

Bilfinger SE

Case ID:

ST-417

Case Cluster :

Bilfinger SE / Willbros

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Department of Justice

Jurisdiction of Foreign Public Official(s) :

Nigeria

Year of Settlement:

2013

Month/Day of Settlement (or Notes):

12/9

Other Jurisdictions of Settlement:

Unknown

Settlement with Individual or Legal Person?:

Legal Person

Type of Settlement:

Criminal

Legal Form of Settlement:

Deferred Prosecution Agreement

Monetary Sanctions (Types):

Criminal Fine

Total Monetary Sanctions (US\$):

\$32,000,000

Criminal Fine/Penalty (US\$) :

\$32,000,000

Criminal Forfeiture / Confiscation (US\$):

\$0

Criminal Restitution / Reparation (US\$):

\$0

Monetary Sanctions Returned / Ordered Returned (US\$):

\$0

Monetary Sanctions Returned / Ordered Returned (Explanation):

NA

UNCAC Articles(s) Implicated:

Art.16

OECD Anti-Bribery Convention Articles Implicated:

Art. 1, Art. 2

Offenses - Alleged:

Conspiracy to Bribe foreign officials

Offenses - Settled:

Conspiracy to Bribe foreign officials

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to the US Department of Justice, "Bilfinger SE, an international engineering and services company based in Mannheim, Germany, has agreed to pay a \$32 million penalty to resolve charges that it violated the Foreign Corrupt Practices Act (FCPA) by bribing government officials of the Federal Republic of Nigeria to obtain and retain contracts related to the Eastern Gas Gathering System (EGGS) project, which was valued at approximately \$387 million. [] As part of the agreed resolution, the department today filed a three-count criminal information in U.S. District Court for the Southern District of Texas charging Bilfinger with violating and conspiring to violate the FCPA's anti-bribery provisions. [] According to court documents, from late 2003 through June 2005, Bilfinger conspired with Willbros Group Inc. and others to make corrupt payments totaling more than \$6 million to Nigerian government officials to assist in obtaining and retaining contracts related to the EGGS project. Bilfinger and Willbros formed a joint venture to bid on the EGGS project and inflated the price of the joint venture's bid by 3 percent to cover the cost of paying bribes to Nigerian officials. As part of the conspiracy, Bilfinger employees bribed Nigerian officials with cash that Bilfinger employees sent from Germany to Nigeria. At another point in the conspiracy, when Willbros employees encountered difficulty obtaining enough money to make their share of the bribe payments, Bilfinger loaned them \$1 million, with the express purpose of paying bribes to the Nigerian officials. Including today's action, the department has filed criminal charges in the Southern District of Texas against three institutions and four executives and consultants in connection with the EGGS bribery scheme: On Sept. 14, 2006, Jim Bob Brown, a former Willbros executive, pleaded guilty to one count of conspiracy to violate the FCPA in connection with his role in making corrupt payments to Nigerian government officials to obtain and retain the EGGS contract and in connection with his role in making corrupt payments in Ecuador. Brown was sentenced on Jan. 28, 2010, to serve 12 months and one day in prison, to be followed by two years of supervised release, and ordered to pay a \$17,500 fine. On Nov. 5, 2007, Jason Steph, also a former Willbros executive, pleaded guilty to one count of conspiracy to violate the FCPA in connection with his role in making corrupt payments to Nigerian government officials to obtain and retain the EGGS contract. Steph was sentenced on Jan. 28, 2010, to serve 15 months in prison, to be followed by two years of supervised release, and ordered to pay a \$2,000 fine. On May 14, 2008, Willbros Group Inc. and Willbros International Inc. entered into a deferred prosecution agreement and agreed to pay a \$22 million criminal penalty in connection with the company's payment of bribes to government officials in Nigeria and Ecuador. On March 30, 2012, the government moved to dismiss the charges against Willbros on the grounds that Willbros had satisfied its obligations under the deferred prosecution agreement, and on April 2, 2012, the court granted the United States' motion. On Dec. 19, 2008, Kenneth Tillery, a former Willbros executive, was charged with conspiring to make and making bribe payments to Nigerian and Ecuadoran officials in connection with the EGGS project and pipeline projects in Ecuador and conspiring to launder the bribe payments. Tillery remains a fugitive. The charges against Tillery are merely accusations, and he is presumed innocent unless and until proven guilty. On Nov. 12, 2009, Paul Grayson Novak, a former Willbros consultant, pleaded guilty to one count of conspiracy to violate the FCPA and one substantive count of violating the FCPA in connection with his role in making corrupt payments to Nigerian government officials to obtain and retain the EGGS contract. Novak was sentenced on May 3, 2013, to serve 15 months in prison, to be followed by two years of supervised release, and ordered to pay a \$1 million fine." (Source: US Department of Justice Press Release, "German Engineering Firm Bilfinger Resolves Foreign Corrupt Practices Act Charges and Agrees to Pay \$32 Million Criminal Penalty," December 11, 2013, at <https://www.justice.gov/opa/pr/german-engineering-firm-bilfinger->

resolves-foreign-corrupt-practices-act-charges-and-agrees.)

Sources :

US v. Bilfinger SE, Case No. 4:13-cr-745 (SD Tex.), Information and Deferred Prosecution Agreement filed December 9, 2013; USDOJ Press Release, "German Engineering Firm Bilfinger Resolves Foreign Corrupt Practices Act Charges and Agrees to Pay \$32 Million Criminal Penalty," December 11, 2013, at <https://www.justice.gov/criminal-fraud/case/united-states-v-bilfinger-se-court-docket-number-413-cr-745>