



This is the second in what may prove to be a continuing series of competing government and contractor against each other to see who has the most reported corruption. As always we based our competition on reported findings from the US Department of Justice and the DoD Office of Inspector General. And as always, allegations and indictments are not the same as findings of guilt; individuals are considered to be innocent until proven guilty in a court of law.

Contractor

1.

Michelle Cho, an officer of Far East Construction Corporation (Far East) and other construction companies, was sentenced on April 26, 2017, to six months in prison and 24 months of supervised release on a federal charge of conspiring to commit wire fraud. Cho was also ordered to pay forfeiture in the amount of \$169,166 and pay a criminal fine in the amount of \$35,000. Cho was an initiator and mastermind of a scheme lasting more than five years to defraud a disadvantaged persons' business assistance program of tens of millions of dollars. Cho utilized two straw companies, including Far East, to conspire with MCC Construction Company (MCC) and others to defraud the SBA. Cho's two companies were

Written by Nick Sanders
Monday, 15 May 2017 00:00

eligible to receive federal government contracts that had been set asides for small, disadvantaged businesses under the SBA 8(a) program. Cho and MCC understood that MCC would illegally perform all of the work on these contracts and pay three percent of the proceeds to Cho's companies rather than have Cho's companies perform at least 15 percent of the work as required by the SBA 8(a) program. In so doing, MCC was able to win 27 government contracts worth over \$70 million from 2008 to 2011. The scope and duration of the scheme resulted in a significant number of opportunities lost to legitimate small, disadvantaged businesses.

2.

On April 27, 2017, U.S. District Judge Marvin J. Garbis sentenced John Wilkerson, age 51, of Moultrie, Georgia to five years in prison, followed by three years of supervised release, for a wire fraud conspiracy and for paying illegal gratuities to a government official, in connection with the award of more than \$53 million in federal government contracts. Judge Garbis also ordered Wilkerson to pay forfeiture and restitution in the amount of \$9,441,340.11. (See our article discussing this case [here](#).)

3.

A federal grand jury returned an indictment on May 8, 2017, charging a former contractor at the Military Sealift Command for his role in a bribery and fraud conspiracy through which he received nearly \$3 million in bribes. According to the indictment, Scott Miserendino, Sr., of Stafford, was charged in a five-count indictment with one count of conspiracy to commit bribery and honest services mail fraud, one count of bribery, and three counts of honest services mail fraud. According to the indictment, Miserendino was a government contractor at MSC, an entity of the U.S. Department of the Navy that provided support and specialized services to the Navy and other U.S. military forces. The indictment alleges that Miserendino and Joseph P. Allen, the owner of a government contracting company, conspired to use Miserendino's position at MSC to enrich themselves through bribery. Specifically, beginning in 1999, Miserendino allegedly used his position and influence at MSC to assist Allen and his company in obtaining and expanding a commission agreement with a telecommunications company, which sold maritime satellite services to MSC, according to the indictment. For more than a decade, Miserendino allegedly used his influence at MSC to take official acts to benefit the telecommunications company, which through the commission agreement, also benefited Allen and his company. Among his actions, the indictment alleges that Miserendino: advised officials at MSC and on their ships about using the telecommunications company's services; authorized Allen and his employees to perform services on MSC ships and ensure that the equipment on those ships defaulted to the telecommunications company's services rather than that of an alternative provider; and facilitated payment to the telecommunications company for the services it rendered to MSC. Unknown to MSC or the telecommunications company throughout the scheme, Allen paid half of the commission payments from the telecommunications company to Miserendino as bribes. In total, between approximately 1999 and approximately 2014, Allen received more

Written by Nick Sanders
Monday, 15 May 2017 00:00

than \$6 million from the telecommunications company, and in turn, he paid more than \$2.8 million to Miserendino in bribes.

4.

Two former executives of a foreign defense contractor pleaded guilty in federal court on May 9, 2017, for participating in a conspiracy to submit bogus bids, claims and invoices to the U.S. Navy in an effort to steal tens of millions of dollars as part of a years-long corruption and fraud scheme. Neil Peterson, 39, and Linda Raja, 44, both Singaporean nationals, each pleaded guilty to one count of conspiracy to defraud the United States with respect to claims. Both defendants were arrested by authorities in Singapore at the request of the U.S. government and were extradited on Oct. 28, 2016. Sentencing for Peterson and Raja is set before the Honorable Janis L. Sammartino of the Southern District of California on Aug. 11, 2017. Peterson and Raja worked for Singapore-based Glenn Defense Marine Asia (GDMA). Peterson served as the Vice President for Global Operations, and Raja served as General Manager for Singapore, Australia and the Pacific Isles. According to their pleas, Peterson and Raja conspired with Leonard Glenn Francis, the owner of GDMA, to defraud the U.S. Navy in order to financially benefit GDMA. As part of their pleas, Peterson and Raja admitted that they and other members of GDMA's management team created and submitted fraudulent bids. These bids were either entirely or partially fictitious. This ensured that GDMA's quote would be selected by the U.S. Navy as the supposed lowest bidder. As a result, GDMA could control and inflate the prices charged to the U.S. Navy without engaging in any competitive bidding, as required. Additionally, Peterson, Raja admitted that they and others knowingly created fictitious port authorities with fraudulently inflated tariff rates and approved the presentation of these fraudulent documents to the U.S. Navy. As a result, GDMA charged inflated prices to the U.S. Navy, rather than what GDMA actually paid to the port authorities. (Note: Here's [a link](#) to our latest article on the far-reaching GDMA "Fat Leonard" scandal.)

