

Updates from the Department of Justice

Written by Nick Sanders
Friday, 11 January 2013 00:00



As we've mentioned from time to time, we get press releases from the U.S. Department of Justice (DOJ) pretty much every single day, seven days a week. We look at each one we get to see if there's anything of interest to the government contracting community. Then you get to hear about it.

Today's stories are follow-ups to previously published articles. Individually, they weren't worth the time of writing about; but together we think they pass the bar.

The first story concerns soldiers of the U.S. Army who, while in uniform, sought and accepted "gratuities" (*i.e.*, bribes) from local contractors in exchange for awarding to them small dollar value construction supply contracts at Forward Operating Base (FOB) Hammer, located in Iraq. We wrote about the situation [here](#).

In that article, we discussed U.S. Army Master Sergeant (now *former* U.S. Army Master Sergeant) Julio Soto, Jr., who pleaded guilty to "one count of conspiracy to accept illegal gratuities." We didn't think very highly of that plea bargain deal, since we felt it trivialized the actual crime, which was to accept bribes while wearing the uniform of the U.S. Army, and then use the money illegally received to purchase U.S. Postal Service money orders and mail the illegal proceeds back to the United States.

Whatever. It's not like we have the qualifications to actually, you know, understand the nuances of the applicable law. And perhaps Soto received a favorable deal in return for testifying against his co-conspirators. Or maybe he had a great lawyer negotiating on his

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behalf. So we moved on.

Now, on January 3, 2013, the DOJ issued a [press release](#) announcing that a U.S. Army Major pleaded guilty to the same crime for which Soto copped a plea, at the same location (FOB Hammer). It turns out that U.S. Army Major Ulysses S. Hicks, age 40, while a Captain, engaged in the conspiracy with Sgt. Major Soto to “unlawfully” seek, receive, and accept “illegal gratuities” for helping Iraqi contractors obtain construction supply contracts. Like Soto, Hicks pleaded guilty to “one count of conspiracy to accept illegal gratuities.” While wearing the uniform of a U.S. Army *officer.*

Clearly, Hicks was no gentleman.

Maybe we shouldn't be overly harsh in our criticism of these two plea bargains. The DOJ press release stated that—

At sentencing, Hicks faces a maximum penalty of five years in prison, a fine of \$250,000 and up to three years of supervised release. As part of his plea agreement, Hicks agreed to pay \$65,409 plus interest in restitution to the United States.

But still, as a deterrent to future wrongdoing by other uniformed soldiers stationed in a war zone, we think it's lacking.

The other story we want to discuss concerns U.S. Army personnel who generated false entries into the Army's recruiting database, indicating that they had referred new recruits (which qualified them for a bonus payment), when in fact they had not done so. We wrote about that story [right here](#). In that article, we discussed the legal problems faced by the eight soldiers, six of whom had pleaded guilty. Two of the six had been sentenced for one count of conspiracy to commit wire fraud.

On January 4, 2013, the DOJ [announced](#) via press release that U.S. Army Specialist Richard Garcia, age 29, of Kirby, Texas, had been sentenced to serve 18 months in prison for his role in the conspiracy. Like the other two, Kirby pleaded guilty to one count of conspiracy to commit wire fraud. The press release provided the new information that, “To date, 10 individuals have been charged, all of whom have pleaded guilty.”

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We don't have too much to say about this crime, which seems (to us) to be of a whole different order than that committed by the FOOs at FOB Hammer. The soldiers in Texas seemed to be getting an unjust enrichment, whereas the soldiers in Iraq seemed to be actively engaging in a corrupt scheme to solicit, receive, and accept bribes—which they then sent home via USPS (*i.e.* that could be potential mail fraud). We'd like to think that the punishments meted out are commensurate with the levels of corruption.

We'd like to think so, but our experience informs us otherwise.

In our experience, the plea bargain deals and punishments correlate with the quality of the defense attorneys involved in the negotiations, and not with the severity of the crimes.