



June 30, 2006

**Statement of Robert W. Cobb, NASA Inspector General
On the Department of Justice's \$615 Million Settlement with Boeing Corporation**

The Department of Justice and the Boeing Corporation have reached a negotiated settlement of issues relating to Boeing's alleged unlawful possession and use of a competitor's proprietary data. Boeing has agreed to pay the United States \$615 million; the settlement concludes my Office's investigation of the Boeing Corporation's proposal and negotiation of a \$1.46 billion task order (also called the "19 Pack") under the NASA Launch Services contract.

NASA has had discussions with the Department of Justice and has been assured that it will receive from the settlement an amount which will significantly remediate the damages NASA believes are attributable to Boeing's alleged misconduct. Consistent with applicable appropriations law, it is anticipated that NASA will be able to re-apply those funds directly to the programs that were harmed by Boeing's alleged misconduct, in furtherance of NASA's mission.

I appreciate the superb efforts of the Department of Justice, the Department of Defense, and the NASA team that brought about this historic settlement. In addition to fulfilling our statutory mandate to protect the public's and NASA's fiscal interests, this settlement also serves as a testament for holding accountable those who abuse the government's procurement system. Indeed, the settlement represents a significant accomplishment in our continuing fight against fraud, waste and abuse.

I express my profound thanks to the Department of Justice for its efforts and, in particular, Assistant U.S. Attorney Christine Adams of the U.S. Attorney's Office, Central District of California and Judy Rabinowitz, Senior Trial Counsel in the Civil Division of the Department of Justice. Throughout our investigation, Ms. Rabinowitz and others, including prosecutor Adams, the Air Force Office of Special Investigations, the Defense Criminal Investigative Service, and the Air Force Deputy General Counsel for Contractor Integrity, worked jointly with us to determine the extent to which NASA was victimized. Ms. Rabinowitz was tireless in her efforts to protect the public's and NASA's interests.

I also recognize the exemplary work of my staff at the NASA Office of Inspector General (OIG), which included a multi-disciplinary team of investigators, procurement specialists and attorneys. Special Agent Patty Searle, Resident Agent In Charge at the Kennedy Space Center (KSC); Special Agent Wade Krieger at KSC; Joe Fasula, Procurement Specialist in the Office of Audits; Joe Kroener, Procurement Director—Office of Audits; Frank LaRocca, Counsel to the Inspector General; and Earl Baker, Associate Inspector General Counsel—Western Region all did a commendable job. This dedicated team tenaciously uncovered the facts, championed this case, and diligently supported the Department of Justice's efforts to obtain the results achieved today.

I also express thanks to NASA General Counsel and his staff for working with the NASA OIG and the Department of Justice to achieve an important and satisfactory result for NASA. Our joint effort on the Boeing matter demonstrates the value of NASA's recently established Acquisition Integrity Program. The goals of this Agency-wide initiative are to enhance NASA's efforts in detecting, preventing, and investigating procurement fraud and to ensure that those who commit fraud are appropriately penalized. The Acquisition Integrity Program was established under the purview of the NASA Deputy Administrator, Shana Dale, and exemplifies the Agency's steadfast commitment to ensuring that the dollars entrusted to it by the American people are protected from fraud, waste and abuse.

Department of Justice

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BOEING TO PAY UNITED STATES RECORD \$615 MILLION

TO RESOLVE FRAUD ALLEGATIONS

WASHINGTON – Deputy Attorney General Paul J. McNulty announced today that the United States reached final agreement with The Boeing Company on a record \$615 million settlement to resolve criminal and civil allegations that the company improperly used competitors' information to procure contracts for launch services worth billions of dollars from the Air Force and the National Aeronautics and Space Administration. Assistant Attorney General Peter D. Keisler, and the U.S. Attorneys for the Central District of California and the Eastern District of Virginia, Debra Wong Yang and Chuck Rosenberg, joined Deputy Attorney General McNulty in the announcement.

Boeing has agreed to pay a total of \$615 million dollars to resolve the government's investigations and claims relating to the company's hiring of the former Principal Deputy Assistant Secretary of the Air Force for Acquisition and Management, Darleen A. Druyun, by its then Chief Financial Officer, Michael Sears, and its handling of competitors information in connection with the Evolved Expendable Launch Vehicle (EELV) Program and certain NASA launch services contracts.

"The American people rightly expect government officials and contractors to act with integrity," said Deputy Attorney General Paul J. McNulty. "The outcome of these investigations sends a clear message to those doing business with the government: harsh consequences await anyone whose conduct falls short of the highest legal and ethical standards."

The \$615 million settlement includes a \$565 million civil settlement and a \$50 million monetary penalty according to a separate criminal agreement. The amount is a record for government procurement fraud, for the Department of Defense (DOD), and for NASA.