5.

Eugene Sickle, the former deputy executive director of a South African research institute, pled guilty on May 9, 2017, to a scheme in which he stole more than \$200,000 in grant funds originating with the U.S. Agency for International Development (USAID). Sickle, a chemist and a citizen of South Africa, pled guilty in the U.S. District Court for the District of Columbia to a charge of theft concerning programs receiving federal funds. The plea, which is contingent upon the Court's approval, calls for an agreed-upon sentence of six months to 12 months and a day of incarceration. The plea agreement requires Sickle to pay \$206,250 in restitution. He is to be deported upon completion of his sentence. ... Sickle was deputy executive director of the Wits Reproductive Health and HIV Institute, a South African research institute focusing on sexual and reproductive health as well as vaccine-preventable diseases. Its primary source of funding is USAID, and Sickle administered grant funds for projects. One such project involved a mobile electronic device software application, in connection with the South African National Department of Health, which would help facilitate

Written by Nick Sanders
Monday, 15 May 2017 00:00

safer childbirth deliveries in South Africa. On October 2, 2015, according to the statement of offense, Sickie and the institute's chief executive officer signed a contract with a company called Alzar Consulting Services Ltd. to develop the childbirth app. Likewise, an individual named 'Dr. Carla Das Neves' Alzar's purported director, signed the contract. Pursuant to this contract, the institute made two payments to Alzar totaling \$206,250. However, the childbirth app has never been developed. Subsequent investigation revealed that Sickie created Alzar in the British Virgin Islands. Unbeknownst to anyone at the research institute, he was the sole owner of the company. Sickie also created e-mail accounts for Alzar and fake Alzar employees, including 'Carla Das Neves.' He created a fake LinkedIn page for 'Carla Das Neves,' which had a beach scene for a picture, and falsely claimed that "Carla Das Neves" was a trained expert in aid/relief work. Sickie shepherded the research institute's contract with Alzar through the approval and compliance process. He signed the contract both as himself and also as 'Carla Das Neves.' ... Sickie did not perform any of the work required under the contract, nor did anyone else. None of the USAID money was used for its intended purpose to facilitate safer childbirth in South Africa. Instead, Sickie diverted the money to himself personally, and an associate.

6.

On May 10, 2017, Matthew Barrow, age 43, of Toledo, Ohio, pleaded guilty to bribery charges related to contracting at the U.S. Army Communications-Electronics Command headquartered at Aberdeen Proving Ground (APG), in Harford County, Maryland. According to his plea agreement, in March 2006, the U.S. Army Contracting Command at APG awarded a 10-year, \$19.2 billion contract to seven prime contractors to provide technology services to support the integrated engineering, business operations, and logistics needs for the Army. Former Army officials John and Danielle Kays each had leadership positions related to this contract. From September 2006 through April 2011, a series of task orders for services pursuant to the contract were placed. John and Danielle Kays were civilian employees who represented the Army on these types of multi-year contracts. From January 2011 until his resignation from government service in July 2014, John Kays held the position of Deputy Project Manager for Mission Command, in effect the number two position for Mission Command. From June 2009 through June 2012, Danielle Kays was the Deputy Director of the Technical Management Division, and from 2012 until her resignation from government employment in October 2015, Danielle Kays was the Product Director of Common Hardware Systems. Barrow was the President and owner of MJ-6, LLC, a company which he and his wife formed in Ohio in 2008 to obtain military subcontracts. From June 2008 through August 2010, Barrow was also employed as a procurement manager by a glass company in Ohio. From August 2008 to June 2014, John and Danielle Kays agreed to take official actions favorable to Barrow and MJ-6 in return for Barrow paying them a total of approximately \$800,000. Specifically, the Kays used their official positions to add MJ-6 as a subcontractor acceptable to the Army, to steer potential employees for government contractors to work for MJ-6, to approve MJ-6 employees to work on various TOs, and to approve the pay rates, status reports, and travel reimbursements for MJ-6 employees. The Kays steered subcontracts worth approximately \$21 million to MJ-6. In order to conceal their corrupt relationship Barrow caused the glass company he worked for to purportedly enter

Let's Play Public Procurement Fraud Again – Government versus Contractor

Written by Nick Sanders
Monday, 15 May 2017 00:00

into contracts and make payments to Transportation Logistics Services, LLC, a company incorporated by John Kays; and later made payments to the Kays in cash, which Barrow allegedly withdrew from his personal accounts and from MJ-6 accounts. Barrow withdrew the money in amounts less than \$10,000 to avoid bank reporting requirements. [Note: We believe this is called “structuring” and it is a crime in and of itself.] To further conceal the scheme, John and Danielle Kays made false statements on the government ethics forms that they were required to file by failing to disclose the cash payments received from Barrow. Barrow faces a maximum sentence of 15 years in prison.

