

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

UNITED STATES OF AMERICA)	
)	Criminal No. 1:02CR84-T
v.)	
)	Filed: September 9, 2002
MAYMEAD, INC.,)	
)	Violation: 18 U.S.C. § 1001
Defendant.)	

INFORMATION

The United States of America, acting through its attorneys, charges:

I

DESCRIPTION OF THE OFFENSE

1. Maymead, Inc. is made a defendant on the charge stated below.

Maymead, Inc., is a corporation located in Mountain City, Tennessee, that performs asphalt paving and road construction in North Carolina and other areas.

2. In or about November 2000, the defendant did knowingly and willfully make and cause to be made a materially false, fictitious and fraudulent statement and representation in a matter within the jurisdiction of the Federal Highway Administration ("FHWA"), an agency of the United States Department of Transportation, a department of the United States, by submitting a bid for a road construction project on the Blue Ridge Parkway in Watauga County, North

Carolina, in which the defendant falsely certified that it had not disclosed its bid prices to any other competitor, when in truth and fact it had.

3. In or about October 2000, the FHWA issued a sealed bid solicitation for a road construction project, designated PRA-BLRI 2G11 (the “2G11 Parkway project”), on the Blue Ridge Parkway in Watauga County, North Carolina. The FHWA issued the bid on behalf of the National Park Service of the United States Department of the Interior, a department of the United States.

4. The bid solicitation for the 2G11 Parkway project required the submission of line item prices, and included a requirement for bids on federal projects entitled “Certificate of Independent Price Determination.” This Certificate, adopted as part of the Federal Acquisition Regulation (“FAR”) in 1985, 48 C.F.R. § 52.203-2, requires the bid offeror to certify, among other things, that “[t]he prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation),” and must be incorporated in the offeror’s bid submission. The Certificate of Independent Price Determination influences FHWA in its contracting decisions because FHWA will not consider the bid of or award a project to an offeror whose bid does not include the Certificate.

5. On or about November 8, 2000, a corporate officer of the defendant met with an employee of a competitor for the 2G11 Parkway project at the defendant’s offices in Mountain City, Tennessee. The competitor traveled to defendant’s offices by interstate roads and highways from Robbinsville, North Carolina. At that

meeting, the defendant's corporate officer disclosed the defendant's line item prices on the 2G11 Parkway project to the competitor's employee. The competitor's employee returned to Robbinsville, North Carolina with the information.

6. On or about November 9, 2000, after having disclosed defendant's line item prices to a competitor, the defendant's corporate officer signed the 2G11 Parkway project bid form for the defendant, which included the Certificate of Independent Price Determination. On a blank in the Certificate of Independent Price Determination that requires the bid offeror to "insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal," defendant's corporate officer filled in his name.

7. At the time that the corporate officer signed the bid form, he knew that he was certifying for the defendant that the defendant had not disclosed its prices to any other offeror or competitor. In truth and fact, at the time that the corporate officer signed the bid form, he knew that he had met with another offeror and competitor and had disclosed defendant's prices to that offeror and competitor.

8. At the time that the corporate officer signed the bid form, he did knowingly and willfully make and cause to be made a materially false, fictitious and fraudulent statement and representation in a matter within the jurisdiction of the FHWA, United States Department of Transportation, a department of the United States.

9. On or about November 9, 2000, defendant sent its bid from defendant's offices in Tennessee to FHWA's offices in Virginia.

10. On or about November 17, 2000, officials of FHWA opened the bids submitted on the 2G11 Parkway project and tabulated the results. In or about March 2001, FHWA awarded the project to defendant for a total price of \$3,442,564.50.

II

JURISDICTION

The offense charged in this Information was carried out, in part, within the five years preceding the filing of this Information.

ALL IN VIOLATION OF TITLE 18 UNITED STATES CODE, SECTION 1001.

Dated:

/s/
CHARLES A. JAMES
Assistant Attorney General

/s/
ROBERT J. CONRAD
United States Attorney
Western District of North Carolina

/s/
JAMES M. GRIFFIN
Deputy Assistant Attorney General

/s/
LISA M. PHELAN
Chief, National Criminal
Enforcement Section

/s/
SCOTT D. HAMMOND
Director of Criminal Enforcement

Antitrust Division
U.S. Department of Justice

/s/
PETER H. GOLDBERG
STEPHEN KUPERBERG
Attorneys, Antitrust Division
U.S. Department of Justice
1401 H Street, N.W., Suite 3700
Washington, DC 20530
Tel.: (202) 305-4277