

Kob
6/1/16



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June 1, 2016

Katherine Newberger, Esq.
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100 S. Charles Street, Tower II, 9th floor
Baltimore, MD 21201

2016 AUG 31 PM 3:26
U.S. DISTRICT COURT
DISTRICT OF MARYLAND
CLERK OF COURT
RECEIVED

Re: United States v. James T. Shank, MJG-15-530

Dear Counsel:

This letter, together with the Sealed Supplement, confirms the plea agreement which has been offered to the Defendant by the United States Attorney's Office for the District of Maryland ("this Office"). If the Defendant accepts this offer, please have him execute it in the spaces provided below. If this offer has not been accepted by July 8, 2016, it will be deemed withdrawn. The terms of the agreement are as follows:

Offense of Conviction

1. The Defendant agrees to plead guilty to Count One of the indictment now pending against him charging him with conspiracy to commit wire fraud, in violation of 18 U.S.C. § 1349. The Defendant admits that he is, in fact, guilty of that offense and will so advise the Court.

Elements of the Offense

2. The elements of the offense to which the Defendant has agreed to plead guilty, and which this Office would prove if the case went to trial, are as follows:
 - a. First, the Defendant and at least one other person entered into an unlawful agreement.
 - b. Second, the purpose of the agreement was to knowingly execute or attempt to execute a scheme or artifice to defraud the United States and to obtain money and property by means of false and fraudulent pretenses, representations and promises and to cause the transmission of certain writings and signals in interstate commerce for the purpose of executing such scheme or artifice to defraud.

c. Third, the Defendant knowingly and willfully became a member of the conspiracy.

Penalties

3. The maximum sentence provided by statute for the offense to which the Defendant is pleading guilty is as follows: a 20 year term of incarceration, 3 years of supervised release and a \$250,000 fine or a fine equal to twice the gross gain or loss caused by the offense, whichever is greater. In addition, the Defendant must pay \$100 as a special assessment pursuant to 18 U.S.C. § 3013, which will be due and should be paid at or before the time of sentencing. This Court may also order him to make restitution pursuant to 18 U.S.C. §§ 3663, 3663A, and 3664.¹ If a fine or restitution is imposed, it shall be payable immediately, unless, pursuant to 18 U.S.C. § 3572(d), the Court orders otherwise. The Defendant understands that if he serves a term of imprisonment, is released on supervised release, and then violates the conditions of his supervised release, his supervised release could be revoked - even on the last day of the term - and the Defendant could be returned to custody to serve another period of incarceration and a new term of supervised release. The Defendant understands that the Bureau of Prisons has sole discretion in designating the institution at which the Defendant will serve any term of imprisonment imposed.

Waiver of Rights

4. The Defendant understands that by entering into this agreement, he surrenders certain rights as outlined below:
- a. If the Defendant had persisted in his plea of not guilty, he would have had the right to a speedy jury trial with the close assistance of competent counsel. That trial could be conducted by a judge, without a jury, if the Defendant, this Office, and the Court all agreed.
 - b. If the Defendant elected a jury trial, the jury would be composed of twelve individuals selected from the community. Counsel and the Defendant would have the opportunity to challenge prospective jurors who demonstrated bias or who were otherwise unqualified, and would have the opportunity to strike a certain number of jurors peremptorily. All twelve jurors would have to agree unanimously before the Defendant could be found guilty of any count. The jury would be instructed that the Defendant was presumed to be innocent, and that presumption could be overcome only by proof beyond a reasonable doubt.

¹ Pursuant to 18 U.S.C. § 3612, if the Court imposes a fine in excess of \$2,500 that remains unpaid 15 days after it is imposed, the Defendant shall be charged interest on that fine, unless the Court modifies the interest payment in accordance with 18 U.S.C. § 3612(f)(3).