Okay – that’s six for the contractor side. We note for the record that several of the “contractor corruption” stories also involved government personnel, but we chalked them to the contractor side based on the individual who was the subject of the story.

Government

1.

On April 19, 2017 a federal jury found Cordera Hill (Tampa) guilty of one count of conspiracy and two counts of offering to pay and paying illegal kickbacks in connection with a federal health care benefit program. He faces a maximum penalty of five years in federal prison on each count. [Note: We understand readers may consider this to be a health-care related story, but it’s really not. It doesn’t involve FCA violations by a healthcare provider.)

2.

On April 26, 2017, a federal jury convicted a lieutenant colonel in the U.S. Army Reserves for fraudulently supplying hundreds of thousands of Chinese-produced baseball caps and backpacks to the Army Recruiting Command, despite receiving millions of dollars under contracts stating the items ‘MUST BE 100 % U.S. MADE.’ Following a seven-day trial before U.S. District Court Judge Sharon Lovelace Blackburn, the jury found FREDERICK LAMAR BURNETT, 48, of Madison, guilty on three counts of wire fraud. The jury deliberated for less than two hours before convicting Burnett, who took the stand in his own defense. ... Burnett used his Huntsville-based company, Lamar International Inc., in a scheme to defraud the Defense Department on three contracts, worth \$6.2 million, between 2005 and 2009. All the contracts, two for baseball caps and one for backpacks, were for promotional items to be given to Army recruits. Burnett certified for all three contracts that he would meet the requirements of the Buy American Act, the Berry Amendment and federal regulations that require the government to buy domestic products and materials, according to the indictment.

Let's Play Public Procurement Fraud Again – Government versus Contractor

Written by Nick Sanders
Monday, 15 May 2017 00:00

The Buy American Act requires the federal government to buy domestic articles, materials and supplies, primarily to protect American labor. The Berry Amendment prohibits the Defense Department from buying clothing, fabrics, fibers and yarns that are not grown, reprocessed, reused or produced in the United States. The purpose of the Berry Amendment is to protect the viability of the textile and clothing production base in the United States. These statutes are incorporated and made applicable to government contractors through the federal acquisition regulations. Instead of providing American-made products, however, Burnett negotiated and contracted with suppliers directly from China and with American companies who he knew were procuring the products from China. He used Chinese-made products to fill orders under all three contracts and hid their foreign manufacture by hiring workers on a cash basis to remove all the Chinese labels and repackage the items he sent to the Army Recruiting Command. After award of the third contract, a competitor protested the bid, claiming Burnett could only bid so low if he were using foreign suppliers. The government allowed Burnett to proceed with the contract after he promised that he would use only American-made products and that he would comply with all aspects of the Buy American Act and the Berry Amendment. [Note: This one could have gone either way. Certainly, Burnett was a contractor. But the fact that he was an Army Reserve O-5 (i.e., a member of a military service) tipped it toward the government side. Your protest to the Judges has been heard and, unfortunately, denied.]

3. On May 11, 2017, former U.S. Congresswoman Corrine Brown was convicted by a federal grand jury for her role in a conspiracy and fraud scheme involving a fraudulent scholarship charity. Brown, of Jacksonville, Florida, was convicted on 18 counts of an indictment charging her with participating in a conspiracy involving a fraudulent education charity, concealing material facts on required financial disclosure forms, obstructing the due administration of the internal revenue laws, and filing false tax returns.

Clear winner in this round: **Contractor**.

Please note, readers, that this list excluded healthcare-related fraud. Had we included those matters, the list would have been much longer. Further, this is less than one month's worth of stories. Think about that for a second.

Those of us who deal with government audits tend to roll our eyes when the auditors ask questions about fraud matters (as they are required to do). We tend to think the auditors have been trained to consider all contractors to be crooks and that, instead of approaching each audit objectively, the auditors are looking to "get the crooks." Well, maybe some auditors are, indeed, out to get contractors. But before you simply dismiss an auditor's skepticism, consider how much corruption there is in the public procurement system. The fact of the matter is—too many

Let's Play Public Procurement Fraud Again – Government versus Contractor

Written by Nick Sanders
Monday, 15 May 2017 00:00

contractors and too many contractor employees are engaging in corrupt behaviors.

For that matter, what are YOU doing to detect and prevent corrupt behaviors at your company? We are willing to bet the answer is “not enough.”