

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

UNITED STATES OF AMERICA, ex rel.  
DAVID MAGEE  
c/o Helmer, Martins,  
Rice & Popham Co., L.P.A.  
600 Vine Street, Suite 2704  
Cincinnati, Ohio 45202

Relator

BRINGING THIS ACTION ON  
BEHALF OF THE UNITED  
STATES OF AMERICA

Diana J. Younts  
Attorney, Civil Division  
United States Department of Justice  
P.O. Box 261, Ben Franklin Station  
Washington, D.C. 20044

and

c/o Eric H. Holder, Jr.  
Attorney General of the United States  
Department of Justice  
10th & Constitution Avenues, NW  
Washington, D.C. 20530

Plaintiff,

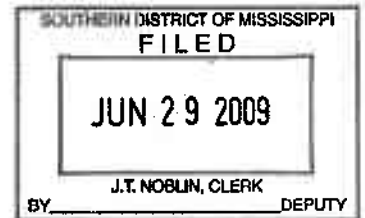
vs.

LOCKHEED MARTIN CORPORATION,  
(through its wholly owned subsidiary,  
Lockheed Martin Space Operations Company  
c/o Statutory Agent  
Corporation Service Company  
2711 Centerville Road, Suite 400  
Wilmington, DE 19808

and

Civil Action No. 1:09cv324-HSO (JMR)

RELATOR'S SECOND AMENDED  
COMPLAINT AND  
JURY DEMAND



**Filed under Seal pursuant to  
31 U.S.C. §3730(b)(2)**

LOCKHEED MARTIN SPACE  
OPERATIONS COMPANY  
c/o Statutory Agent  
CSC Services of Nevada, Inc.  
502 East John Street, Room E  
Carson City, NV 89706

and

SCIENCE APPLICATIONS  
INTERNATIONAL CORPORATION and  
SAIC, INC.,  
c/o Statutory Agent  
The Corporate Trust Company  
Corporate Trust Center  
1209 Orange St.  
Wilmington, DE 19801

and

APPLIED ENTERPRISE SOLUTIONS LLC  
c/o Statutory Agent  
Alicia Galloway  
109 Shirmac Dr.  
Slidell, LA 70461

and

DALE GALLOWAY,  
109 Shirmac Dr.  
Slidell, LA 70461

and

ROBERT KNESEL  
Naval Oceanographic Office  
Code N7  
1002 Balch Blvd.  
Stennis Space Center, MS 39529

and

STEPHEN A. ADAMEC, JR.  
141 Road 1010  
Mooreville, MS 38857

Defendants.

### INTRODUCTION

Pursuant to Rule 15(a), Fed. R. Civ. P., Relator hereby files this Second Amended Complaint with the consent of the United States.

1. This is a *qui tam* action brought by Relator David Magee under the False Claims Act, 31 U.S.C. §§ 3729 *et seq.*, in the name of the United States to recover damages, civil penalties and other relief, due to false claims presented or caused to be presented to the United States by Defendants, in connection with work performed and "bid-rigging" activities at the Naval Oceanographic High Performance Computer Center at the Stennis Space Center in Mississippi.

2. As alleged in paragraphs 19 through 62, the Defendants designated therein, "bid-rigged" a \$3.2 billion GSA Task Order that established the National Center for Critical Information Processing and Storage at the Stennis Space Center.

### PARTIES

3. Relator brings this civil action for violations of 31 U.S.C. §§ 3729(a)(1)(A), (B) and (C) on behalf of himself and the United States of America pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b)(1).

4. Relator David Magee is a resident of the State of Texas and a U.S. citizen. Relator Magee is a former GS-13 Computer Scientist in the Naval Oceanographic Office ("NAVO") at the Stennis Space Center in Mississippi.

5. Defendant Lockheed Martin Corporation is a Delaware corporation. Defendant Lockheed Martin Space Operations ("LMSO"), which operates at the Stennis Space Center and the NAVO MSRC, is a Nevada corporation and a wholly owned subsidiary of Defendant Lockheed Martin Corporation.

6. Defendants Science Applications International Corporation and SAIC, Inc. (herein collectively referred to as "SAIC") are Delaware corporations based in San Diego, California. SAIC is one of the prime contractors qualified to bid on task order requests under the Government Wide Acquisition Contract Program. Defendant SAIC was awarded the \$3.2 billion NCCIPS task order.