- c. If the Defendant went to trial, the government would have the burden of proving the Defendant guilty beyond a reasonable doubt. The Defendant would have the right to confront and cross-examine the government's witnesses. The Defendant would not have to present any defense witnesses or evidence whatsoever. If the Defendant wanted to call witnesses in his defense, however, he would have the subpoena power of the Court to compel the witnesses to attend.
- d. The Defendant would have the right to testify in his own defense if he so chose, and he would have the right to refuse to testify. If he chose not to testify, the Court could instruct the jury that they could not draw any adverse inference from his decision not to testify.
- e. If the Defendant were found guilty after a trial, he would have the right to appeal the verdict and the Court's pretrial and trial decisions on the admissibility of evidence to see if any errors were committed which would require a new trial or dismissal of the charges against him. By pleading guilty, the Defendant knowingly gives up the right to appeal the verdict and the Court's decisions.
- f. By pleading guilty, the Defendant will be giving up all of these rights, except the right, under the limited circumstances set forth in the "Waiver of Appeal" paragraph below, to appeal the sentence. By pleading guilty, the Defendant understands that he may have to answer the Court's questions both about the rights he is giving up and about the facts of his case. Any statements the Defendant makes during such a hearing would not be admissible against him during a trial except in a criminal proceeding for perjury or false statement.
- g. If the Court accepts the Defendant's plea of guilty, there will be no further trial or proceeding of any kind, and the Court will find him guilty.
- h. By pleading guilty, the Defendant will also be giving up certain valuable civil rights and may be subject to deportation or other loss of immigration status.
- i. The Defendant recognizes that if he is not a citizen of the United States, pleading guilty may have consequences with respect to his immigration status. Under federal law, conviction for a broad range of crimes can lead to adverse immigration consequences, including automatic removal from the United States. Removal and other immigration consequences are the subject of a separate proceeding, however, and the Defendant understands that no one, including his attorney or the Court, can predict with certainty the effect of a conviction on immigration status. Defendant nevertheless affirms that he wants to plead guilty regardless of any potential immigration consequences.

Advisory Sentencing Guidelines Apply

5. The Defendant understands that the Court will determine a sentencing guidelines range for this case (henceforth the "advisory guidelines range") pursuant to the Sentencing Reform Act of 1984 at 18 U.S.C. §§ 3551-3742 (excepting 18 U.S.C. §§ 3553(b)(1) and 3742(e)) and 28 U.S.C. §§ 991 through 998. The Defendant further understands that the Court will impose a sentence pursuant to the Sentencing Reform Act, as excised, and must take into account the advisory guidelines range in establishing a reasonable sentence.

Factual and Advisory Guidelines Stipulation

6. This Office and the Defendant understand, agree and stipulate to the Statement of Facts set forth in Attachment A hereto which this Office would prove beyond a reasonable doubt, and to the following applicable sentencing guidelines factors:
- a. Pursuant to U.S.S.G. § 2B1.1(a)(1), the base offense level is seven (7).
 - b. Pursuant to U.S.S.G. § 2B1.1(b)(1)(L), the base offense level is increased by twenty (22) levels because the loss was more than \$25,000,000 but less than \$65,000,000, resulting in an adjusted base offense level of twenty-seven (29).
 - c. Pursuant to U.S.S.G. § 3B1.3, the base offense level is increased by 2 levels because the defendant abused a position of public trust.

This Office does not oppose a two-level reduction in the Defendant's adjusted offense level, based upon the Defendant's apparent recognition and affirmative acceptance of personal responsibility for his criminal conduct. This Office will make a motion pursuant to U.S.S.G. § 3E1.1(b) for an additional one-level decrease in recognition of the Defendant's timely notification of his intention to plead guilty. This Office may oppose *any* adjustment for acceptance of responsibility if the Defendant (a) fails to admit each and every item in the factual stipulation; (b) denies involvement in the offense; (c) gives conflicting statements about his involvement in the offense; (d) is untruthful with the Court, this Office, or the United States Probation Office; (e) obstructs or attempts to obstruct justice prior to sentencing; (f) engages in any criminal conduct between the date of this agreement and the date of sentencing; or (g) attempts to withdraw his plea of guilty.

7. The Defendant understands that there is no agreement as to his criminal history or criminal history category, and that his criminal history could alter his offense level if he is a career offender or if the instant offense was a part of a pattern of criminal conduct from which he derived a substantial portion of his income.