Under the agreement with the U.S. Attorneys' Offices, the United States agrees not to bring criminal charges related to the conduct that is the subject of the settlement agreement in part because the company is fully cooperating with the government's investigation. Boeing has agreed

to accept responsibility for the conduct of its employees in these matters, continue its cooperation with federal investigators, pay a monetary penalty of \$50 million, and maintain an effective ethics and compliance program, with particular attention to the hiring of former government officials and the handling of competitor information. The U.S. Attorneys' Offices may seek to prosecute Boeing for charges relating to the Druyun conduct, or to assess a further penalty of up to \$10 million, if during the two year term of the criminal agreement, an executive management employee of Boeing commits federal crimes as outlined in the agreement, and the company fails to report the misconduct to the Department of Justice.

The settlement with the Justice Department's Civil Division provides for Boeing to pay \$565 million in exchange for a complete release from any civil liability arising from the Druyun matter as well as the Evolved Expendable Launch Vehicle Program (EELV) and certain NASA launch services contract.

The government's investigation focused on Boeing's relationship with the former Principal Deputy Assistant Secretary of the Air Force for Acquisition and Management, Darleen A. Druyun. Druyun was the Air Force's top career procurement officer before she retired from the Air Force in 2002. In that position, she wielded influence over billions of dollars in contract awards, modifications, and settlements. In 2000, Boeing, at Druyun's request, hired Druyun's daughter and future son-in-law. Then in 2002, Boeing's then Chief Financial Officer, Michael M. Sears, recruited Druyun for an executive position with Boeing following her retirement. During this period (2000 - 2002), Druyun was responsible for dozens of Boeing contracts, as well as for the controversial \$23 billion procurement to lease a fleet of KC-767 aerial refueling tankers that has since been canceled.

Sears and Druyun both pleaded guilty to violations of the conflict of interest statutes. In documents filed with the criminal court, Druyun admitted that Boeing's favors in hiring her children and in offering her a position influenced her contracting decisions.

The government's investigation also focused on the EELV program, with which the Air Force sought to usher in a new generation of space launch vehicles to serve the government's critical satellite needs through 2020. Air Force strategy called for two sources to reduce the risk of failure and cost through competition. Those sources ended up being Boeing and Lockheed, with Boeing's low pricing leading the Air Force to favor Boeing in awarding it 19 of the original 28 launch services contracts awarded in October 1998. The United States alleged that, prior to this award, Boeing obtained more than 22,000 pages of documents from Lockheed Martin, certain of which contained confidential competition-sensitive or other proprietary information that related to Lockheed's EELV program and that some of this information was used to unfairly assist Boeing in the EELV competition. When this was subsequently discovered by the Air Force, it sought to "right the wrong" by re-balancing the contracts, at great expense. Boeing's conduct resulted in a record 20-month suspension of three of its business units from government contracting.

NASA also had launch services contracts with Boeing and Lockheed that required the contractors to compete for missions. The United States alleged that Boeing's possession and use of Lockheed's proprietary information, including additional documents obtained through different channels than the EELV documents, plus the unfair advantage the company had gained in the EELV, enabled Boeing to persuade NASA to award 19 missions, known as the 19 Pack, on a sole source basis. The United States further alleged that the lack of competition plus Boeing's false claims for certain costs, resulted in Boeing charging NASA much more for the 19 Pack than NASA should have paid.

NASA Inspector General Robert W. Cobb expressed his appreciation for the "superb efforts of the DOJ, DOD, and NASA team that brought about this historic settlement. In addition to fulfilling our statutory mandate to protect the public's and NASA's fiscal interests, this settlement also serves as a testament for holding accountable those who abuse the government's procurement system. Indeed, the settlement represents a significant accomplishment in our continuing fight against fraud, waste, and abuse."

"Now, the Boeing settlement is behind us," said Dr. Ron Segal, Under Secretary of the Air Force. "It wasn't a proud time in their history and in some ways it wasn't a proud time in our history, but Boeing is a competent and capable contractor and we look forward to a positive working relationship."

"This settlement sends a clear message that integrity in DOD contracting is indispensable and that the American public deserves no less than honest government and aggressive vigilance over the expenditure of the nation's resources," said Acting Department of Defense Inspector General Thomas F. Gimble.

The Druyun investigation was conducted by the U.S. Attorney's Office for the Eastern District of Virginia, the Mid-Atlantic Field Office of DCIS (DOD OIG) and the Air Force Office of Special Investigations. The EELV and 19 Pack investigations were conducted by the U.S. Attorney's Office for the Central District of California, the Air Force's Space and Missile Systems Center at Los Angeles Air Force Base, the Western Field Office of the Defense Criminal Investigative Service (DCIS) within the Defense Department's Office of the Inspector General (OIG), the Air Force of Special Investigations, and the NASA Office of the Inspector General at the Kennedy Space Center. The civil investigation and negotiations were conducted by the Civil Division of the Department of Justice, with the assistance of the U.S. Attorneys' Offices' civil attorneys and the investigative agencies.

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