

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

UNITED STATES OF AMERICA)	
)	Criminal No. 1:02CR83-T
v.)	
)	Filed: September 9, 2002
TAYLOR & MURPHY)	
CONSTRUCTION CO., 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. Taylor & Murphy Construction Co., Inc. is made a defendant on the charge stated below.

2. In or about February 2001, 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 and performing on a road construction project on the Blue Ridge Parkway in Buncombe

County, North Carolina, on 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 January 2001, the FHWA issued a sealed bid solicitation for a road construction project, designated PRA-BLRI 2R16 (the “2R16 Parkway project”), on the Blue Ridge Parkway in Buncombe 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 2R16 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 February 16, 2001, with the knowledge and consent of a corporate officer (“the corporate officer”), an employee of the defendant met with employees of a competitor at the defendant’s offices in Asheville, North Carolina.

At that time, the defendant's employee disclosed the defendant's line item prices on the 2R16 Parkway project to the competitor's employees.

6. At or about this time in February 2001, having been informed of and having approved and authorized the disclosure of defendant's line item prices to a competitor, the corporate officer signed the 2R16 Parkway project bid form for the defendant, which included the Certificate of Independent Price Determination.

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 defendant's employee 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 February 26, 2001, defendant sent its bid from defendant's offices in North Carolina to FHWA's offices in Virginia.

10. In or about February and March 2001, officials of FHWA opened the bids submitted on the 2R16 Parkway project and tabulated the results. FHWA awarded the project to defendant for a total price of \$1,648,190.24.

II

JURISDICTION AND VENUE

The offense charged in this Information was carried out, in part, within the Western District of North Carolina 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
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