U. S. Department of Justice

United States Attorney
Northern District of Illinois
Federal Building

Patrick J. Fitzgerald
United States Attorney

219 South Dearborn Street, Fifth Floor
Chicago, Illinois 60604
(312) 353-5300

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PRESS CONTACTS:
AUSA Linda Wawzenski (312)353-1994
AUSA/PIO Randall Samborn (312)353-5318

NORTHROP GRUMMAN TO PAY U.S. $62 MILLION TO SETTLE ALLEGED ACCOUNTING OVERCHARGES AND FALSE CLAIMS ABOUT RADAR JAMMING DEVICE FOR B-2 "STEALTH" BOMBER

CHICAGO -- The Northrop Grumman Corp. has agreed to pay the United States $62 million to resolve allegations of overcharging the government by fraudulently accounting for materials purportedly used in multiple defense contracts and by fraudulently inflating the cost and misrepresenting the progress of a radar jamming device for the B-2 "Stealth" Bomber under an Air Force contract, Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, announced today.

The settlement was reached in a 15-year-old civil lawsuit that was scheduled for trial in June. The government joined the case in 2001, after initially declining to do so in the early 1990s, and filed its own complaint alleging fraud under the federal False Claims Act. The settlement agreement, filed today in U.S. District Court in Chicago, requires Los Angeles-based Northrop to pay the government the entire $62 million within seven days. It is the largest False Claims settlement ever negotiated by the Chicago U.S. Attorney's Office.

The settlement calls for the government to pay $12.4 million, or about 20 percent of the proceeds, to two former Northrop employees who alerted the government to the alleged fraud –

James H. Holzrichter, a former auditor, and the estate of Rex A. Robinson, a deceased test engineer – both of whom worked at Northrop's Defense Systems Division (DSD) facility in Rolling Meadows, Ill., which later became part of its Electronic Systems Division. The two so-called "whistleblowers" filed the civil fraud case in 1989. *United States ex rel. Robinson v. Northrop Grumman Corp.*, No. 89 C 6111 (N.D. Ill.).

The government's claims were investigated by agents of the Defense Criminal Investigative Service (DCIS), with assistance from the Defense Contract Audit Agency and the Defense Contract Management Agency.

"Government partnerships with defense contractors require honesty and candor to provide the best military equipment at the most efficient price," Mr. Fitzgerald said. "This settlement shows that the government will pursue its legal remedies when that trust is violated. Contractors must know that government business is not a blank check."

The government's false claims allegations fell into two categories. In the first, beginning in the 1980s, Northrop allegedly engaged in a fraud scheme by routinely submitting false contract proposals and claims for progress payments involving its accounting for materials and material costs. Northrop's DSD subsidiary, which had Department of Defense sales exceeding $1.5 billion between 1987 and 1990 alone, concealed basic problems in its handling of inventory, scrap and attrition, and its materials accounting systems lacked even basic data integrity, according to the government's complaint.

At the time, the Northrop division was engaged in the design, development, testing and manufacture of defense electronic systems for use in high-technology, state-of-the-art aircraft, including: electronic countermeasure systems for the B-1, B1-B and B-52 Bombers; the AN/ALQ-

135 radar jammer deployed on the F-15 fighter aircraft; the An/ALQ-162 Shadowbox radar jammer; classified "special projects" for the B-2 "Stealth" Bomber; and Electro-Optical Infrared (EO/IR) defense systems.

Northrop's multiple defense contracts provided for several methods of payment, including progress payments, a form of government-furnished, interest-free financing available for firm fixed-price and fixed-price incentive contracts. Progress payments reimbursed contractors for a percentage of the costs, usually between 75 and 90 percent, actually incurred in performing a contract. To submit public voucher claims based on its purported actual costs, Northrop had to maintain accurate records of the material, labor and other costs that were actually incurred in performing each contract.

During varying time periods for different contracts, Holzrichter audited large transactions concerning scrap, attrition and other material costs to the United States that were built into the contract price. Falsely inflated scrap, attrition and material costs alleged in the complaint enabled Northrop to overcharge the government by inflating the contract price. The complaint charged that the government was cheated out of tens of millions of dollars as a result of the false charges for scrap and Northrop's failure to provide the government with proper credits for scrapped parts that had been salvaged and reused.

The second category of alleged fraud involved a radar jamming device for the B-2 Bomber known as the SP-3/ZSR 62. In 1985, Northrop allegedly lied to the government during a "Critical Design Review" regarding progress that it had made designing the device and, as a result, the Air Force awarded Northrop a $254 million contract to build it. After obtaining the contract, Northrop allegedly submitted claims for outmoded and useless test stations and procedures, representing that

various circuit assemblies were functional when Northrop knew that they, as well as the prime product, were not. After two additional years of funding, the Air Force cancelled the contract.

Both Holzrichter and Robinson were fired and sued Northrop for employment discrimination in addition to the alleged False Claims Act violation. Their personal claims were settled separately. The False Claims Act provides for a civil penalty of $5,000 to $10,000 for each false claim for payment to the United States, plus three times the amount of actual damages sustained by the government. Individuals with knowledge of false claims may file a lawsuit in Federal Court on behalf of the United States and share in any recovery that the government eventually obtains.

The United States is being represented by Assistant U.S. Attorney Linda Wawzenski. The lead counsel for Holzrichter and Robinson, known as the "relators," is Michael I. Behn, of Futterman & Howard, Chtd., in Chicago.

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