8. This Office and the Defendant agree that with respect to the calculation of the advisory guidelines range, no other offense characteristics, sentencing guidelines factors, potential departures or adjustments set forth in the United States Sentencing Guidelines will be raised or are in dispute. The Defendant and this Office have reserved the right to argue for any factor under 18 U.S.C. 3553(a) that could take the sentence outside of the advisory guidelines range.

Obligations of the United States Attorney's Office

9. At the time of sentencing, this Office will recommend a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in 18 U.S.C. Section 3553(a) and forfeiture and restitution.
10. The parties reserve the right to bring to the Court's attention at the time of sentencing, and the Court will be entitled to consider, all relevant information concerning the Defendant's background, character and conduct, including any uncharged conduct.

Forfeiture

11. The Defendant understands that the Court will, upon acceptance of his guilty plea, enter an order of forfeiture as part of his sentence, and that the order of forfeiture may include assets directly traceable to his offense, substitute assets and/or a money judgment equal to the value of the property derived from, or otherwise involved in, the offense. Specifically, the Court will order the forfeiture of all property involved in the offense, including but not limited to the following: **a money judgment in the amount of at least \$86,000.**
12. The Defendant agrees to consent to the entry of orders of forfeiture for such property and waives the requirements of Federal Rules of Criminal Procedure 11(b)(1)(J), 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, advice regarding the forfeiture at the change-of-plea hearing, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment.

Assisting the Government with Regard to the Forfeiture

13. The Defendant agrees to assist fully in the forfeiture of the foregoing assets. The Defendant agrees to disclose all of his assets and sources of income to the United States, and to take all steps necessary to pass clear title to the forfeited assets to the United States, including but not limited to executing any and all documents necessary to transfer such title, assisting in bringing any assets located outside of the United States within the jurisdiction of the United States, and taking whatever steps are necessary to ensure that assets subject to forfeiture are not sold, disbursed, wasted, hidden or otherwise made unavailable for forfeiture. The Defendant also agrees to give this Office permission to

request and review his federal and state income tax returns, and any credit reports maintained by any consumer credit reporting entity, until such time as the money judgment is satisfied. In this regard, the Defendant agrees to complete and sign a copy of IRS Form 8821 (relating to the voluntary disclosure of federal tax return information) as well as whatever disclosure form may be required by any credit reporting entity.

Waiver of Further Review of Forfeiture

14. The Defendant further agrees to waive all constitutional, legal and equitable challenges (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this plea agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. The Defendant also agrees not to challenge or seek review of any civil or administrative forfeiture of any property subject to forfeiture under this agreement, and will not assist any third party with regard to such challenge or review or with regard to the filing of a petition for remission of forfeiture.

Restitution

15. The Defendant agrees to the entry of a Restitution Order for the full amount of the victim's losses. The Defendant agrees that, pursuant to 18 U.S.C. §§ 3663 and 3663A and §§ 3563(b)(2) and 3583(d), the Court may order restitution of the full amount of the actual, total loss caused by the offense conduct. The Defendant further agrees that he will fully disclose to the probation officer and to the Court, subject to the penalty of perjury, all information, including but not limited to copies of all relevant bank and financial records, regarding the current location and prior disposition of all funds obtained as a result of the criminal conduct set forth in the factual stipulation. The Defendant further agrees to take all reasonable steps to retrieve or repatriate any such funds and to make them available for restitution. If the Defendant does not fulfill this provision, it will be considered a material breach of this plea agreement, and this Office may seek to be relieved of its obligations under this agreement.

Collection of Financial Obligations

16. The Defendant expressly authorizes the U.S. Attorney's Office to obtain a credit report in order to evaluate the Defendant's ability to satisfy any financial obligation imposed by the Court.
17. In order to facilitate the collection of financial obligations to be imposed in connection with this prosecution, the Defendant agrees to disclose fully all assets in which the Defendant has any interest or over which the Defendant exercises control, directly or indirectly, including those held by a spouse, nominee or other third party.
18. The Defendant will promptly submit a completed financial statement to the United States Attorney's Office, in a form this Office prescribes and as it directs. The Defendant promises that the financial statement and disclosures will be complete, accurate and truthful, and understands that any willful falsehood on the financial statement will be a separate crime and may be punished under 18 U.S.C. § 1001 by an additional five years' incarceration and fine.

