

## Oracle Settles Sun Microsystems' GSA SNAFU for \$46 Million

Written by Nick Sanders

Monday, 07 February 2011 00:00

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On January 31, 2010, the U.S. Department of Justice announced that Oracle America had agreed to pay \$46 million in order to settle a False Claims Act lawsuit filed against Sun Microsystems (whom Oracle acquired in 2010), related to Sun's federal contracts, including its contracts with the General Services Administration (GSA).

As the DOJ reported in its [announcement](#) —

This settlement resolves allegations under the False Claims Act (FCA) and Anti-Kickback Act that Sun knowingly paid kickbacks to systems integrator companies in return for recommendations that federal agencies purchase Sun's products. Sun executed agreements with consulting companies that provided for the payment of fees each time the companies influenced a government agency to purchase a Sun product. These kickback allegations are part of a larger, ongoing investigation of government technology vendors that has resulted in settlements to date with six other companies.

We've previously reported on this series of lawsuits. See, for example, [this article](#) or maybe [this one](#). We've even ranted about commercial high-tech companies and their apparent propensity to be accused of fraudulent activities in connection with their government contacts (e.g., [right here](#)). So this latest settlement is not really a news flash to us.

The DOJ also noted that—

The settlement also resolves claims under the FCA that Sun's 1997 and 1999 GSA Schedule contracts were defectively priced because Sun provided incomplete and inaccurate information to GSA contracting officers during contract negotiations, as well as claims that the incomplete and inaccurate information resulted in defective pricing of Sun's contract with the U.S. Postal Service and GSA Schedule contracts held by two resellers of Sun products. At the time Sun entered into its contracts with GSA to sell information technology products and services to federal agencies, applicable regulations and contract provisions required Sun to fully and accurately disclose to GSA how it conducted business in the commercial marketplace so that GSA could use that information to negotiate a fair price for government customers using the GSA contracts to purchase Sun products and services. The defective pricing information that

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Sun disclosed to GSA was subsequently relied on by the Postal Service in negotiating a contract with Sun, as well as by GSA in negotiating contracts with two resellers of Sun products.

We wonder whether Oracle was aware of these cases when it acquired Sun Microsystems, and whether its "due diligence" properly valued these contingent liabilities. Of course, \$46 million is just a small blip on Larry Ellison's massive radar screen of revenue but, nonetheless, it's got to sting a little.