7. Defendant Applied Enterprise Solutions LLC ("AES") is a Louisiana corporation based in Slidell, Louisiana. AES was one of the "teaming partners" who secured the NCCIPS task order and became a subcontractor of SAIC.

8. Defendant Dale Galloway is a resident of the State of Louisiana and is the Chief Executive Officer of AES. Defendant Galloway's wife, Mary Galloway, is the President of AES.

9. Defendants Stephen Adamec, Jr. and Robert Knesel are Mississippi residents. Defendant Adamec was the Director of NAVO MSRC and was a non-voting member of the Source Selection Evaluation Board that awarded the \$3.2 billion task order. Defendant Knesel is the Deputy Director of NAVO MSRC and was the Contracting Officer's Technical Representative on the NCCIPS Task Order.

#### **JURISDICTION AND VENUE**

10. This action arises under the United States False Claims Act, 31 U.S.C. §§ 3729 *et seq.* This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 31 U.S.C. § 3732(a).

11. There was no "public disclosure," as that term is defined in the False Claims Act, 31 U.S.C. § 3730(e)(4)(A), of the false claims or statements alleged herein, prior to the filing of this complaint.

12. To the extent that the United States has any knowledge of the false claims or statements alleged herein, Relator is the original source of that knowledge, as that term is defined in the False Claims Act, 31 U.S.C. § 3730(e)(4)(B), based upon his direct and independent knowledge of information on which the allegations herein are based, which was voluntarily provided to the Government before this complaint was filed.

13. Venue in the United States District Court for the Southern District of Mississippi, Southern Division is proper pursuant to 31 U.S.C. § 3732(a) since Defendants are doing business in this judicial district.

## FACTS

### I. NAVO MSRC.

14. The Naval Oceanographic Office (NAVO) Major Shared Resource Center (MSRC) is located at the Stennis Space Center in Southern Mississippi. In 1994, NAVO MSRC was chartered by the Secretary of Defense to serve defense-wide supercomputing needs.

15. The MSRC at the Stennis Space Center in Mississippi is managed by NAVO. This NAVO MSRC is one of four DoD MSRCs located at: Wright-Patterson Air Force Base in Dayton, Ohio; Stennis Space Center in Mississippi; Engineering Research and Development Center in Vicksburg, Mississippi; and, the Army Research Laboratory at Aberdeen Proving Grounds in Maryland. These MSRCs provide over 4,000 DoD research and development users throughout the country with state-of-the-art high-performance computing resources.

16. The NAVO MSRC office at the Stennis Space Center, in which Relator Magee worked, provides technical management for the NAVO MSRC supercomputer center. NAVO MSRC was headed by its former Director, Defendant Stephen A. Adamec, Jr., and Deputy Director and Contract Officer Technical Representative, Defendant Robert Knesel.

## **II. RELATOR DAVID MAGEE**

17. Relator David Magee secured his Masters degree in Management Information Systems from Mississippi State University in August of 1994. Relator Magee's accomplishments have earned him a nationwide reputation amongst supercomputer specialists. Many of his most notable accomplishments were achieved at two of the four MSRCs under the DoD's High Performance Computing Modernization Program.

18. While working at the NAVO MSRC office, Relator became aware that Defendants, in violation of the False Claims Act, were involved in the "bid-rigging" of the \$3.2 billion NCCIPS Task Order.

## **III. BID RIGGING OF THE NCCIPS TASK ORDER**

19. Services for NAVO MSRC are obtained through Government Wide Acquisition Contracts ("GWACs"), administered by the GSA. The GWAC program was designed to allow federal agencies across the country quick and easy procurement of information technology services through:

- (a) existing, multiple award, indefinite delivery, indefinite quantity (MA/IDIQ) contracts, each offering a variety of information services;
- (b) a roster of pre-qualified prime contract holders prepared to bid on task order requests issued under these contracts;
- (c) use of GSA contracting officers specially trained to help the procuring agency prepare and release task order requests to those pre-qualified prime contractors; and

- (d) a procurement procedure aimed at evaluating the bids and expediting award of task orders often on the basis of original submissions and short oral presentations.

