



U.S. Department of Justice

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October 31, 2018

Reginald J. Brown
WilmerHale
1875 Pennsylvania Avenue, NW
Washington, DC 20006

Anjali Chaturvedi
Assistant General Counsel
Northrop Grumman Systems Corporation
2980 Fairview Park Drive
Falls Church, VA 22042

Re: Northrop Grumman Systems Corporation BACN Time Charging Investigation

Dear Mr. Brown and Ms. Chaturvedi:

I write regarding the criminal investigation by the U.S. Attorney's Office for the Southern District of California ("USAO" or the "Office"), into your client Northrop Grumman Systems Corporation ("NGSC" or the "Company") and alleged violations of 18 U.S.C. § 286 and related statutes in connection with time-charging by certain NGSC employees on the Battlefield Airborne Communications Node ("BACN") program (the "Program") during the period 2010 to 2013. The investigation found evidence of knowing and willful mischarging by certain Company employees working at a Program site at an overseas Air Force base in the Middle East who charged time to the Program when they were not engaged in work-related activities.

The Company takes responsibility for the acts of its officers, employees, and agents as set forth in the Statement of Facts (attached hereto as "Attachment A"), which is incorporated by reference into this Agreement, even though those actions were in violation of company policy and procedure and were contrary to the guidance that the Company had provided to individuals managing this program. The Company agrees that the facts described in Attachment A: (i) are true and accurate to the best of its knowledge and appear to constitute violations of federal law, based upon information provided by the USAO and/or identified by the Company; and (ii) are

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contrary to the Program requirements and NGSC policies and procedures. Given the results of this investigation, the USAO has determined to conclude its investigation of NGSC and not proceed with any claims against NGSC following execution of the terms of the settlement described more fully below.

The USAO's decision to conclude its investigation against the Company takes into consideration a number of factors, including but not limited to: (1) NGSC's voluntary disclosure of this matter to the Government in February 2013; (2) the fact that the NGSC employees acted in contravention of NGSC policy and without knowledge of corporate management; (3) NGSC's investment of significant resources to investigate, analyze, and provide documents and other relevant information to the Government, and otherwise support the Government's investigation, including: collecting more than 25 million records from employees in the United States and overseas, producing over 1.3 million pages of documents, and interviewing over 100 employees in the United States and overseas; (4) NGSC's significant corrective actions at its own initiative, including disciplining and terminating employees, enhancing its internal processes and procedures, and offering to repay sums improperly charged in 2010-2013; (5) NGSC's agreement to provide full remediation, including repaying sums it received or may have received for work hours its employees improperly charged to the United States, and returning certain fixed fee payments reflected in the \$30 million total payment set forth below; and (6) NGSC's agreement to cooperate with the USAO in connection with the ongoing investigation of individuals.

The USAO has placed considerable weight on NGSC's extensive policies, procedures, and training designed to minimize the possibility of contracting fraud. These policies and procedures apply broadly to its officers, directors, and employees, wherever located, and NGSC makes clear it is the responsibility of each and every person to comply fully. With respect to the BACN program, in particular, NGSC has implemented still further enhancements to the relevant policies and procedures. Among other additional measures, we note that NGSC:

1. Issues periodic reminders of the latest time-charging guidance and policies, and provides repeated training sessions to help ensure proper time-charging by its employees supporting the BACN program;
2. Has created a dedicated Compliance Manager position specifically to monitor BACN time-charging; and
3. Has installed a biometric reader at the BACN program site at issue to track employees' time on base specifically to combat the time mischarging by employees outlined in Attachment A.

The decision by the USAO also follows the agreement of the Company to continue to cooperate fully with the USAO in all material respects as it completes its investigation of certain individuals and determines whether to pursue charges against them for the misconduct described in this Agreement and Attachment A. This cooperation shall include the following:

