

Company Admits It Bilked Clients on Big Projects

By WILLIAM K. RASHBAUM

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The giant construction company that worked on Citi Field, the renovation of Grand Central Terminal and scores of other high-profile projects has admitted to a huge fraud scheme in which it overbilled clients for more than a decade and has agreed to pay \$56 million in fines and restitution to avoid criminal charges, federal prosecutors announced Tuesday.

The company also admitted that it evaded government rules to hire a specified percentage of firms owned by minorities and women.

At the heart of the overbilling scheme is a practice that investigators contend — and many construction executives concede — is so widespread that it even has a name: eight plus two. The company, Lend Lease, routinely paid labor foremen for one or two hours of overtime every day that they never worked, according to court papers. The payments were an incentive for the more skilled foremen to stay on a project while the company billed clients for their fictitious labor.

In announcing the charges and what she called the largest construction-fraud settlement in New York City history, Loretta E. Lynch, the United States attorney in Brooklyn, suggested that the conduct went beyond Lend Lease, saying the investigation was continuing and “encompasses the wider part of the industry.”

The scheme carried out by the company defrauded government agencies and private developers of about \$19 million, much of it tax money, Ms. Lynch said at a news conference. She was joined by officials from several other agencies to announce a deferred-prosecution agreement.

But the amount is most likely far higher because prosecutors said they believed that Lend Lease conducted the practice for decades and that it extended to other companies.

Indeed, in a sign of the extent of the corruption, the public-works projects on which Lend Lease admitted billing city, state and federal agencies for fictitious work included the new federal courthouse in Brooklyn, where the charges against the company and its former leader were filed.

The projects also included the renovation of Ms. Lynch's offices in Brooklyn and the demolition of the Deutsche Bank building at ground zero, where a blaze in 2007 killed two firefighters.

During the three-year inquiry, investigators pored over more than a million documents and conducted hundreds of interviews, said Jan K. Fedarcyk, an assistant Federal Bureau of Investigation director, who spoke at the news conference with Ms. Lynch and the inspector of the Port Authority of New York and New Jersey, Robert Van Etten.

The U.S. subsidiary of an international construction conglomerate based in Australia that does billions of dollars in business each year around the globe, Lend Lease relies on public contracts for much of its profits. It would have been barred from bidding on such work had Ms. Lynch chosen to indict the company rather than give it a deferred prosecution agreement, a decision she said was based in their cooperation with the investigation, the reforms the pact required and the hundreds of New York jobs it would save.

James J. Abadie, 55, who led the company until the investigation was disclosed in 2009 and was once one of the most prominent construction executives in the city, pleaded guilty before Magistrate Judge Lois S. Bloom in United States District Court in Brooklyn to a single count of conspiracy to commit mail and wire fraud based on the overbilling scheme. He faces up to 20 years, but could get far less.

In the news conference, Ms. Lynch issued a warning to other companies. "The message should be clear: To all who engage in similar contract and billing fraud, you are in our sights," she said, "and the defense that everyone does it will not be a shield against law enforcement."

Lend Lease, which changed its name from Bovis Lend Lease after the fatal fire at the Deutsche Bank building, admitted to three counts of conspiracy to commit mail and wire fraud based on the overbilling scheme and its evasion of government contract requirements that it hire a certain percentage of contractors owned by minorities or women.

In a statement, Lend Lease said it had cooperated with the investigation and had replaced the managers who it said were responsible for the conduct.

The company also said it had instituted what it called "extensive remedial measures." Ms. Lynch said the company now had auditors overseeing its labor billing and minority contracting.

"Lend Lease takes corporate governance very seriously and is committed to the highest levels of ethical standards," Lend Lease America's chief executive, Robert McNamara, said. "We accept responsibility for what happened in the past and have agreed to continue to make restitution to the affected clients."

Though Lend Lease overcharged for the Time Warner Center, Citi Field and work on the renovation of Grand Central Terminal, among other projects, it did not overbill on another job, the National September 11 Memorial, because the investigation was under way and it had changed its practices.

Early last year, the company paid a \$5 million settlement to New York City for some of the same conduct involved in the case announced on Tuesday. Much of that amount will be credited toward its penalty.

Mr. Abadie, a broad-shouldered man with silver hair, answered Judge Bloom's questions quietly during his plea.

Asked to describe his crimes, he told her: "From at least 1999 to 2009, I agreed with others at Bovis to continue the existing practice for laborers at Local 79 to add one or two hours to their time sheets every day whether it was worked or not. I and others authorized the practice for labor foremen to take vacation and holidays while filling out their time sheets as though they had worked."

The investigation into the overbilling was conducted by the F.B.I., the Port Authority's inspector general, the federal Labor Department, the city's Department of Investigation, the Manhattan district attorney and other agencies. It began with complaints from a Bovis official, Brian S. Aryai, who is a former federal agent.

Mr. Aryai, a senior vice president for finance, was fired by Bovis in 2009 after complaining about what he believed were financial improprieties. He wrote a letter to the chairman of its parent company in Australia, David Crawford.

The letter gave details of his accusations of bribery of union officials and overbilling at a number of project sites.

The fraud investigation began several months after Bovis signed an earlier agreement with the Manhattan district attorney at the time, Robert M. Morgenthau, in connection with the deaths of the two firefighters, Robert Beddia and Joseph Graffagnino, who died in the Deutsche Bank fire.

Under that agreement, the company acknowledged failures, agreed to safety reforms and paid a multimillion-dollar settlement.

Mr. Morgenthau's office filed manslaughter charges against three construction supervisors and a subcontractor who had worked at the Deutsche Bank building, saying their negligence in dismantling the structure played a critical role in the firefighters' deaths.

All three men were acquitted last summer.

Joseph Graffagnino Sr., whose firefighter son died in the fire and who criticized Mr. Morgenthau's decision not to charge Bovis, questioned Ms. Lynch's rationale for not seeking an indictment.

"The U.S. attorney said they didn't push for jail time because it would hurt Bovis and put many people out of work," he said in an e-mail. "Isn't that their job — to put bad guys out of work by arresting them?"

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