20. "Millennia Lite" is one of the GWAC contract vehicles administered by the GSA. It is divided into four functional areas each offering different categories of information technology services:

- (a) Functional Area 1 – Information Technology Planning, Studies and Assessment;
- (b) Functional Area 2 – High End Information Technology Services;
- (c) Functional Area 3 – Mission Support Services; and
- (d) Functional Area 4 – Legacy Systems Migration and New Enterprise Systems Developments.

21. In April 1999, Relator Magee was hired by Affiliated Computer Services at NAVO MSRC as a Systems Engineer whose first task was to design the next generation Hierarchical Storage Management System. Due to his position, job description and physical location in the NAVO MSRC office, Relator Magee became familiar with the functions of NAVO MSRC personnel and the work of contractors hired to provide administrative and technical support to the NAVO MSRC. As such, Relator Magee had daily contact with Defendants Knesel and Adamec.

22. The Millennia Lite Ordering Guidelines issued by GSA describe the steps in the procurement process which include:

- (a) preparation of a "requirements analysis" that identifies the agency's needs and requirements;
- (b) execution of a "Delegation of Authority/Interagency Agreement" ("DS/IA") which establishes a time frame and initial funding ceiling;
- (c) preparation of a "Statement of Objectives" ("SOO") and Statement of Work ("SOW");

- (d) submittal of the offering to all Millennium Lite contract holders via a Task Order Request;
- (e) oral presentation of the bidders' Cost Proposal and Technical Proposal; and
- (f) evaluation and award of the bid proposals by the GSA and the procuring client agency.

23. The Millennium Lite program was generally directed at relatively small procurement requests in the \$300,000.00 range.

24. As reported on the Federal Procurement Data System, compilations of the task orders awarded to each of the Millennium Lite Functional Area 3 contract holders indicate that: (a) the scale of those task orders, when averaged, falls well within that \$300,000.00; (b) the median task order is much lower than that.

25. The task order which established the National Center for Critical Information Processing ("NCCIPS") at the Stennis Space Center was reputed to be the largest task order ever issued by the DoD and would expand the operations of the procuring agency, NAVO MSRC, ten to fifteen times.

26. Defendant Galloway, a former federal employee, was Director of the Space and Warfare Command Information and Technology Center ("SPAWAR ITC") in Louisiana until his resignation in June of 2003.

27. In the summer of 2003, the Department of Defense Inspector General issued a draft report that exposed fraud, waste, and abuse at SPAWAR ITC and recommended administrative action against its Director, Defendant Galloway. However, Defendant Galloway escaped administrative action by resigning his position in June of 2003, several months before issuance of the DoD IG's final report on November 14, 2003.

28. In the waning months of his directorship at SPAWAR ITC, a long collaboration ensued between Defendant Galloway and Defendants Adamec and Knesel, the Director and Deputy Director of NAVO MSRC, the procuring agency for the \$3.2 billion dollar NCCIPS task order request.

29. During March, April, and May of 2003, Defendant Galloway made numerous trips from New Orleans to Mississippi to meet in private with Defendants Adamec and Knesel at the NAVO MSRC office, even though SPAWAR ITC had no operational, direct, or indirect business with NAVO MSRC.

30. Defendant Galloway resigned from public service in June of 2003. Both Defendants Adamec and Knesel went to Louisiana to attend his retirement ceremony.

31. On June 16, 2003, Defendant Galloway incorporated AES in the name of his wife, Mary Galloway, a homemaker and self-employed photographer who had no qualifications or work experience in the computer industry. AES was a shell company with no employees (other than Mr. and Mrs. Galloway), no office, and no contracts.

32. Following his resignation through late January of 2004, Defendant Galloway continued telephone contact, and met and traveled with Defendants Adamec and Knesel.

33. During this time, Defendants Galloway, Adamec and Knesel collaborated on the upcoming \$3.2 billion NCCIPS Task Order Request for Proposal. That surreptitious collaboration took place over 6 months before the February 13, 2004 GSA and NAVO MSRC issuance of the NCCIPS Task Order Request for Proposal.

34. From July through December 2003, Defendant Knesel also began meeting secretly with employees of LMSO. Knesel was planning what he called the "Big Project" in order to lure non-DoD Federal agencies into utilizing NCCIPS to support their computing needs.

35. In furtherance of this “Big Project,” Defendant Knesel called upon selected LMSO management and staff to help him develop preliminary plans for the NCCIPS facilities and, more importantly, the plans for the state-of-the-art network that would connect NCCIPS to customer Federal agencies—all of which became the February 13, 2004 NCCIPS Task Order Request for Proposal.