Waiver of Appeal

19. In exchange for the concessions made by this Office and the Defendant in this plea agreement, this Office and the Defendant waive their rights to appeal as follows:
 - a. The Defendant knowingly waives all right, pursuant to 28 U.S.C. § 1291 or otherwise, to appeal the Defendant's conviction;
 - b. The Defendant and this Office knowingly waive all right, pursuant to 18 U.S.C. § 3742 or otherwise, to appeal whatever sentence is imposed, including the right to appeal any issues that relate to the establishment of the advisory guidelines range, the determination of the defendant's criminal history, the weighing of the sentencing factors, and the decision whether to impose and the calculation of any term of imprisonment, fine, order of forfeiture, order of restitution, and term or condition of supervised.
 - c. Nothing in this agreement shall be construed to prevent the Defendant or this Office from invoking the provisions of Federal Rule of Criminal Procedure 35(a), or from appealing from any decision thereunder, should a sentence be imposed that resulted from arithmetical, technical, or other clear error.
 - d. The Defendant waives any and all rights under the Freedom of Information Act relating to the investigation and prosecution of the above-captioned matter and agrees not to file any request for documents from this Office or any investigating agency.

Obstruction or Other Violations of Law

20. The Defendant agrees that he will not commit any offense in violation of federal, state or local law between the date of this agreement and his sentencing in this case. In the event that the Defendant (i) engages in conduct after the date of this agreement which would justify a finding of obstruction of justice under U.S.S.G. § 3C1.1, or (ii) fails to accept personal responsibility for his conduct by failing to acknowledge his guilt to the probation officer who prepares the Presentence Report, or (iii) commits any offense in violation of federal, state or local law, then this Office will be relieved of its obligations to the Defendant as reflected in this agreement. Specifically, this Office will be free to argue sentencing guidelines factors other than those stipulated in this agreement, and it will also be free to make sentencing recommendations other than those set out in this agreement. As with any alleged breach of this agreement, this Office will bear the burden of convincing the Court of the Defendant's obstructive or unlawful behavior and/or failure to acknowledge personal responsibility by a preponderance of the evidence. The Defendant acknowledges that he may not withdraw his guilty plea because this Office is relieved of its obligations under the agreement pursuant to this paragraph.

Court Not a Party

21. The Defendant expressly understands that the Court is not a party to this agreement. In the federal system, the sentence to be imposed is within the sole discretion of the Court. In particular, the Defendant understands that neither the United States Probation Office nor the Court is bound by the stipulation set forth above, and that the Court will, with the aid of the Presentence Report, determine the facts relevant to sentencing. The Defendant understands that the Court cannot rely exclusively upon the stipulation in ascertaining the factors relevant to the determination of sentence. Rather, in determining the factual basis for the sentence, the Court will consider the stipulation, together with the results of the presentence investigation, and any other relevant information. The Defendant understands that the Court is under no obligation to accept this Office's recommendations, and the Court has the power to impose a sentence up to and including the statutory maximum stated above. The Defendant understands that if the Court ascertains factors different from those contained in the stipulation set forth above, or if the Court should impose any sentence up to the maximum established by statute, the Defendant cannot, for that reason alone, withdraw his guilty plea, and will remain bound to fulfill all of his obligations under this agreement. The Defendant understands that neither the prosecutor, his counsel, nor the Court can make a binding prediction, promise, or representation as to what guidelines range or sentence the Defendant will receive. The Defendant agrees that no one has made such a binding prediction or promise.

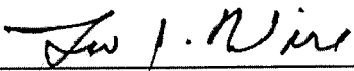
Entire Agreement

22. This letter supersedes any prior understandings, promises, or conditions between this Office and the Defendant and, together with the Sealed Supplement, constitutes the complete plea agreement in this case. The Defendant acknowledges that there are no other agreements, promises, undertakings or understandings between the Defendant and this Office other than those set forth in this letter and the Sealed Supplement and none will be entered into unless in writing and signed by all parties.

If the Defendant fully accepts each and every term and condition of this agreement, please sign and have the Defendant sign the original and return it to me promptly.


