

Corruption is More Common Than You Think

Written by Nick Sanders

Tuesday, 18 February 2020 00:00 - Last Updated Monday, 17 February 2020 07:07

It's been a long time since we've reporting on some juicy public contract corruption cases. As readers may recall, it's our policy not to post to "hum-drum" mundane cases; instead, we tend to discuss only cases that have some aspect that sparks our interest (and hopefully your interest as well). But there's been a swath of new cases recently—nothing spectacular, but certainly *a lot*

of them. It seems that a number of individuals, and companies, are not learning from the mistakes of others in this area.

Y'all better get your act together unless you want to join the perp party.

The list of recent cases spans the spectrum from largest of the large to smaller entities, and from manufacturers to service providers. Let's start with the largest of the large.

Airbus agreed to pay more than \$3.9 billion (*yes, with a "B"*) to resolve allegations that it violated the Foreign Corrupt Practices Act (FCPA), the Arms Export Control Act (AECA) and its implementing regulations, the International Traffic in Arms Regulations (ITAR). According to the obligatory Dept. of Justice [press release](#) :

The FCPA charge arose out of Airbus's scheme to offer and pay bribes to foreign officials, including Chinese officials, in order to obtain and retain business, including contracts to sell aircraft. The AECA charge stems from Airbus's willful failure to disclose political contributions, commissions or fees to the U.S. government, as required under the ITAR, in connection with the sale or export of defense articles and defense services to the Armed Forces of a foreign country or international organization. ...

... beginning in at least 2008 and continuing until at least 2015, Airbus engaged in and facilitated a scheme to offer and pay bribes to decision makers and other influencers, including to foreign officials, in order to obtain improper business advantages and to win business from both privately owned enterprises and entities that were state-owned and state-controlled. In furtherance of the corrupt bribery scheme, Airbus employees and agents, among other things, sent emails while located in the United States and participated in and provided luxury travel to foreign officials within the United States.

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The admissions and court documents establish that in order to conceal and to facilitate the bribery scheme, Airbus engaged certain business partners, in part, to assist in the bribery scheme. Between approximately 2013 and 2015, Airbus engaged a business partner in China and knowingly and willfully conspired to make payments to the business partner that were intended to be used as bribes to government officials in China in connection with the approval of certain agreements in China associated with the purchase and sale of Airbus aircraft to state-owned and state-controlled airlines in China. In order to conceal the payments and to conceal its engagement of the business partner in China, Airbus did not pay the business partner directly but instead made payments to a bank account in Hong Kong in the name of a company controlled by another business partner. ...

The Company's payment to the United States will be \$527 million for the FCPA and ITAR violations, and an additional €50 million (approximately \$55 million) as part of a civil forfeiture agreement for the ITAR-related conduct, and the department will credit a portion of the amount the Company pays to the Parquet National Financier (PNF) in France under the Company's agreement with the PNF. In addition, the Company has agreed to pay a \$10 million penalty to the U.S. Department of State's Directorate of Defense Trade Controls (DDTC), of which the department is crediting \$5 million. In related proceedings, the Company settled with the PNF in France over bribes paid to government officials and non-governmental airline executives in China and multiple other countries and the Company has agreed to pay more than 2 billion Euros (more than approximately \$2.29 billion) pursuant to the PNF agreement. As part of this coordinated global resolution, the Company also entered into a deferred prosecution agreement with the United Kingdom's Serious Fraud Office (SFO) over bribes paid in Malaysia, Sri Lanka, Taiwan, Indonesia and Ghana, and the Company has agreed to pay approximately 990 million Euros equivalent (approximately \$1.09 billion) pursuant to the SFO agreement. The PNF and SFO had investigated the Company as part of a Joint Investigative Team.

Let's move on ...

A New York man [pleaded guilty](#) to falsifying inspection reports for space parts – i.e., flight critical parts that were intended to be used by SpaceX and other aerospace/defense companies. What's the story?

In January 2018, an internal audit by SQA Services, Inc. (SQA), at the direction of SpaceX, revealed multiple falsified source inspection reports and non-destructive testing (NDT) certifications from PMI Industries, LLC, for Falcon 9 and Falcon Heavy flight critical parts.