36. In June 2003, Relator Magee began noticing that certain LMSO employees who normally would have no contact with Defendant Knesel under their existing MSRC Task Order began meeting with Defendant Knesel in private. After one such session in June or July 2003, Relator Magee confirmed with Randy Becnal, a LMSO networking employee, that LMSO had in fact been meeting with Defendant Knesel to prepare for the “Big Project.” There was no “Big Project” other than NCCIPS.

37. Relator Magee, in conversations with other current employees of LMSO, was able to determine that LMSO employees Linda Pyfrom, Charlie Robertson, Jeff Gosciniak, Benjy Rigney, Jeff Eberhart, Randy Becnel, Bruce Keefer, Will Cook and Leo Foster worked on NCCIPS activities beginning in the summer of 2003 – over six months *before* public issuance of the NCCIPS Request for Proposal.

38. On December 19, 2003, LMSO and SAIC entered into a non-disclosure agreement concerning an “expansion opportunity” with NAVO MSRC. At this same time, Defendants Adamec, Knesel and Galloway were sharing a “MSRC Business Development” plan that identified SAIC, LMSO and AES as key players.

39. On February 3, 2004, SAIC hosted a pre-RFP (Request for Proposal) meeting which was attended by LMSO personnel and Galloway. At this meeting, advanced information

relating to the NCCIPS task order was disclosed and various Defendants were assigned tasks designed to formulating a bid.

40. On February 13, 2004, John Mayes, Contracting Officer of GSA Region 4, notified all Functional Area 3 Millennia Lite contract holders of the \$3.2 billion Task Order Request for Proposal establishing the National Center for Critical Information Processing ("NCCIPS") at the Stennis Space Center.

41. The second attachment to the NCCIPS Task Order Request for Proposal, entitled *Quality Assurance Surveillance Plan* ("QASP"), contained the following provisions:

1.0 Contract Specific Information

Task Order No.: 4THL1704XXXX  
Ordering Period: 7-month base period, with 6 one-year options  
Estimated Value: \$3,221,000,000.00  
Name of Client Representative (CR)/COTR: Robert Knesel.

2.0 Strategies and Scope

This QASP describes the approach the CR/COTR [Robert Knesel] and the Contracting Officer [John Mayes] intend to use to monitor performance to ensure that the Contractor performs in accordance with the terms and conditions of the contract . . . .

4.0 Resources

The plan for monitoring performance of this contract will include delegation of technical monitoring responsibilities to the CR [Robert Knesel] and will include a GSA Contracting Official on-site at the customer location [Brenda Spence].

42. A Pre-Proposal Conference was held on February 19, 2004, just 6 days after the February 13 announcement of the NCCIPS Task Order Request for Proposal. The procuring agency's background information was presented by Defendant Adamec.

43. The rapidity with which this \$3.2 billion Task Order (#4THL17040915) was solicited and awarded is documented in the pre-proposal outline included in the GSA power point presentation at the February 19, 2004 Pre-Proposal Conference:

- Offeror Questions Due: February 25, 2004 – just 12 days after the issuance of the Task Order Request for Proposal;
- Proposals Due: March 10, 2004 – less than a month after the issuance of the Task Order Request for Proposal;
- Oral Presentations: TBD (week of 3/15) – approximately a month after the issuance of the Task Order Request for Proposal;
- Evaluations: Mid to Late March Award: End of March/Early April 2004 – approximately two months after the issuance of the Task Order Request for Proposal.

44. The scope of the NCCIPS Task Order was extremely complex and comprehensive:

“The contractor is required to provide a range of information technology and telecommunications support services which include, but are not limited to the following:

- Database Management
- Systems Engineering/Applications Software
- Computer Operations
- Technical Writing and Documentation
- Multimedia and Graphics Support
- Technical Engineering Services
- Information Security Administration
- Program & Project Training
- Program Management Support

The intent of the Government is to significantly reduce the offeror's proposal costs. Therefore there will be a reliance on oral presentation to the maximum extent. . . . ”

45. The bidders were given an electronic cost template to submit their cost estimates. According to that template, Defendants Adamec and Knesel estimated the winning contractor

would be required to supply 20,332,800 hours or approximately 10,500 man years to fulfill this NCCIPS Task Order.