Very truly yours,

Rod J. Rosenstein
United States Attorney

By: 
Léo J. Wise
Philip Selden
Assistant United States Attorneys

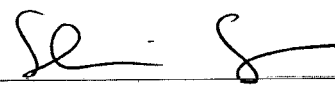
I have read this agreement, including the Sealed Supplement, and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Specifically, I have reviewed the Factual and Advisory Guidelines Stipulation with my attorney, and I do not wish to change any part of it. I am completely satisfied with the representation of my attorney.

6/28/16
Date


James T. Shank

I am the Defendant's attorney. I have carefully reviewed every part of this agreement, including the Sealed Supplement, with him. He advises me that he understands and accepts its terms. To my knowledge, his decision to enter into this agreement is an informed and voluntary one.

6/28/16
Date


Katherine Newberger, Esq.
Shari Silver

ATTACHMENT A
STATEMENT OF FACTS

It is agreed and stipulated that were the Government to proceed to trial in this case, it would prove, beyond a reasonable doubt, by admissible testimonial and documentary evidence the guilt of the Defendant on the charge of wire fraud conspiracy, in violation of 18 U.S.C. § 1349.

The Defendant agrees to the truth of the summary of evidence set forth below and acknowledges that it does not represent all the evidence the Government would have produced had the case proceeded to trial.

Relevant Persons and Organizations

1. **JAMES T. SHANK** was a resident of Perry, Georgia.
2. From on or about August 28, 2006 until he retired on or about June 30, 2011, **SHANK** was employed as a Program Manager at the United States Navy's Space and Naval Warfare (SPAWAR) Systems Center, which is headquartered in Charleston, South Carolina. **SHANK** worked with various military services and agencies within the United States Department of Defense to procure telecommunications equipment and software and related services.
3. Co-Conspirator 1 was a Department of Defense Account Manager for Iron Bow Technologies, LLC (Iron Bow).
4. Co-Conspirator 1 was an owner of and operated Superior Communications Solutions, Inc. (SCSI).
5. Co-Conspirator 2 was a program manager for Advanced C4 Solutions, or AC4S, from 2005 until 2011. In 2011, Co-Conspirator 2 left AC4S and went to work for Co-Conspirator 1 at SCSI.

6. Joint Base Andrews was a United States military facility located in Prince George's County, Maryland. The facility was under the jurisdiction of the United States Air Force 11th Wing, Air Force District of Washington (hereafter "AFDW").
7. The Defense Contract Management Agency (DCMA) was a United States government agency that managed procurements for the United States Department of Defense, including at Joint Base Andrews. DCMA was located in Baltimore, Maryland.
8. Optivor LLC was an information technology company located in Annapolis Junction, Maryland.
9. Tribalco LLC was an information technology with offices in Bethesda, Maryland.

The Jones and Smart Buildings Project

10. In 2009, AFDW began the process of procuring Gigabyte Passive Optical Networking or GPON technology for two buildings at Joint Base Andrews, the William A. Jones III Building (hereafter the "Jones Building") and the Jacob E. Smart Building (hereafter the "Smart Building"). This project encompassed multiple delivery orders for telecommunications equipment, awarded to Iron Bow, a delivery order for labor to install the GPON technology, awarded to AC4S, and a delivery order for telephones and related licenses, awarded to Tribalco. Ultimately, the project also encompassed procuring furniture for the Jones and Smart buildings through two delivery orders issued to Iron Bow. SCSI acted as a subcontractor to Iron Bow and AC4S.
11. **SHANK** was the SPAWAR program manager for the Jones and Smart Buildings project. **SHANK** prepared statements of work for the project and helped prepare bid packages for

the contracting officers assigned to the project. **SHANK** was the “originator” on the labor portion of the project, which was called “Delivery Order 27” or “DO27” for contract number N65236-08-D-280027, and on more than 11 delivery orders, all issued under contract number W91QUZ-07-D-0010, that purchased telecommunications equipment and furniture, as described below, for the Jones and Smart buildings. As the “originator,” **SHANK** formally initiated the procurement process for these goods and services. The contracting officers that awarded DO27 and the other delivery orders described below relied on **SHANK** for accurate information about the goods and services that were being procured.

