



DEPARTMENT OF THE NAVY
BASE REALIGNMENT AND CLOSURE
PROGRAM MANAGEMENT OFFICE
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5820
Ser BPMP/003
March 15, 2018

The Honorable James Donato
United States District Court
Northern District of California
Federal Building and Courthouse
450 Golden Gate Avenue
San Francisco, California

Dear Judge Donato:

SUBJECT: VICTIM IMPACT STATEMENT IN THE MATTER OF U. S. V. HUBBARD

The Department of the Navy has been designated a crime victim under 18 U.S.C. § 3771 as a result of the fraud committed by Mr. Hubbard, a former employee of Tetra Tech EC Inc. (Tt EC), and others. The Navy contracted Tt EC to prepare planning documents, investigate radiological contamination, conduct remediation, dispose of radioactive waste, and document their activities to support closure of radiologically-impacted sites and buildings at Hunters Point Naval Shipyard (HPNS) from 2003 to 2014. These activities were necessary prior to the Navy turning HPNS over to the City of San Francisco for redevelopment. The fraud committed by Mr. Hubbard and other Tt EC employees has caused not only a substantial financial loss to the Navy, but harm to the Navy's reputation, and it has cost the Navy substantial resources and time. The purpose of this statement is to give the Court a sense of the magnitude of the negative impact of this fraudulent conduct and how it has made the accomplishment of both the Navy's and the City's goals more difficult. Because of the widespread and continuing harm that he has caused the Navy, we ask that you award Mr. Hubbard a substantial sentence.

While the fraud committed by Mr. Hubbard and others has caused the Navy concrete and measurable monetary loss (addressed below), this fraud has also caused significant harm to the Navy that is much more difficult to quantify - but very real. The fraud and uncertainty surrounding Tt EC's work at HPNS has caused a complete loss of trust in the Navy by the local community. The new residents at HPNS are understandably anxious for their safety, and this has required additional effort by the Navy and regulators to address these concerns. The transfer of the property to the City will be delayed by many years, and the Navy has had to address the ire and frustration of the Mayor's Office, the Supervisor's Office, and local Congressional staffs. The redevelopment of HPNS was supposed to revitalize the community and provide jobs and affordable housing; all of that is now on hold indefinitely as the Navy and the regulatory agencies have determined that Tt EC's work is unreliable. The frustrations of these local constituencies have been channeled into a strong activist element which has made the Navy's public meetings tense, aggressive and explosive.

The fraud committed by Mr. Hubbard and others has also led to negative national media attention. The effort to respond to this negative media attention has required increased staffing to answer questions, prepare for interviews, and conduct risk communication training – all of which pulled Navy staff away from their primary duties and caused collateral impacts to other Navy bases and projects.

In addition to responding to the media, correcting misinformation, and responding to the concerns of the public and politicians, the Navy's Base Realignment and Closure (BRAC) Office created a special Review Team to assess the fraud allegations, determine what level of additional site investigation was needed, perform sampling, and then incorporate these findings into a new Work Plan for HPNS. These activities diverted significant numbers of BRAC employees from their normal duties, causing additional disruption to numerous other Navy projects across the country. This diversion of personnel and resources resulted in delays and increased costs for these other projects and resulted in constant stress on the Navy staff over a sustained period of time. The efforts of the Review Team and other similar efforts (including legal and contract dispute efforts, technical re-calculations, political briefings to the City and Congressional delegations, and constant communication up and down the Navy chain of Command), has cost Navy personnel hundreds if not thousands of hours of additional work. The Navy estimates that the fraud committed by Mr. Hubbard and others has set back the planned transfer of HPNS property to the City by an approximate decade. This means not only lost development opportunities for the City and the local community, but continued cost to the Navy to hold and maintain the property.

The fraud has also caused a loss of confidence by the regulatory community (both EPA and California State regulators) regarding the Navy's radiological remediation program and the Navy's competence to implement it. The EPA has expressed to the Navy that they no longer have confidence in the work performed by Tt EC at HPNS, as well as at other Navy radiological sites including those located at Treasure Island and Alameda in the San Francisco Bay Area. The Navy now faces an uphill struggle to rehabilitate itself from this negative connotation in the regulatory community. It will take years to rebuild this credibility.

As I indicated above, the negative fiscal impact to the Navy of the fraud committed by Mr. Hubbard and others at HPNS is consequential, and continues to be assessed. The Navy awarded sixteen contract task orders to address radiological work at HPNS to Tt EC. To date, the Navy has paid Tt EC \$261.8M for work performed at HPNS. Due to the uncovered fraud, all of this work has been called into question and may need to be re-performed. After discovering evidence of Tt EC data falsification/manipulation, and becoming aware of allegations from former Tt EC employees/subcontractors, the Navy hired an independent contractor (Battelle) to provide daily onsite radiological quality assurance for all Navy contractors performing radiological work at HPNS. This cost approximately \$2.2M. The Navy also hired CH2MHill to re-evaluate the work performed and documented by Tt EC at HPNS. CH2MHill reviewed Tt EC's radiological

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database for buildings and soil sites for falsification/manipulation using a variety of statistical and logic tests. This analysis provided evidence of previously-undiscovered data falsification and manipulation, which prompted the Navy to begin preparing work plans for an independent analysis of the worksite. The total cost for the database evaluation, work plan preparation, and preliminary field work is approximately \$8.8M. The Navy is currently working with federal and state regulatory agencies to determine the extent of rework that will be necessary at HPNS in order for the Navy to obtain the required "free release" from the regulatory agencies to turn the property over to the City. The EPA has indicated that it would require all work to be re-performed as originally contracted. However, these discussions are not final. The Navy's best estimates for required re-work costs currently range from \$100M to \$300M.

In sum, the Navy has expended \$272.8 M to date paying Tt EC for their work at HPNS, identifying the fraud, and taking measures to prevent further fraud. Depending on the cost of required re-work, this number will certainly rise to \$372.8 M and is likely to rise as high as \$572.8 M. This amount of money would buy a new Littoral Combat ship. It is nearly half of the Navy's total expenditures for *all* environmental clean-up activities at HPNS through fiscal year 2017 (\$991.1 M). This is money that could otherwise have been used by the Navy to train sailors, build ships, purchase aircraft, – in short, to perform the Navy's core mission of fighting the country's wars, deterring aggression, and maintaining the freedom of the seas.

The fraud committed by Mr. Hubbard and others has undermined the taxpayer's trust in the Navy as a good financial steward. Taxpayers trust that the Navy only asks for what it needs, knowing that there are many other important and vital uses for limited funds. The Navy invests an enormous amount of time, energy, and pride in building this trust, and because of that, the military is generally considered one of the most trusted institutions in America. But it only takes the misconduct of a few individuals to erode that essential trust - misconduct like Mr. Hubbard's.

Mr. Hubbard's actions had far-reaching consequences for the United States, its employees, the City of San Francisco, the local residents, and the taxpayers. The Navy therefore respectfully requests that the Court consider a severe sentence for Mr. Hubbard that is commensurate with the adverse impacts of his fraud upon the Navy.

Sincerely,



LAURA DUCHNAK
Director