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1. The Company shall disclose to the USAO information known to the Company sufficient for law enforcement to identify the full nature and extent of the offenses under investigation as set forth in this Agreement and Attachment A and all of the individuals responsible for the conduct, and provide a timely and complete response to requests for documents and access to employees with such information; and
2. Upon request of the Office, the Company shall designate knowledgeable employees, agents or attorneys to provide to the Office non-protected information and materials described above on behalf of the Company. It is further understood that the Company must at all times provide complete, truthful, and accurate information, as known to the Company.
3. Nothing in this Agreement shall require the Company to provide classified, export controlled, privileged, or otherwise protected information to anyone not authorized to receive it.
4. Upon reasonable notice, NGSC shall use its best efforts to make available, and encourage, the cooperation of present and former officers and employees for interviews and testimony, consistent with the rights and privileges of such individuals. This obligation includes, but is not limited to, sworn testimony before a federal grand jury or in federal trials, as well as interviews with domestic law enforcement and regulatory authorities. The Company's cooperation shall include identification of witnesses who, to the knowledge of the Company, may have material information regarding the matters under investigation. NGSC further agrees to furnish to the USAO, upon request, complete and unredacted copies of non-privileged, unclassified, and otherwise not protected documents, reports, memoranda of interviews, and records in its possession, custody, or control of any investigation of the misconduct set forth in this agreement and Attachment A that it has undertaken, or that has been performed by another on its behalf.
5. With respect to any information, testimony, documents, records or other tangible evidence provided to the Office pursuant to this Agreement, the Company consents to any and all disclosures, subject to applicable law and regulations, to other governmental authorities, including United States authorities, of such materials as the Office, in its sole discretion, shall deem appropriate.

Should the Office believe that the Company is not adequately cooperating with the Office's ongoing investigation of individuals, it will raise any concerns with NGSC senior management and work together to address them. The Company will ensure senior management are available to do so.

In consideration of the civil agreement between NGSC, the U.S. Department of Justice, Civil Division, and the Civil Division of the U.S. Attorney's Office for the Southern District of California (which requires, *inter alia*, Northrop to pay a total of \$25.8 million), Northrop agrees to repay \$4.2 million in addition to the civil settlement, and facilitate – in any manner necessary – the administrative forfeiture of these funds by the Government. The total amount to be paid by

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the Company to resolve this matter in its entirety (both criminally and civilly) is \$30 million. The Department of Justice agrees not to seek any further payment from NGSC relating to the conduct at issue. NGSC further agrees that it will not seek or knowingly accept directly or indirectly reimbursement or indemnification from any source with regard to the payments. The parties specifically acknowledge that this Agreement does not provide any protection against criminal or other prosecution of any individuals, regardless of their affiliation with NGSC. In addition, this agreement does not limit the USAO from investigating new allegations of unrelated wrongdoing should they arise.

In exchange for this Agreement, the USAO agrees that it will not bring any criminal charges against the Company relating to any of the conduct described herein and in Attachment A. This Agreement does not provide any protection against prosecution for any future conduct by the Company. And, as previously noted, this Agreement does not provide any protection against prosecution of any individuals for any violations committed by them personally.

In the event that the Company breaches this Agreement: (a) all statements made by or on behalf of the Company to the Office or to the Court, including the attached Statement of Facts, and any testimony given by the Company before a grand jury, a court, or any tribunal, or at any legislative hearings, whether prior or subsequent to this Agreement, and any evidence derived from leads produced by such statements or testimony, shall be admissible in evidence in any and all criminal proceedings brought by the Office against the Company; (b) the Company will not assert any claim under the United States Constitution, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule that any such statements or testimony made by or on behalf of the Company prior or subsequent to this Agreement, or any leads derived therefrom, should be suppressed or are otherwise inadmissible; and (c) the Company will not assert that the bringing of charges based upon the conduct outlined in the attached Statement of Facts is barred by the statute of limitations with respect to the period starting with the date of this Agreement.

This Agreement is binding on the Company, the Office, and the Department of Justice, but specifically does not bind any other federal agencies, or any state, local or foreign law enforcement or regulatory agencies, although the Office will bring the cooperation of the Company and its compliance with its other obligations under this Agreement to the attention of such agencies and authorities if requested to do so by the Company.

The Company agrees that if it, or any of its direct or indirect subsidiaries or affiliates, issues a press release, makes any public statement, or holds any press conference in connection with this Agreement, it will not make any statements contradicting the taking of responsibility by the Company set forth above or the facts described in the Statement of Facts attached hereto as Attachment A.