12. Co-Conspirator 2 was the project manager for Delivery Order 27. Co-Conspirator 2 also had certain responsibilities for managing the receipt of hardware that was installed in the Jones and Smart Buildings pursuant to DO27.

A. Delivery Order 27 (the Labor Contract)

13. **SHANK**, Co-Conspirator 1 and Co-Conspirator 2 developed a request for proposal (hereafter “RFP”) for DO27, the labor portion of the Jones and Smart Buildings project, including for overall project management services.
14. **SHANK** and Co-Conspirator 2 drafted the RFP for the labor portion of the project so that AC4S would win the contract. This gave AC4S an unfair advantage over other companies bidding on the project.
15. Co-Conspirator 1 provided Co-Conspirator 2 with a quote for labor to install the GPON technology at the Jones and Smart Buildings, and other locations, submitted on behalf of

SCSI, that was less than a quote Iron Bow had submitted. Co-Conspirator 1 knew what Iron Bow had bid because Co-Conspirator 1 also submitted Iron Bow's quote in his role as a sales representative for Iron Bow.

16. On June 10, 2010, DO27 was awarded to AC4S in the amount of \$18,332,738.10.

17. While **SHANK** was the SPAWAR program manager for the Jones and Smart Buildings project, on June 10, 2010, **SHANK** was also formally appointed the Delivery Order Contract Officer's Representative (DOCOR) for DO27. A DOCOR functions as the "eyes and ears" of the Contracting Officer, including monitoring technical performance and reporting any potential or actual problems to the Contracting Officer and is responsible for verifying satisfactory contract performance and timely delivery as set forth in the contract. A DOCOR performs this role by observing and documenting the contractor's technical performance and reporting it to the Contracting Officer.

18. While SCSI was selected as a subcontractor on DO27, and Iron Bow was not, employees of Iron Bow did the work called for under SCSI's subcontract. While SCSI did little to no work, Co-Conspirator 1 was able to earn income from the work Iron Bow employees were doing by having SCSI act as a middleman and charge a mark-up on Iron Bow's work.

19. SCSI received \$6,794,432.98 on DO27 out of the \$18 million AC4S received for providing labor for the project.

B. Hardware and Furniture Delivery Orders

20. **SHANK** was the originator on multiple delivery orders issued under contract number W91QUZ-07-D-0010 to Iron Bow in 2010 and 2011 that totaled more than \$35 million.
21. The contract and delivery orders were issued under the Information Technology Enterprise Solutions (ITES)-2H program for the procurement of "IT equipment for server, storage, and network environments as well as all associated services."
22. Delivery orders V7LJ, V7MD, V7MP, V7N7, V7ND, V7QR, V7B7 and V7D5 included telecommunications equipment and/or furniture that was assigned SCSI-specific part numbers. These part numbers were created by Co-Conspirator 1. The use of SCSI specific part numbers meant that SCSI was guaranteed to receive revenue from these delivery orders.
23. SCSI received approximately \$33 million of the \$35 million paid to Iron Bow under the various furniture and equipment delivery orders originated by **SHANK**.
24. While the ITES-2H program was a procurement program for technology hardware, **SHANK** and Co-Conspirator 1 used the ITES-2H as a vehicle to steer the purchase of furniture for the Jones and Smart buildings to SCSI. Co-Conspirator 1 took multiple items of commercially available furniture, bundled them together and assigned them an SCSI specific number and a price that included a significant mark up over what SCSI paid the furniture manufacturer for the items. **SHANK** then submitted to SPAWAR contracting officers a purchase order asking for authority to buy the bundle of furniture that bore the SCSI specific part number.

25. Delivery order V7MD, in the amount of \$7,359,999.98 and delivery order V7MP, in the amount of \$16,034,843.79, contained furniture. As a subcontractor to Iron Bow, SCSI obtained the furniture procured through these delivery orders. Co-Conspirator 1 charged the United States a 25 percent markup on furniture purchased under these two purchase orders, resulting in a profit of more than \$6 million.
26. In addition, from 2010 until his retirement in June 2011, **SHANK** falsely certified that the United States government received more than \$1 million worth of goods under the W91QUZ-07-D-0010 contract that the government did not in fact receive.