46. The NCCIPS Task Order Request for Proposal required that bidders finely hone their bid proposals. It limited bidders to a 30-page, one-hour power point presentation.

47. The Bidders, during that oral presentation, were instructed to:

- (a) address the expansive range of support services;
- (b) present their Performance Based Statement of Work ("PBSOW"), a performance matrix, and Service Level Agreements ("SLAs");
- (c) outline their past experience on the last five contracts of similar size and scope;
- (d) present a sufficiently detailed price/cost breakdown; and
- (e) present their "transition plan", *i.e.* how they would handle transfer of services from the existing contractor to themselves.

The transition plan had to meet the following objectives:

- (a) ensure the successful achievement while limiting impact to existing programs/projects;
- (b) detail quality, timelines, and cost risks during the transition period;
- (c) outline the approach to recruiting qualified information technology personnel, key management personnel, and efficient administrative staff to support a large-scale data center(s); and
- (d) identify all teaming partners and how they "benefit" performance of the task order.

48. The above instructions emphasized contractor related experience (AES had none) and a proven track record on prior government contracts (AES had none). Emphasis was also placed on a satisfactory "Transition Plan" that smoothly, efficiently and effectively provided for the transfer of services from the incumbent, a Lockheed Martin Corporation subsidiary,

Lockheed Martin Information Technology (LMIT), which had 5% of the \$3.2 billion NCCIPS Task Order, to its replacement, AES.

49. There are ten qualified Functional Area 3 contractors under the Millennium Lite contract vehicle, six of whom were represented at the NCCIPS task order pre-proposal conference.

a) Defendant Lockheed Martin Corporation subsidiary LMIT was one of ten Millennium Lite prime contractors authorized to submit bids. As a front-runner, LMIT intended to bid on the NCCIPS task order. LMIT was considered a front-runner because: (i) it was already performing 5% of the work covered by that task order, and (ii) being an "incumbent" was one of the more important criteria used to evaluate contractor bid proposals.

50. LMIT was told to "back off" by Defendant Lockheed Martin Corporation management because its sister company, Defendant LMSO, had collaborated with SAIC and Defendant Galloway's shell company, AES, to secure the NCCIPS task order prior to announcement of that bid offering.

51. LMSO personnel worked on the NCCIPS task order six months or more *before* it was formally announced to the Millennium Lite contract holders in February 2004.

52. Besides SAIC, only one other contractor (Anteon Corporation) submitted a proposal for this \$3.2 billion Task Order.

53. The procuring agency's client representative, Defendant Knesel, and the GSA awarded the NCCIPS Task Order to Defendant SAIC (the Millennium Lite Contract Holder).

54. Through the manipulations of Defendants Galloway, Adamec and Knesel, AES (despite its total lack of employees and prior contracting experience) secured its place as a subcontractor on the \$3.2 billion NCCIPS Task Order along with LMSO.

55. SAIC filled no immediate positions and did no immediate work on the NCCIPS Task Order. Even two years after the award of the NCCIPS Task Order, SAIC had placed only a few of its own employees on this \$3.2 billion project.

56. Immediately after award of the NCCIPS task order, Defendant Galloway's company, AES, took over all functions formerly performed by incumbent contractor LMIT (a sister division of LMSO). AES, which had no staff of its own, hired employees of LMIT to perform those functions.

57. AES has filled 55 of the positions authorized by the NCCIPS Task Order.

58. It is highly doubtful that any properly conducted bid would have resulted in award of the NCCIPS task order to SAIC, had it been disclosed that: (a) a substantial portion of the work was to be performed by a "teaming partner" (AES) with **no** experience and **no** track record; and (b) that this inexperienced "teaming partner" (AES) would immediately take over all of the operations of the incumbent contractor (LMIT).

59. The NCCIPS Task Order Request for Proposal Notification letter contained the following warning:

**To allow all offerors to be treated equally, there will be no individual meetings between the client and offerors. This [pre-proposal] conference will serve as the forum to address any information requirements you may have to assist you in the preparation of your proposal. No questions will be permitted at the pre-proposal conference. This will ensure we share all information with all parties.**

[emphasis supplied]

60. The above warning clearly echos the directives of the Procurement Integrity Act and establishes the impropriety of the extensive pre-bid meetings that were held between representatives of the agency initiating the task order request, NAVO MSRC Director and Deputy Director (Defendants Adamec and Knesel) and representatives of the successful bidders, i.e., AES (Defendant Dale Galloway) and LMSO employees.