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This Agreement sets forth all the terms of the agreement between the Company and the USAO. No amendments, modifications, or additions to this Agreement shall be valid unless they are in writing and signed by the USAO, the attorneys for the Company, and a duly authorized representative of the Company.

Very truly yours,

ADAM L. BRAVERMAN
United States Attorney



Michelle L. Wasserman, AUSA
Billy Joe McLain, AUSA
Mark W. Pletcher, AUSA
Phillip L.B. Halpern, AUSA

NGSC also agrees and consents to the facts and conditions set forth herein:

Date 11/1/18

By: Anjali Chaturvedi
Anjali Chaturvedi
Assistant General Counsel
Northrop Grumman Systems Corporation

Date 11/1/18

By: Reginald J. Brown
Reginald J. Brown
WilmerHale

ATTACHMENT A

STATEMENT OF FACTS

Northrop Grumman Systems Corporation (“NGSC” or the “Company”) hereby agrees and stipulates that the following information is true and accurate to the best of its knowledge based upon information provided by the U.S. Attorney’s Office for the Southern District of California (“USAO”) and/or identified by NGSC. NGSC takes responsibility for the acts of its officers, employees, and agents, even though they were in violation of Company policy and procedure and were contrary to the guidance that the Company had provided to individuals managing this program:

1. NGSC is a Department of Defense contractor, headquartered in Falls Church, Virginia. In 2009, NGSC began work on the Battlefield Airborne Communications Node (“BACN”) contract, FA-8726-09-C-0010, awarded by the United States Air Force (“USAF”). The BACN contract was managed and staffed out of NGSC’s San Diego, CA office. As part of the BACN contract, NGSC sent employees overseas to various locations, including an air base located near a large city in the Middle East (the “Air Base”). NGSC BACN employees first arrived at the Air Base in mid-late 2010. At the Air Base the NGSC BACN employees lived in five-star hotels in the nearby city and commuted from the hotels to the Air Base.
2. Beginning on or before January 1, 2011 and continuing through at least October 16, 2013, numerous BACN employees ([REDACTED]), [REDACTED] knowingly and willfully agreed to defraud the USAF through the submission of false claims for time allegedly worked by NGSC employees and billed to the BACN contract. These BACN employees knew that the time they billed to the BACN contract was false and that NGSC would and did pass on those false charges to the USAF for payment.
3. These BACN employees falsely inflated the time worked and billed to the BACN contract, notwithstanding that all of the employees on the BACN contract received training regarding how to properly bill their time as well as frequent reminders regarding NGSC’s policy that employees only record time actually worked on the contract. These BACN employees were further informed by NGSC, and knew or should have known, that NGSC passed their false labor charges onto the United States for payment.
4. Some or all of the BACN employees stationed at the Air Base flat billed their time, generally billing exactly 12 or 13.5 hours per day, every day during the period of January 2011 through February 2013. Certain employees continued to overbill their time through October 2013. They did so despite the fact that there was limited work for them to do at the Air Base during a significant portion of the covered time period. Because of the nature of the BACN contract, most of the BACN employees had to be physically at the Air Base to perform the majority of their billable work –except for a minimal number of hours per month that could be performed offsite.
5. Some or all of the BACN employees stationed at the Air Base billed the United States for hours that they were not at their assigned worksite, including hours spent doing leisure activities, such as golfing, skiing, visiting local amusement parks, partying at local clubs,

going out to eat or drink, going to local malls, or hours spent at the hotel enjoying the five-star amenities.