C. Telephones and Licenses Contract

27. In February 2011, **SHANK** was attempting to procure telephones and related licenses for the Jones and Smart buildings. On February 28, 2011, **SHANK** received a bid from Optivor LLC. That same day, **SHANK** shared Optivor's bid with Co-Conspirator 1 and Co-Conspirator 2. **SHANK** emailed Co-Conspirator 1 and copied Co-Conspirator 2 at his AC4S email account. In his email, **SHANK** wrote, "[Co-Conspirator 1], Here are the quotes.....what do you think? Do you want to step into the fray?.....I'll call around 1330." Attached to his email was Optivor's bid.
28. AC4S, Iron Bow and SCSI did not bid on the contract because they were not eligible to do so. Ultimately, Tribalco LLC was awarded the contract for telephones and licenses at the Jones and Smart Building under contract number N65236-10-D-5102, a contract administered by DCMA in Baltimore, Maryland.

D. Employment with SCSi for SHANK

29. In late 2010 or early 2011, Co-Conspirator 1 offered **SHANK** employment. **SHANK** did not disclose that fact to anyone at SPAWAR and did not recuse himself from any of the contracts that benefited Co-Conspirator 1.
30. In March 2011, AC4S stopped working on the Jones and Smart Buildings project because it claimed that it was running out of funds under DO27. At that point, the project was not complete. Further, SCSi and AC4S were in a dispute over which company was supposed to actually install the furniture and other equipment in the Jones and Smart Buildings, with each claiming it was the other company's responsibility.
31. On March 26, 2011, as a result of the breakdown of the project, **SHANK** was directed by R.J., a senior manager at SPAWAR, to "pause everything on AFDW and run it through me."
32. In April 2011, **SHANK** accepted more than \$3.7 million worth of invoices that benefited SCSi without informing R.J.
33. On April 26, 2011, **SHANK** was replaced as the DOCOR appointed to DO27.
34. By May 18, 2011, **SHANK** had accepted an offer of employment from Co-Conspirator 1. **SHANK** did not disclose that fact to anyone at SPAWAR and did not recuse himself from continued participation in any of the contracts that benefited Co-Conspirator 1.
35. After May 18, 2011, **SHANK** accepted more than \$1.1 million worth of invoices that benefited SCSi and, therefore, Co-Conspirator 1, as one of its owners.
36. On June 17, 2011, S.B., the Chief Executive Officer of SCSi at the time, emailed **SHANK** an "ORDER DELIVERY ACCEPTANCE" form which stated, "This is to

acknowledge all items contained in V7ND Mod 2 have been delivered complete as of June 17, 2010 [sic].” **SHANK** signed the form as the “PM” or project manager for SPAWAR and S.B. signed the form as CEO of SCSI. The form was dated June 17, 2011. Further, in the email to which the signed form was attached, **SHANK** wrote, “I already approved payment in WAWF.” Wide Area Work Flow (WAWF) is an online platform where government contractors can upload invoices and then receive payments after the responsible government official has certified that the work for which payment is sought has been performed. SCSI received \$537,772.86 of the \$563,112.95 paid out to Iron Bow as a result of **SHANK**’s delivery acceptance.

37. **SHANK** retired from SPAWAR on June 30, 2011.

38. Between July 2011 until August 2012, Co-Conspirator 1 paid **SHANK** approximately \$86,000. The funds that Co-Conspirator 1 paid **SHANK** were funneled through T&M Communications, LLC, a company owned by T.R., a senior executive at SCSI, who ultimately paid out the funds to **SHANK**. Further, in some instances funds paid to **SHANK** were also funneled through Decision Point Technologies, LLC, another company owned by Co-Conspirator 1. **SHANK** did no work for Decision Point Technologies or T&M Communications in that time period.

39. **SHANK** received an offer of employment and \$86,000 for official acts associated with delivery order 27 under contract number N65236-08-D-2800 and delivery orders V7LJ, V7MD, V7MP, V7N7, V7ND, V7QR, V7B7 and V7D5 under contract number W91QUZ07D0010.

40. At all times, **SHANK** acted willfully with the intent to defraud.