61. The clandestine activities that resulted in the advanced formulation and disclosure of bidding information to Defendants SAIC, LMSO and AES on this \$3.2 billion Task Order, also violated procurement laws and regulations including the following applicable provision of the Federal Acquisition Regulations (FAR):

**3.101 Standards of Conduct.**

**3.101-1 General.**

Government business shall be conducted in a manner above reproach **and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none.** Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. The general rule is to avoid strictly any conflict of interest or even the appearance of a conflict of interest in Government-contractor relationships. Government personnel, their official conduct must, in addition, be such that they would have no reluctance to make a full public disclosure of their actions.

62. Other provisions of the FARs that were violated by Defendants' clandestine activities include: § 3.104-2(b)(3)-(6); § 3.104-3(a), *Prohibition on disclosing procurement information*; § 3.104-3(b), *Prohibition on obtaining procurement information*; § 3.104-4(a)-(b), *Disclosure, protection, and marking of contractor bid or proposal information and source selection information*; and § 3.104-7, *Violations or possible violations*.

**IV. RULE 9(b), FED. R. CIV. P., ALLEGATIONS**

63. Much of the factual information necessary to prove the allegations in this Complaint is in the exclusive possession of the Defendants.

64. Relator does not have access to the specific information regarding the false records and claims for payment referenced above as such information is in the exclusive possession and control of the Defendants.

65. At least one of the Defendants took an action in furtherance of this conspiracy.

66. As set forth in the preceding paragraphs, Defendants SAIC, Lockheed Martin Corporation, LMSO, AES, Galloway, Knesel and Adamec have violated 31 U.S.C. ' 3729(a)(3) and thereby damaged the United States Government by their actions in a amount to be determined at trial.

**COUNT I**

**FALSE CLAIMS ACT VIOLATION AS TO BID-RIGGING THE NCCIPS TASK  
ORDER 31 U.S.C. § 3729(a)(1)(A)**

67. The allegations in the preceding paragraphs are realleged as if fully set forth below.

68. Defendants SAIC, AES, Lockheed Martin Corporation and LMSO, by and through their officers, agents, and employees authorized their various officers, agents, and employees to take the action relating to the bid-rigging of the NCCIPS Task Order as alleged in Section IV above.

69. Defendants SAIC, AES, Lockheed Martin Corporation, LMSO, Adamec, Knesel, and Galloway "knowingly" violated the False Claims Act, as that term is defined in 31 U.S.C. § 3729(b)(1). As to each of the above allegations, each of the aforementioned Defendants acted with actual knowledge of the alleged information, in deliberate disregard of the truth or falsity of

the alleged information, and/or in reckless disregard of the truth or falsity of the alleged information.

70. Defendants SAIC, AES, Lockheed Martin Corporation, LMSO, Adamec, Knesel and Galloway knowingly presented or caused to be presented false or fraudulent claims for payment or approval in violation of 31 U.S.C. § 3729(a)(1)(A) by virtue of the conduct alleged above through their knowing violation of the Procurement Integrity Act contract prerequisites and participation in the bid process for the NCCIPS Task Order.

71. As set forth in the preceding paragraphs, Defendants SAIC, AES, Lockheed Martin Corporation, LMSO, Adamec, Knesel and Galloway knowingly violated 31 U.S.C. § 3729(a)(1)(A) through their violation of the Procurement Integrity Act contract prerequisites to participation in the bid process for the NCCIPS Task Order and have thereby damaged the United States Government by their actions in an amount to be determined at trial.

## COUNT II

### **FALSE CLAIMS ACT VIOLATION AS TO BID-RIGGING THE NCCIPS TASK ORDER 31 U.S.C. § 3729(a)(1)(B)**

72. The allegations in the preceding paragraphs are realleged as if fully set forth below.

73. Defendants SAIC, AES, Lockheed Martin Corporation and LMSO, by and through their officers, agents, and employees authorized their various officers, agents, and employees to take the action relating to the bid-rigging of the NCCIPS Task Order as alleged in Section IV above.

