

CLIENT ALERT

GSA Bid Rigging Case Nets Another Guilty Plea

April 9, 2021

In the latest phase of a case proving that there is no amount of anticompetitive activity too small to escape prosecution, the Antitrust Division of the Department of Justice is continuing its efforts to thwart anticompetitive activity in public procurements, striking a plea deal with a Missouri individual in connection with rigging bids at online GSA auctions for surplus government equipment. Acting Antitrust Division Assistant Attorney General Richard A. Powers emphasized the focus of DOJ and its Procurement Collusion Strike Force partners on pursuing those who undermine competition in government contracting, stating that “the defendant’s self-serving scheme stole from the government and robbed American taxpayers.” Inspector General Carol F. Ochoa of the GSA, which investigated the matter, echoed Mr. Powers’s sentiment, stating that “[c]ompetition is a fundamental component of any fair auction,” and that the “GSA OIG will continue to investigate allegations of collusive activities that undermine the integrity of GSA [a]uctions and short-change the taxpayer.”

On April 7, just over a month before trial was set to start, Alan Gaines pleaded guilty to a one-count indictment that was filed in a Minnesota federal court last year charging him with conspiring to rig bids at online public auctions for surplus government equipment conducted by the GSA from 2012 to 2018 in violation of Section 1 of the Sherman Act. Gaines admitted that he, along with two associates, communicated via text, phone, and email to coordinate bidding in GSA auctions across a number of states and to share bidder identification numbers meant to keep bidders anonymous to one another. Gaines and his associates colluded in GSA auctions for computers, which were then shipped to the closest conspirator, disassembled, and the components shared among the group. Two other individuals, Igor Yurkovetsky and Marshall Holland, previously pleaded guilty in connection with this investigation. The alleged value of the rigged bids was a mere \$67,324, signaling the government’s intent to investigate and prosecute collusion in public procurement no matter the size of the take.

Companies and individuals alike must seriously consider the competitive implications of their actions in the context of every public procurement process. And when these procurements amount to significant awards and involve companies, the onus is on the organization to ensure its employees and officers understand the antitrust guardrails. A proper compliance program, regular engagement with the legal department, and early involvement with outside counsel should any issues arise are of paramount importance.

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