

Former MCC Construction Company Officer and Owner Pleads Guilty to Conspiring to Obstruct Government Proceeding - GSA Office of Inspector General

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United States Attorney's Office
District of Columbia
June 22, 2016

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WASHINGTON – Thomas Harper, a former officer and owner of MCC Construction Company (MCC), pled guilty today to conspiring to obstruct justice before the Small Business Administration (SBA). Harper also agreed to pay restitution in the amount of \$165,711.

The plea was announced by U.S. Attorney Channing D. Phillips of the U.S. Attorney's Office for the District of Columbia; Principal Deputy Assistant Attorney General Renata Hesse of the Justice Department's Antitrust Division; Paul M. Abbate, Assistant Director in Charge of the FBI's Washington Field Office; Peggy E. Gustafson, Inspector General for the Small Business Administration (SBA); Carol Fortine Ochoa, Inspector General of the U.S. General Services Administration (GSA); Brian J. Reihms, Special Agent in Charge of the Central Field Office of the Defense Criminal Investigative Service (DCIS), and Frank Robey, Director of the U.S. Army Criminal Investigation Command's Major Procurement Fraud Unit (MPFU).

"This prosecution and the broader investigation that led to these charges demonstrate the resolve of law enforcement to protect the integrity of federal contracting rules meant to assist small, disadvantaged businesses," said U.S. Attorney Phillips. "We are committed to ensuring that the benefits of this important government program go only to those companies that truly are socially and economically disadvantaged and deserving of the work."

"Today's guilty plea ensures that the defendant does not profit from his crimes," said Principal Deputy Assistant Attorney General Hesse. "The Antitrust Division will continue to work with our colleagues at the U.S. Attorney's Office and in law enforcement to expose and punish schemes like this that defraud taxpayers and legitimate small business owners."

"The FBI will aggressively investigate those who seek to profit by fraudulently competing for government contracts intended for small businesses," said Assistant Director in Charge Abbate. "I want to thank the dedicated FBI special agents and analysts, as well as our partner agencies, for their hard work in protecting fair federal contracting opportunities for socially and economically disadvantaged businesses in our community."

"Fraudulently passing work through eligible small businesses to a large business does not provide taxpayers the best value and certainly does not support the role of small businesses as engines of economic development and job creation. In fact, it subverts the purpose of SBA's preferential contracting programs and harms the small businesses the programs are designed to assist," said SBA Inspector General Gustafson. "I want to thank the U.S. Attorney's Office and our law enforcement partners for their leadership and dedication to serving justice."

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"This fraudulent scheme deceived taxpayers and deprived legitimate small businesses of lucrative contracts," said GSA Inspector General Ochoa. "We are committed to rooting out such exploitative conduct."

"The Defense Criminal Investigative Service is committed to working with our partner agencies to combat fraud impacting the Department of Defense's vital programs and operations and maintain the integrity of the procurement system," said Special Agent in Charge Reihms.

"There is an absolute need and purpose to assist small and disadvantaged businesses in the contracting process," said Director Robey, "Special Agents from Army CID will continue to work closely with our law enforcement partners to make every contribution possible to bring persons to justice who violate that purpose."

Harper, 46, of Colchester, Conn., was charged in a criminal information on June 6, 2016, in the U.S. District Court for the District of Columbia, with one count of conspiring to obstruct proceedings before a department or agency. He waived the requirement of being charged by way of federal indictment, agreed to the filing of the information, and accepted responsibility for his criminal conduct. The charge carries a statutory maximum of five years in prison and potential financial penalties. According to the government's calculations, Harper could face a potential range of 10 to 16 months in prison under federal sentencing guidelines. The Honorable Ketanji Brown Jackson scheduled a status hearing in the case for Sept. 20, 2016.

According to court documents, MCC and others conspired with two companies that were eligible to receive federal government contracts set asides for small, disadvantaged businesses with the understanding that MCC would, illegally, perform all of the work. In so doing, MCC was able to win 27 government contracts worth over \$70 million from 2008 to 2011. The scope and duration of the scheme resulted in a significant number of opportunities lost to legitimate small and disadvantaged businesses.

Court documents state that in one of these contracts, the GSA contracting officer filed a protest with the SBA, claiming that one of the companies was other than a small business because of its relationship with MCC. The SBA opened a proceeding to determine whether MCC's bid on behalf of one of the companies violated SBA rules and regulations. Harper and others took steps to corruptly influence, impede, and obstruct the SBA size determination protest by willfully and knowingly making false statements to the SBA about the extent and nature of the relationship between MCC and one of the companies.

Court documents also state that MCC violated the provisions of the SBA 8(a) program. The SBA 8(a) development program is designed to award contracts to businesses that are owned by "one or more socially and economically disadvantaged individuals." To qualify for the 8(a) program, a business must be at least 51% owned and controlled by a U.S. citizen (or citizens) of good character who meet the SBA's definition of socially and economically disadvantaged. The firm must also be a small business (as defined by the SBA) and show a reasonable potential for success. Participants in the 8(a) program are subject to regulatory and contractual limits. Also, under the program, the disadvantaged business is required to perform a certain percentage of the work. For the types of contracts under investigation here, the SBA 8(a)-certified companies were required to perform 15 percent or more of the work with its own employees.

Earlier this year, MCC pleaded guilty to conspiring to commit fraud on the United States by illegally obtaining government contracts that were intended for small, disadvantaged businesses and agreed to pay \$1,769,924 in criminal penalties and forfeiture.

The investigation is being conducted by the FBI's Washington Field Office, the Inspector General for the Small
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Business Administration (SBA), the Inspector General of the U.S. General Services Administration (GSA), the Central Field Office of the Defense Criminal Investigative Service (DCIS), and the U.S. Army Criminal Investigation Command's Major Procurement Fraud Unit (MPFU).

The prosecution is being handled by Assistant U.S. Attorney Matt Graves and John Marston of the U.S. Attorney's Office for the District of Columbia and Assistant Chief Craig Y. Lee and Trial Attorneys Kevin B. Hart and Justin P. Murphy of the Antitrust Division.

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Source: U.S. Attorney's Office press release