

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	CRIMINAL NO. 3:08CR014
)	
ROBERT L. MOULTRIE, NIXON E. CAWOOD,)	
CHARLES K. MOREHEAD, FACILITY HOLDING)	
CORP., d/b/a THE FACILITY GROUP,)	
FACILITY MANAGEMENT GROUP, INC.,)	
FACILITY CONSTRUCTION MANAGEMENT, INC.,)	
and FACILITY DESIGN GROUP, INC.,)	
)	
Defendants.)	
_____)	

DEFENDANTS’ MOTION FOR BILL OF PARTICULARS

NOW BEFORE THE COURT come the Defendants, Robert L. Moultrie, Nixon E. Cawood, Charles K. Morehead, Facility Holding Corp. d/b/a The Facility Group, Facility Management Group, Inc., Facility Construction Management, Inc., and Facility Design Group, Inc., by and through undersigned counsel, and pursuant to Federal Rule of Criminal Procedure 7(f) move for an order directing the government to file a bill of particulars as follows, for reasons set forth more fully in the accompanying memorandum filed this date:

The Superseding Indictment Generally: Use of Indefinite Terms

1. With regard to the following paragraphs of the Superseding Indictment, specify whether use of the term “THE FACILITY GROUP” refers to only the corporate defendant, Facility Holding Corp., or which of each of the seven (7) Defendants are referred to in:

- i. Count 1, ¶'s 2, 6, 8, 10, 13, 15, 16, 17, 18, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, and 44.
 - ii. Count 2, ¶'s 2, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, and 32.
 - iii. Paragraphs 2 in Counts 3 through 16.
2. In the paragraphs above, where the term THE FACILITY GROUP refers to any of the Defendants, describe the acts or omissions alleged against each Defendant. Such clarification is necessary in order for each Defendant to be on notice of the acts alleged to have been committed.
3. State what "FCMI" stands for and what specific Defendant(s) "FCMI" is meant to refer to in each reference throughout the Superseding Indictment.
4. Where "FCMI" refers to any of the Defendants, describe the acts or omissions alleged against each Defendant. Such clarification is necessary in order for each Defendant to be on notice of the acts alleged to have been committed.

Bill of Particulars specific to Count 1

5. State whether Count 1 charges only a conspiracy to bribe in violation of 18 U.S.C. § 666(a)(2) [at ¶ 2 of Count 1] or whether it also charges a conspiracy to submit false invoices to be reimbursed for campaign contributions and expenses [at ¶'s 22, 26, 27, 44 of Count 1].
6. State whether Count 1 alleges a conspiracy to influence the "public official" or a conspiracy to reward the "public official."
7. Count 1, ¶ 2 states that the Defendants "did knowingly and willfully conspire with each other and with **others known and unknown to the Grand Jury.**" State the

- identity of the “others known . . . to the Grand Jury” and state the specific acts or omissions committed by them that show they conspired with the Defendants to violate 18 U.S.C. § 666(a)(2).
8. Name of all individuals which the Government will allege at trial were co-conspirators in the conspiracy as to Count One of the Superseding Indictment.
 9. Count 1, ¶ 12 alleges that “the public official told an employee of Carothers Construction . . .” and that “the public official then met alone with Sean Carothers to discuss Carothers’ proposal.” Identify the employee referred to in this allegation.
 10. State what, if anything, else is alleged to have been discussed during this event alleged in Count 1, ¶ 12 and referred to above.
 11. Count 1, ¶ 16 alleges that Robert L. Moultrie and Nixon E. Cawood instructed “employees . . . to issue personal checks payable to the public official.” Identify each employee instructed to issue such personal checks and identify which of the Defendants so instructed the employee.
 12. Count 1, ¶ 22 alleges that invoices were submitted for the purpose of recouping (A) campaign contributions by the PAC and (B) reimbursing employees who had made their own campaign contributions. Identify which items in which invoices were false and made false for the purpose of recouping this money.
 13. For each item in the invoices identified above, further identify to which campaign contribution made by the PAC or to which employee reimbursement the identified false invoice was intended to recoup.

Bill of Particulars specific to Counts 2-16

14. Identify all of the “private companies and persons,” referred to in Count 2, ¶ 2.

15. Paragraph 20 of Count 2 refers to “another employee.” Identify “another employee.”
16. Paragraph 24 of Count 2 refers to “employees.” Identify all of those employees.
17. Paragraph 11 of Count 2 refers to “overbilling.” Please identify how such “overbilling” took place, who participated or was involved or responsible for such “overbilling,” when such “overbilling” took place, and how such “overbilling” allegedly violated the Project Management Agreement.
18. Paragraph 12 of Count 2 refers to “false labor billings.” Please identify how such “false labor billings” took place, who participated or was involved or responsible for such “false labor billings,” when such “false labor billings” took place, and how such “false labor billings” allegedly violated the Project Management Agreement.
19. Paragraph 13 of Count 2 refers to “change orders.” Please identify how such “change orders” took place, who participated or was involved or responsible for such “change orders,” when such “change orders” took place, and how such “change orders” allegedly violated the Project Management Agreement.
20. Paragraph 27 of Count 2 refers to “contingencies.” Please identify how such “contingencies” took place, who participated or was involved or responsible for such “contingencies,” when such “contingencies” took place, and how such “contingencies” allegedly violated the Project Management Agreement.
21. State the acts and omissions by which each Defendant is alleged to have defrauded, by submission of fraudulent requests for payment, (1) “private

companies and persons who supplied services and products to the Mississippi Beef Processors plant,” (2) the State of Mississippi and (3) the citizens and taxpayers of Mississippi.

22. State the acts and omissions of each Defendant alleged to have defrauded the above named private companies and persons.
23. State the names of all individuals the Government will allege at trial were co-conspirators as to Counts Two through Sixteen of the Superseding Indictment.
24. State the names of all individuals the Government will allege at trial who aided or abetted in connection with the charges set forth in Counts Two through Sixteen of the Superseding Indictment.

Alleged Fraudulent Billing under Counts 2 through 16

25. State how each request for payment constituted fraud in Counts 2 through 16 of the Superseding Indictment, identifying what particular aspects of each request for billing were fraudulent.
26. Identify what conduct was engaged in by each Defendant in furtherance of the alleged fraudulent requests for payment identified above.

Inclusion of Count 1 into Counts 2 through 16

27. State whether Counts 2 through 16 only charge a scheme to defraud in violation of 18 U.S.C. §§ 1341 and 2.

Respectfully submitted this 10th day of July, 2008.

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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of July, 2008, I have caused a copy of the foregoing to be electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following CM/ECF participant attorneys of record:

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