

## More Procurement Fraud

Written by Nick Sanders  
Thursday, 08 October 2020 00:00

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After you've been in this business for a while, you learn that September is full of government spending, as each agency rushes to spend its precious budgetary dollars before the clock strikes midnight on September 30<sup>th</sup> and the budget vanishes, leaving perhaps only a single glass slipper behind. Each day in September, the DOD list of new contract awards grows longer, until early October, when it returns to the "normal" of new contract actions (except for those actions that didn't make the cut-off for various bureaucratic reasons). It's a normal, annual, phenomenon. You can count on it to happen every September.

This year we've noticed another interesting September phenomenon. It seems as if the number of procurement-related fraud press releases from the Department of Justice (and other enforcement agencies) has also spiked.

We could list each one that comes out, but that would be boring. Boring for you and boring for us. We only talk about the ones that have some aspect that catches our attention. But believe us, we could fill up many articles with hum-drum stories. For example, here are some September press release titles from DOJ and/or Department Labor:

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Pharmacist    Pleads Guilty to Wire Fraud and Money Laundering

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Florida    Contractor Pays \$124,075 in Back Wages, Benefits After U.S.    Department of Labor  
Finds Violations on Federal Construction    Contract

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Louisiana    Company Pleads Guilty to Conspiracy to Defraud the Government and    Violate  
the Procurement Integrity Act

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Asphalt    Contractor To Pay \$4.25 Million To Settle Claims That It Misled The    Government  
As To The Materials Used To Pave Road

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Quantadyn Corporation And Owner Settle False Claims Act Allegations of Bribery To Obtain Government Contracts For Simulators

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Former Business Executive Sentenced to Prison for \$4 Million Bribery Scheme Involving DoD Contracts for Wounded Military Veterans

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Two Individuals Charged with Bribery Related to Iraq Contracts

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U.S. Department of Labor and Microsoft Corp. Enter Agreement to Resolve Alleged Hiring Discrimination Affecting 1,229 Applicants in Four States

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U.S. Department of Labor Reaches Agreement with Texas Electronics Company to Resolve Alleged Hiring Discrimination

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Operations Manager Indicted in Scheme to Sell Counterfeit Clothing to the U.S. Military

(That final headline was dated October 2, so maybe not all in September. But you see our point, right?)

We could probably write an article on just about any of the headlines in the above list. But instead, we are going to focus on another story that we didn't list. It has the headline: "Wisconsin-Based Nonprofit To Pay \$1.9 Million To Settle Allegations Of False Claims And

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Kickbacks On Federal Contracts For Blind Workers,” and you can find it [here](#) .

Now, it's been a while, but we used to provide support to AbilityOne contractors. In fact, the very first client of Apogee Consulting, Inc. was an AbilityOne contractor. For a couple of years, we even traveled to Washington, D.C. in order to teach a class on audit support to AbilityOne contractors. It would be fair to say that, without the AbilityOne program, neither the consulting firm Apogee Consulting, Inc., nor this blog would exist. Thus, when we saw the headline, it piqued our interest and we wanted to know more.

What we learned is that “Industries for the Blind and Visually Impaired Inc. (IBI) has agreed to pay the United States \$1,938,684.09 to resolve allegations that IBI violated the False Claims Act and the Anti-Kickback Act in connection with certain federal contracts set aside to employ blind workers.” Let's be clear right up front: \$1.9 million is a huge settlement payment for a not-for-profit entity to make.

IBI received contracts set-aside for AbilityOne contractors. Those contracts are not competed and prices are determined by a Washington, D.C.-based review board. This is not special treatment just for IBI; in fact, that is how the AbilityOne Program works. In return for receipt of specially designated set-aside contracts, AbilityOne contractors agree to give jobs to individuals with severe disabilities. (In this case, IBI dealt with people who were legally blind or had other visual impairments.) The purpose of the AbilityOne program is to give meaningful work to those individuals who would otherwise not be employable or would have significant challenges to finding work. It's a great thing!

But in this case, apparently IBI made some mistakes.

According to the DOJ announcement, for nine years (between 2009 and 2018) IBI represented that its workforce would be 3:1 visually impaired to non-visually impaired personnel. It was awarded contracts on that basis. However, it was alleged that “IBI improperly subcontracted a set-aside contract for screen-printed clothing to an entity that did not generally use blind labor.” Not only that, but it was alleged that “furniture designers and sales representatives working for IBI took impermissible payments and gifts from manufacturers on certain contracts.”

If we understand the situation correctly, the original *qui tam* relator (whistleblower) alleged that

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IBI did not maintain the required 3:1 personnel ratio; but when the government investigated the allegations, the FBI found the “impermissible payments and gifts,” which were not part of the original allegations. ( *Let's mix a*

*metaphor, just for fun.*

) It was at that point that the situation went pear-shaped and snowballed into a very expensive legal settlement.

In fairness, it is tough to maintain a 3:1 ratio when multiple contracts are being performed. We get that! But we are betting IBI wishes it had deployed better internal controls designed to detect or prevent wrong-doing by its furniture designers and sales representatives.