

Department of Justice

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Atk Launch Systems Inc. Settles False Claims Product Substitution Case for Nearly \$37 Million*Allegedly Delivered Unsafe Illuminating Para-flares Under Department of Defense Contracts*

ATK Launch Systems Inc. has agreed to a \$36,967,160 settlement with the United States to resolve allegations that ATK sold dangerous and defective illumination flares to the Army and the Air Force. According to the government's allegations, from 2000 to 2006, ATK delivered LUU-2 and LUU-19 illuminating para-flares to the Defense Department. These flares, which burn in excess of 3,000 degrees Fahrenheit for over five minutes, are used for nighttime combat, covert and search and rescue operations and have been used extensively by American forces in Iraq and Afghanistan in the global war on terror. The government alleged that the flares delivered by ATK were incapable of withstanding a 10-foot drop test without exploding or igniting, as required by specifications, and that ATK was aware of this when it submitted claims for payment.

ATK has agreed to pay the United States \$21 million in cash and provide necessary in-kind services worth \$15,967,160 to fix the 76,000 unsafe para-flares remaining in the government's inventory. The settlement resolves a False Claims Act suit filed in the U.S. District Court for the District of Utah.

The lawsuit was initially filed by an ATK employee under the *qui tam*, or whistleblower, provisions of the False Claims Act, which permit private individuals, called "relators" to bring lawsuits on behalf of the United States and receive a portion of the proceeds of a settlement or judgment awarded against a defendant.

"Our men and women in combat deserve equipment that meets critical safety and performance requirements," said Stuart F. Delery, Acting Assistant Attorney General for the Civil Division. "This case demonstrates that the Department of Justice will pursue cases where contractors knowingly provide defective equipment that puts the safety of American military service members at risk."

"This settlement demonstrates our commitment to aggressively go after contractors who recklessly disregard and deliberately ignore critical safety defects in munitions used by America's uniformed fighting men and women on the front lines of the war on terror," said David B. Barlow, U.S. Attorney for the District of Utah. "This office fully supported the federal investigators in their efforts to uncover these fraudulent claims and recover the ill-gotten gains for the American taxpayers."

The investigation team, which was led by the Defense Criminal Investigative Service, included the Air Force Office of Special Investigation, the Navy Naval Criminal Investigative Service, the Army Criminal Investigative Command and auditors from the Defense Contract Audit Agency and the Defense Contract Management Agency. Additional technical support was provided by the Army Research Laboratory in Aberdeen, Md., the Army Aviation and Missile Command in Huntsville, Ala., the Naval Sea Systems Command at Crane, Ind. and Portsmouth, R.I., the Defense Standardization Program Office at Fort Belvoir, Va., the Air Force Materiel Command at Wright Patterson Air Force Base, Ohio and Hill Air Force Base, Utah, and the Army Materiel Command at Rock Island Arsenal, Ill.

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Civil Division