

## Former KBR Employee Reaches Suboptimal Plea Bargain that Uses “B” Word

Written by Nick Sanders

Tuesday, 30 October 2012 00:00

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Recently we [told readers](#) about four “gentlemen” from Texas who successfully obtained beneficial plea bargain agreements. Their plea bargains, and the description of their crimes by the Assistant U.S. Attorney who handled their cases, avoided problematic terms such as “gratuity,” “bribery,” and “violation of the Procurement Integrity Act.” We congratulated the Texans on their deals, which reduced by two-thirds their potential prison sentences.

Now, just a week later, comes word of a young woman, Diyana Montes, age 29, of Houston, Texas, who pleaded guilty to one count of bribery, in connection with her employment duties in Afghanistan. Here’s the usual DOJ [press release](#).

From the press release, we learned that Ms. Montes worked for KBR at Bagram Airfield, Afghanistan, where she was assigned to the Army’s Movement Control Branch (MCB). We’ve written about Bagram Airfield [before](#), when we reported about allegations of bribery and suchlike with respect to award of a trucking contract to AZ Corporation. So in that respect it is unsurprising to read about more bribery and associated perfidies at that location.

We’ve not been to Bagram, and it’s quite possible that there are many, many service men and women, and civilians, as well as contractors, who operate there with the highest degree of honor, integrity, and commitment to ethical behavior. We do not mean to impugn their honor in any way. In fact, we sincerely thank them for their service during a time of war.

But let’s be open about this. Based on the number of investigations, prosecutions, convictions, and plea agreements coming from that single location, we have to ask *WTF?* What is going on in that culture? Is it the wild west, or post-Soviet Russia, or what? What does it say about the military and civilian leadership, and the controls in place at the time, that we keep reading about so much wrongdoing at one military base?

Okay. Back to Ms. Montes’ story.

Ms. Montes worked for the MCB, which “coordinated requests from various U.S. military units for trucking services and assigned those requests to particular contractors.” *Okay, full stop.* How many readers think that any function that “assigned” work “to particular contractors” would

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be subject to some increased risk of improper influence peddling and, as a result, needed some enhanced controls over the assignment of work? Yep, that’s what we thought, too, even before the rest of the story was told.

Anyway, Ms. Montes reviewed Trucking Movement Requests (TMRs) and reconciled the TMR information with contractors’ invoices. “Once Montes reviewed the documents and determined they were accurate, she would pass them on to other contracting personnel, who would rely on her review in approving payments to the trucking company.”

One of the trucking contractors to whom work could be assigned was Afghanistan Trade Transportation (ATT). ATT submitted TMRs and associated invoices to Ms. Montes for review “on numerous occasions.” Ms. Montes knew ATT had not performed work for which it had submitted invoices, and she “knew the invoices from ATT contained service claims that were not accurate, and she passed them along for payment with the knowledge that the billings were fraudulent.”

This activity took place from May through December 2008—approximately seven months. During that time, Ms. Montes “received from ATT approximately \$50,000, consisting of \$35,000 wired to her personal bank account in the United States and another \$15,000 in cash paid to her on several occasions in Afghanistan.”

Let’s compare and contrast Ms. Montes with the other four Texans we wrote about, whose plea deals did not involve pleading guilty to bribery.

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The wrongdoing at Sheppard Air Force Base lasted for decades, from the “mid to late 1990’s through 2009.” In contrast, Ms. Montes’s wrongdoing lasted about seven months.

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When one of the four “gentlemen” became aware of the criminal investigation, he attempted to get at least one of the others to “lie” about receiving cash payments. In contrast, nobody alleged that Ms. Montes lied about receiving payments or attempted to obstruct the investigation in any way.

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Ms. Montes received approximately \$50,000 for her role in knowingly approving the fraudulent payments from ATT. In contrast, the total amount of corrupt payments that took place between the four other Texans was unknown (or unspecified), but involved at least one \$10,000 cash payment, plus other gratuities such as travel and shows.

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Ms. Montes assisted in defrauding the United States through knowingly approving false claims for work performed. In contrast, government employees provided “sensitive source information” that undercut the integrity of the competitive bidding process, as well as “approving and accepting” work performed in return for cash payments.

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Ms. Montes is from Texas, so were the other four “gentlemen.”

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Ms. Montes is a woman; the other four Texans were male.

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Ms. Montes pleaded guilty to one count of bribery. In contrast, the other four Texans each pleaded guilty to one count of conspiracy of some trivial matter (see the exact wording in the blog article).

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Ms. Montes faces 15 years in prison. In contrast, the other four Texans each face a maximum of five years in prison.

Well, we don’t know why Ms. Montes fared so poorly in her plea agreement, compared to the four fraudsters at Sheppard AFB. We don’t know why she had to cop to a bribery count, when the others skated on that charge. We don’t know why at least one of the men wasn’t charged

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with obstruction of justice—or something worse.

Maybe Ms. Montes’ lawyer wasn’t the best negotiator. Maybe there are facts not reported in either of the DOJ’s press releases, which would serve to explain the seemingly disparate bargains. Maybe it’s because one defendant was a woman.

We don’t know. But we can’t help but wonder.