. DEP should adopt and enforce rules to protect the security of contract proposals and bid documents.

9. DEP should implement a zero-tolerance policy on the acceptance of gifts and other things of value from persons or entities doing business with the City.

10. DEP should prohibit the practice of allowing contractors/consultants to provide meals at meetings with the agency and, in turn, billing the City.

11. DEP should restrict the type of agency events that contractors are permitted to attend.

12. DEP should consider increased use of RFPs where the price proposals are weighted as a significant factor in the evaluation.

13. DEP should enhance training on confidentiality and conflicts of interest in trainings for procurement staff.

DOI also made these recommendations to other City agencies and is communicating with agencies about implementing reforms to address any procurement fraud vulnerabilities.

#### **B. Stronger Vetting to Ensure Independence of MWBEs**

DOI also identified shortcomings in SBS procedures relating to vetting of firms applying for MWBE certification. This investigation revealed instances where SBS certified and/or re-certified firms as MWBEs that were provided the necessary start-up capital to fund the firm's continuing operations by non-MWBEs. Nothing in SBS's practices or rules required these firms seeking certification (or, if already certified, seeking re-certification) to disclose any financial arrangements with non-MWBEs. In addition, SBS does not appear to perform adequate reviews of the information submitted to the agency in connection with MWBE certification applications.

DOI made the following recommendations to SBS:

1. SBS should independently verify that applicants seeking MWBE status from SBS under the "Fast Track Application" are in fact certified as MWBEs from SBS's partner organizations. Such verification should be documented in the applicants' file (e.g., printing from the agencies website, obtaining certified letter from the agency, etc.).

2. SBS should include the "Business Finance" section of the initial application seeking MWBE status in the MWBE renewal application as well.

3. SBS should require firms seeking MWBE status in the original application (and MWBE-certified firms in their renewal applications) to disclose any and all financing arrangements between the firm and outside entities.

4. SBS should require firms seeking MWBE status in the original application (and MWBE certified firms in their renewal applications) to identify the bank(s) where the firm maintain its accounts.

5. SBS should require firms seeking MWBE status in the original application to disclose and produce any and all agreements entered into with outside entities; this requirement currently applies to renewal applications only.

6. SBS should include the date SBS grants a firm MWBE status on its website, available for public inspection.

7. SBS should require employees to report any instances of fraud, waste or abuse in SBS's oversight of MWBE's to DOI.

SBS has accepted these recommendations.

#### **IV. Conclusion**

DOI was founded over 140 years ago as a result of massive scandals that manipulated City government, including the City's contracting process. Now, as then, this case illustrates how corruption in City contracting undermines transparency, fairness, and competition. It further shows the need for continued vigilance and reform in City procurement. DOI will continue to collaborate with its partners on the Construction Fraud Task Force on investigations of corruption in the construction industry and to work with City agencies to improve the City's procurement process.

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