6. The BACN employees stationed at the Air Base passed more than \$5 million in false labor charges onto the United States for payment over the years 2011 - 2013.
7. Some or all of the BACN employees engaged in these activities with each other and/or with their spouses and families, many of whom accompanied the NGSC employees to the Middle East and resided with them at the five-star hotels.
8. Representative acts in furtherance of this conspiracy are, as follows:
 - i. On February 18, 2011, [REDACTED], and [REDACTED] went for ice cream and a movie during their assigned shift. For this date, [REDACTED] billed 12 hours, [REDACTED] billed 15 hours and [REDACTED] billed 13 hours to the contract;
 - ii. On December 31, 2011 and January 1, 2012, [REDACTED] who was at the time the Deputy Director of the Flight and Deployed Operations ("FDO") unit, went golfing with [REDACTED] and [REDACTED] with a tee time approximately two hours before [REDACTED] and [REDACTED] were supposed to start their shifts, at golf courses approximately 30-40 minutes away from the Air Base. For these dates, both [REDACTED] and [REDACTED] billed 13.5 hours to the contract [REDACTED] approved their time;
 - iii. On February 6, 2012, [REDACTED] and [REDACTED] watched the Super Bowl from their hotel during their assigned shift the evening of February 5-6, 2012. Both billed 13.5 hours to the contract for these dates;
 - iv. On February 7, 2012, [REDACTED] spent approximately 6 hours at work, and then spent the rest of the day at a local amusement park with his family. For this date, [REDACTED] billed 12 hours to the contract;
 - v. On or about February 21, 2012, [REDACTED] left work early to go skiing with [REDACTED] over an hour drive from the Air Base. Both individuals billed 13.5 hours to the contract for that date and [REDACTED] billed exactly 13.5 hours every day for the entire month of February 2012;
 - vi. On April 30, 2012, [REDACTED] sent out a schedule to three BACN payload operators on site ([REDACTED]). The schedule specified that only [REDACTED] would work on May 2, 2012, and for only approximately four hours. The schedule also called for a "meeting" at the hotel pool in the middle of the day. Nevertheless, [REDACTED] each billed 13.5 hours to the contract for May 2, 2012;
 - vii. On May 8, 2012, [REDACTED] did not show up to work at the Air Base at all, yet billed 13.5 hours to the contract;
 - viii. On September 20, 2012 [REDACTED] was drunk at 8:30 p.m., an hour and a half before his shift was supposed to end. For that date, [REDACTED] nonetheless billed 13.5 hours to the contract;

- ix. On December 7, 2012, [REDACTED] went to a music festival during his shift. Despite attending the festival, [REDACTED] billed 12 hours to the contract for that date;
- x. Between December 9-12, 2012, [REDACTED] was unable to get on base because his badge had expired. Nevertheless, [REDACTED] billed 13.5 hours to the contract every day for this period;
- xi. On January 20, 2013, [REDACTED] [REDACTED] each spent less than five hours at work. [REDACTED] spent the rest of the day shopping for a Chanel purse for his wife, and spending time with his family. For this date, [REDACTED] and [REDACTED] billed 13.5 hours and [REDACTED] billed 12 hours;
- xii. On January 26, 2013, [REDACTED] went to the airport to pick up his wife and children and subsequently went out to dinner at a restaurant in the hotel, all during his assigned shift. [REDACTED] billed 13.5 hours to the contract for this date;
- xiii. On July 31, 2011, [REDACTED] wrote an email to another NGSC BACN colleague, "if you[re] on the fence about coming back, you should at least do [the Air Base] this place isn't bad at all... The schedule is extremely light . . . But we 4 pay loaders work about 6-8 hours and charge 13 . . . Clubs rock, the heat sucks, but . . ." [REDACTED] billed 13 hours or more every single day in July 2011;
- xiv. On October 21, 2011 [REDACTED] used social media messaging to tell a friend, "My company is hiring for a Network Engineer. Just wanted to let you know if you were interested. It pays really well (6 figures because of all the extra hours you have to work.) I put down on payslip 13 hours but work only about 8 to 10." [REDACTED] billed exactly 13.5 hours every day in October and November 2011;
- xv. On April 27, 2012, [REDACTED] emailed a friend, "Right now I barely work and have lots of time to spend with [REDACTED]'s wife.]" [REDACTED] billed 13.5 hours, or more, every day in March, April, May, June, and July 2012.

9. As a result of lying about their hours worked, the BACN employees engaged in this conduct benefitted monetarily, earning more money the more hours they worked, up to 3.6 times their base salary. [REDACTED] who served as first the Deputy Director and later the Director of FDO, and who oversaw the BACN program was aware or should have been aware that some NGSC BACN employees at the Air Base were not working the hours that they charged. [REDACTED] nonetheless approved their time cards in his capacity as a manager at NGSC and allowed these charges to be passed along to the United States for payment. Ultimately, hours billed by Northrop BACN employees at the Air Base were passed on to the United States for payment under the BACN contract.