74. Defendants SAIC, AES, Lockheed Martin Corporation, LMSO, Adamec, Knesel and Galloway “knowingly” violated the False Claims Act, as that term is defined in 31 U.S.C. § 3729(b)(1). As to each of the above allegations, each of the aforementioned Defendants

acted with actual knowledge of the alleged information, in deliberate disregard of the truth or falsity of the alleged information, and/or in reckless disregard of the truth or falsity of the alleged information.

75. Defendants SAIC, AES, Lockheed Martin Corporation, LMSO, Adamec, Knesel and Galloway knowingly made or caused to be made a false record or statement material to a false or fraudulent claim in violation of 31 U.S.C. § 3729(a)(1)(B), when these Defendants made or caused to be made a false certificate of compliance with the Procurement Integrity Act provisions of the Task Order Request for Proposal as a necessary contract prerequisite to participation in the bid process for the NCCIPS Task Order.

76. As set forth in the preceding paragraphs, Defendants SAIC, AES, Lockheed Martin Corporation, LMSO, Adamec, Knesel and Galloway knowingly violated 31 U.S.C. § 3729(a)(1)(B) through their making or causing to be made the false Procurement Integrity Act compliance certification required as a necessary prerequisite to participation in the NCCIPS Task Order bid process and thereby have damaged the United States Government by their actions in an amount to be determined at trial.

### **COUNT III**

#### **False Claims Act Violation as to Bid-Rigging the NCCIPS Task Order 31 U.S.C. § 3729(a)(1)(C)**

77. The allegations in the preceding paragraphs are realleged as if fully set forth below.

78. Defendants SAIC, AES, Lockheed Martin Corporation and LMSO, by and through their officers, agents, and employees authorized their various officers, agents, and employees to take the action relating to the bid-rigging of the NCCIPS Task Order as alleged above.

79. Defendants SAIC, AES, Lockheed Martin Corporation, LMSO, Adamec, Knesel and Galloway conspired to commit a violation of 31 U.S.C. §§ 3729(a)(1)(A) and 3729(a)(1)(B) as alleged above in violation of 31 U.S.C. § 3729(a)(1) (C) through the violation of the Procurement Integrity Act contract prerequisite to participation in the bid process for the NCCIPS Task Order.

80. At least one of the Defendants identified above took action in furtherance of this conspiracy.

81. As set forth in the preceding paragraphs, Defendants SAIC, AES, Lockheed Martin Corporation, LMSO, Adamec, Knesel and Galloway conspired and violated 31 U.S.C. § 3729(a)(1)(C) through their violation of the Procurement Integrity Act prerequisite to participation in the bid process for the NCCIPS Task Order and thereby have damaged the United States Government by their actions in an amount to be determined at trial.

#### **PRAYER FOR RELIEF**

WHEREFORE, Relator, on behalf of himself and the United States of America, pray as follows:

- (a) That this Court enter judgment against the Defendants, jointly and severally, in an amount equal to three times the amount of damages the United States Government has sustained because of Defendants' actions, plus a civil penalty of \$5,500 to \$11,000 for each action in violation of 31 U.S.C. § 3729(a), and the costs of this action, with interest, including the costs to the United States Government for its expenses related to this action;
- (b) That the Relator be awarded all costs incurred, including reasonable attorneys' fees, in accord with 31 U.S.C. § 3730(d);

- (c) That, in the event the United States Government elects to intervene in this action, the Relator be awarded 25% of the proceeds of the action or settlement of the claims;
- (d) That, in the event the United States Government does not intervene in this action, the Relator be awarded 30% of the proceeds of the action of the settlement;
- (e) That the United States and the Relator be awarded prejudgment interest;
- (f) That a trial by jury be held on all issues; and
- (g) That the United States Government and the Relator receive all relief, both at law and in equity, to which he may be reasonably entitled.

Respectfully submitted,



/s/ BEN F. GALLOWAY

BEN F. GALLOWAY (MS Bar No. 4390)  
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/s/ PAUL B. MARTINS

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PAUL B. MARTINS (Ohio Bar No. 0007623)  
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CERTIFICATE OF SERVICE

I certify that on June 30, 2009, a copy of this Second Amended Complaint was served,  
via hand delivery, upon:

Stephen R. Graben  
Assistant United States Attorney  
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and, via email and ordinary United States mail, postage pre-paid, upon:

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/s/ BEN F. GALLOWAY