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SpaceX notified PMI of the anomalies. Source inspections and NDT are key tools used in the aerospace industry to ensure manufactured parts comply with quality and safety standards. Specifically, the signed source inspection report had a forged signature of the SQA inspector. SpaceX and SQA officials believed the signature of the inspector was photocopied and cut and pasted onto the source inspection report with a computer. ...

The investigation has identified that [the individual], while an employee of PMI, falsified at least 38 source inspection reports for space vehicle parts procured by SpaceX for the construction of the Falcon 9 and Falcon Heavy series of space vehicles. The investigation has also identified at least 76 individual piece parts that were rejected during source inspection or were never inspected by SQA, then subsequently shipped to SpaceX.

A records request from SpaceX identified seven NASA space flight missions, two United States Air Force space flight missions, and one National Oceanic and Atmospheric Administration (NOAA) space flight mission that were affected by parts purchased by SpaceX from PMI.

Subsequently, SpaceX terminated its business relationship with PMI averaged approximately \$200,000 per month from the business with SpaceX, as a disqualified supplier. PMI subsequently closed its operation.

That man's wrongdoing cost his company everything. No word on how many people lost their jobs. Sure, you can argue that it was warranted. Why didn't the company check to make sure that their Quality Assurance Engineer was—how should we say it—actually assuring quality? They assumed he was doing his job properly, and it cost them everything. Still, the lesson here is that one individual's actions can have consequences that ripple out.

In the next story, the owner of several government contractors was sentenced to nearly five years in jail “for his role in carrying out a \$3.7 million scheme to defraud at least 35 subcontractors located across the United States.” What did he do?

According to the [announcement](#) —

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... Neal established and controlled several companies through which he bid on and won at least 105 government contracts to provide goods and services to federal agencies including the Department of Interior, U.S. Army and U.S. Air Force. The contracts required Neal to purchase and transport rock, gravel, and other raw materials to military bases and national parks. After winning these contracts, Neal fraudulently induced subcontractors to perform the required work. But when Neal was paid by the government for his subcontractors' work, he did not pay his subcontractors. Instead, Neal kept the money and spent it at places like casinos, nightclubs, restaurants and hotels. In total, between July 2008 and December 2017, Neal defrauded his subcontractors out of approximately \$3.7 million.

The last story is about an electrical contractor who failed to comply with the Davis-Bacon Act. According to the [Dept. of Labor](#) press release—

After an investigation by the U.S. Department of Labor's Wage and Hour Division (WHD), Vos Electric Inc. – an electrical contractor based in Green Bay, Wisconsin – has paid \$221,853 in back wages and benefits to 32 employees for violating requirements of the Contract Work Hours and Safety Standards Act (CWHSSA) and the Davis-Bacon and Related Acts (DBRA). The violations occurred while the employees were working at the Savannah Harbor Expansion Project. ... The U.S. Army Corps of Engineers contracted CDM Constructors Inc. as the prime contractor for the project's dissolved oxygen injection system. In turn, CDM Constructors Inc. subcontracted Vos Electric Inc. to perform electrical work on the system. ... Investigators found the employer incorrectly classified electricians as laborers and, as a result, paid them at hourly and fringe benefit rates lower than those legally required for the work they performed.

Contractors often complain that government auditors think they are all crooks. Obviously, not all contractors are crooks, but enough of them are crooks that you kind of understand where the auditors are coming from. The vast majority of compliant contractors are, unfortunately, tainted by the actions of a few.

With that being said, let's not forget that there is corruption on the government side as well.

Such as: [this former Chief](#) of the Prosthetics and Orthotics at Walter Reed Medical Hospital.

Such as: [these](#) Department of Housing & Urban Development (HUD) employees who made

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“166 illegal, improper, or erroneous purchases totaling nearly \$23,000.”

Such as this Dept. of State [contracting officer](#) “sentenced ... to 87 months of imprisonment followed by three years of supervised release after he was convicted of 13 counts of conspiracy, bribery, honest services wire fraud and making false statements.” Apparently, the contracting officer received more than \$500,000 for actions (or inactions) related to “multi-million dollar construction contracts” awarded to Turkish companies.

Thus the headline of this blog post. Corruption is not everywhere, but it’s more common than you think it is. Certainly, it’s more common than it should be.