

Department of Justice
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District of Columbia

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MCC Construction Company Agrees to Pay Nearly \$1.8 Million For Conspiring to Illegally Obtain Federal Contracts Meant for Small, Disadvantaged Businesses

WASHINGTON – The Justice Department announced today that MCC Construction Company (MCC) has agreed to pay \$1,769,294 in criminal penalties and forfeiture for conspiring to commit fraud on the United States by illegally obtaining government contracts that were intended for small, disadvantaged businesses.

The court agreement was announced by U.S. Attorney Channing D. Phillips of the U.S. Attorney's Office for the District of Columbia; Assistant Attorney General William J. Baer of the Justice Department's Antitrust Division; Paul M. Abbate, Assistant Director in Charge of the FBI's Washington Field Office; Peggy E. Gustafson, Inspector General for the Small Business Administration (SBA); Carol Fortine Ochoa, Inspector General of the U.S. General Services Administration (GSA); Brian J. Reihms, Special Agent in Charge of the Central Field Office of the Defense Criminal Investigative Service (DCIS), and Frank Robey, Director of the U.S. Army Criminal Investigation Command's Major Procurement Fraud Unit (MPFU).

"This prosecution shows that there will be consequences for companies that violate federal contracting rules meant to assist small, disadvantaged businesses," said U.S. Attorney Phillips. "MCC Construction Company secured millions of dollars in contracts by hiding behind two small businesses that did not perform labor on the projects. Its conduct took away opportunities that could have gone to companies that truly are socially and economically disadvantaged and deserving of the work."

"This conspiracy defrauded the government and denied small, disadvantaged businesses the opportunity to compete to do business with the United States," said Assistant Attorney General Baer of the Antitrust Division. "We will continue to work with U.S. Attorney Phillips and his talented colleagues to protect the integrity of the government contracting process."

"An uneven marketplace is created when businesses engage in illegal backroom deals to fraudulently obtain government contracts, placing competitors at an unfair disadvantage," said Assistant Director in Charge Abbate. "In this case, the FBI and our partners moved to protect the American taxpayer and ensure the integrity of the process. Together, we will continue to work to protect federal contract opportunities for socially and economically disadvantaged businesses within our communities from unlawful conduct."

“Fraudulently passing work through eligible small businesses to a large business does not provide taxpayers the best value and certainly does not support the role of small businesses as engines of economic development and job creation. In fact, it subverts the purpose of SBA’s preferential contracting programs and harms the small businesses the programs are designed to assist,” said SBA Inspector General Gustafson. “I want to thank the U.S. Attorney’s Office and our law enforcement partners for their leadership and dedication to serving justice.”

“We will continue our work on behalf of taxpayers and legitimate small business owners to expose and punish nationwide small business fraud schemes such as this,” said GSA Inspector General Ochoa.

“The Defense Criminal Investigative Service is committed to working with our partner agencies to combat fraud impacting the Department of Defense’s vital programs and operations and maintain the integrity of the procurement system,” said Special Agent in Charge Reihms.

“This settlement is a testament to our steadfast and continued commitment to working closely with our law enforcement partners in rooting out this type of activity,” said Director Robey.

MCC was a construction management company and general contractor headquartered in Colorado.

A criminal Information was filed last month in the U.S. District Court for the District of Columbia charging MCC with one count of knowingly and willfully conspiring to commit major fraud on the United States. MCC waived the requirement of being charged by way of federal indictment, agreed to the filing of the Information, and accepted responsibility for its criminal conduct and that of its employees. U.S. District Judge Ketanji B. Jackson accepted the company’s guilty plea today. The plea agreement is subject to the Court’s approval at a sentencing hearing scheduled for March 15, 2016.

According to court documents, MCC conspired with two companies that were eligible to receive federal government contracts set aside for small, disadvantaged businesses with the understanding that MCC would, illegally, perform all of the work. 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 and disadvantaged businesses.

Under the illegal agreement, the companies awarded these government contracts were allowed to keep 3 percent of the value of the contracts for allowing MCC to use the companies small business status to win the contracts.

Court documents state that MCC violated the provisions of the SBA 8(a) program. The SBA 8(a) development program is designed to award contracts to businesses that are owned by “one or more socially and economically disadvantaged individuals.” To qualify for the 8(a) program, a business must be at least 51% owned and controlled by a U.S. citizen (or citizens) of good character who meet the SBA’s definition of socially and economically disadvantaged. The firm must also be a small business (as defined by the SBA) and show a reasonable potential for success. Participants in the 8(a) program are subject to regulatory and contractual limits. Also, under the program, the disadvantaged business is required to perform a certain percentage of the work. For the types of contracts under investigation here, the SBA 8(a)-certified companies were required to perform 15 percent or more of the work with its own employees.

MCC, along with the two 8(a) companies used to illegally obtain the contracts, engaged in and executed a scheme to defraud the SBA by, among other things:

- Allowing the two 8(a) companies to retain a guaranteed percentage of each contract for simply obtaining the contracts for MCC;
- Allowing the two 8(a) companies to perform no labor on these projects;
- Performing the accounting and government reporting for the two 8(a) companies on certain projects;
- Falsely representing to the government that MCC employees were in fact employees of the 8(a) companies;
- Obtaining certain contracts on behalf of the 8(a) companies without first informing those 8(a) companies prior to bidding; and
- Conspiring with the 8(a) companies to hire straw employees for the 8(a) companies whose labor and salaries were paid for by MCC.

For the contracts obtained through this scheme on which MCC made a profit, MCC's profit was at least \$1,269,294. The criminal penalty in this case includes a \$500,000 fine and a forfeiture money judgment of \$1,269,294.

The investigation is being conducted by the FBI's Washington Field Office, the Inspector General for the Small Business Administration (SBA), the Inspector General of the U.S. General Services Administration (GSA), the Central Field Office of the Defense Criminal Investigative Service (DCIS), and the U.S. Army Criminal Investigation Command's Major Procurement Fraud Unit (MPFU).

The prosecution is being handled by Assistant U.S. Attorneys Matt Graves and John Marston of the U.S. Attorney's Office for the District of Columbia and Assistant Chief Craig Y. Lee and Trial Attorneys Kevin B. Hart and Justin P. Murphy of the Antitrust Division.

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Financial Fraud

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