

Expensive Wire Fraud

Written by Nick Sanders
Thursday, 18 June 2020 00:00 -

It seems as if this is public contracting corruption week. Here's another story, made remarkable by the sheer size of the legal settlement. The DOJ press release is [here](#).

One sentence summarizes the situation:

SK Engineering & Construction Co. Ltd. (SK), one of the largest engineering firms in the Republic of Korea, pleaded guilty today to one count of wire fraud, in connection with a fraudulent scheme to obtain U.S. Army contracts through payments to a U.S. Department of Defense contracting official and the submission of false claims to the U.S. government.

Well there you go.

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"Payments" to a DOD contracting official. (Read: bribes.)

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Submission of false claims

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Wire fraud

And SK pleaded guilty to one count of wire fraud, thus avoiding the messiness of other charges. Nice job, attorneys!

But SK didn't skate away. The company agreed to:

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Pay \$60,578,847.08 in criminal fines, the largest fine ever imposed against a criminal defendant in the Western District of Tennessee

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Pay \$2,601,883.86 in restitution to the U.S. Army

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Serve three years of probation, during which time SK agreed not to pursue U.S. federal government contracts

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Separately, SK entered into a False Claims Act settlement with the United States, under which it paid \$5.2 million in civil penalties (which the DOJ graciously credited against SK's criminal fine)

So yeah, it was a bit painful for the company.

What's the story behind the fines and penalties?

According to plea documents, SK obtained a large U.S. Army construction contract at Camp Humphreys, South Korea in 2008 worth hundreds of millions of dollars. SK paid millions of dollars to a fake Korean construction company named S&Teoul, which subsequently paid that money to a contracting official with the U.S. Army Corps of Engineers. In order to cover approximately \$2.6 million in payments to S&Teoul, and ultimately to the contracting official, SK submitted false documents to the U.S. Army.

SK also admitted that its employees obstructed and attempted to obstruct federal criminal

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investigations of the fraud and bribery scheme. SK admitted that, in April 2015, its employees burned large numbers of documents related to U.S. Army contracts, in order to hamper U.S. and Korean investigators. Further, SK admitted that, in the fall of 2017, its employees obstructed a federal criminal proceeding by attempting to persuade an individual not to cooperate with U.S. authorities.

Readers may recall the prior blog post, about AIS and its relatively favorable resolution with the DOJ. As noted in that article, the DOJ was favorably disposed towards AIS because of its cooperation and willingness to implement corrective actions to reduce the likelihood that similar misconduct would recur. In contrast to its discussion of AIS's conduct, here the DOJ noted that

... SK frustrated the United States' investigation by withholding requested documents and information, destroying documents relevant to a pending federal investigation, and attempting to persuade a potential witness not to cooperate with the investigation. In addition, SK did not discipline any employees responsible for the misconduct, either through direct participation or failure in oversight, or those with supervisory authority over the area in which the criminal activity occurred, and failed to retain business records and otherwise failed to prohibit the improper destruction and deletion of business records.

Thus, while AIS paid a total of \$1.26 million and received a Non-Prosecution Agreement, SK will pay \$62.6 million and will be barred from the Federal marketplace for three years (in addition to the three years that the company has already been suspended). *Learn from those differences!*

What about the individuals involved?

According to the DOJ, "two SK employees, Hyeong-won Lee and Dong-Guel Lee, were indicted by a federal grand jury in the Western District of Tennessee on charges of conspiracy, major fraud against the United States, wire fraud, money laundering conspiracy, and obstruction of justice for their alleged roles in the scheme."

The two individuals named above "are currently fugitives of justice."