

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:20-CR-481-1FL(2)

FILED IN OPEN COURT
ON 10/21/20 BET
Peter A. Moore, Jr., Clerk
US District Court
Eastern District of NC

UNITED STATES OF AMERICA)

v.)

BRENT BREWBAKER;)
CONTECH ENGINEERED)
SOLUTIONS LLC)

INDICTMENT

The Grand Jury charges that, at all times relevant to this Indictment:

1. The North Carolina Department of Transportation (“NCDOT”) was responsible for maintaining the transportation infrastructure for North Carolina. NCDOT solicited bids for transportation projects and improvements, including structures used to control the flow of water around roads, bridges, overpasses, and other civil engineering projects. During the relevant period, NCDOT increasingly used aluminum structures for these purposes, although the structures can also be made from concrete or steel. These structures were funded by the United States Department of Transportation and the state of North Carolina.

2. From at least as early as 2009 and continuing through at least June 2018, Defendant BRENT BREWBAKER and Defendant CONTECH ENGINEERED SOLUTIONS LLC (“Defendants”) obtained bid prices from COMPANY A and submitted bids to NCDOT for aluminum structure projects that were intentionally higher than COMPANY A’s bids. Defendants manipulated the price of those bids to conceal their conspiracy with COMPANY A. Defendants submitted these bids with

signed certifications attesting that “. . . this [bid] is submitted competitively and without collusion,” knowing that those bids and certifications were false, fraudulent and misleading.

Defendants and Co-Conspirators

3. Defendant CONTECH ENGINEERED SOLUTIONS LLC, a corporation headquartered in West Chester, Ohio, did business in the Eastern District of North Carolina and elsewhere in the United States. Defendant CONTECH ENGINEERED SOLUTIONS LLC makes products such as iron, steel, plastic and aluminum pipe and fittings used for bridge construction, water drainage, erosion control, sewage management, and stormwater management. From at least as early as 2009 and continuing through at least the fall 2018, Defendant CONTECH ENGINEERED SOLUTIONS LLC submitted bids to NCDOT for aluminum structure projects. Defendant CONTECH ENGINEERED SOLUTIONS LLC manufactured aluminum pieces used to form the structures in Kentucky, and shipped them to North Carolina for fabrication and installation.

4. Defendant BRENT BREWBAKER is a citizen of the United States and a resident of North Carolina. From at least as early as 2009 and continuing through at least the fall 2018, Defendant BRENT BREWBAKER was the Defendant CONTECH ENGINEERED SOLUTIONS LLC employee responsible for crafting and submitting aluminum structure bids on behalf of Defendant CONTECH ENGINEERED SOLUTIONS LLC to NCDOT and directed the preparation.

execution, and submission of each bid package, including the anti-collusion certification.

5. Cooperating witness 1 ("CW-1"), a co-conspirator and a person known to the grand jury, was an employee of Defendant CONTECH ENGINEERED SOLUTIONS LLC who reported to Defendant BRENT BREWBAKER and who prepared, executed, and submitted each aluminum structure bid package to NCDOT, including the signing of the anti-collusion certification, at Defendant BRENT BREWBAKER's direction.

6. COMPANY A, a co-conspirator and a corporation known to the grand jury, is an aluminum structure design and installation company that did business in the Eastern District of North Carolina, and elsewhere in the United States. From at least as early as 2009 and continuing through at least June 2018, COMPANY A submitted bids to NCDOT for aluminum structure projects.

7. Beginning before 2009 and continuing through at least June 2018, Company A served as a dealer for Defendant CONTECH ENGINEERED SOLUTIONS LLC. As part of that relationship, Defendant CONTECH ENGINEERED SOLUTIONS LLC regularly sold aluminum pieces, manufactured in Kentucky, to COMPANY A. COMPANY A used these aluminum pieces to complete work on behalf of NCDOT, including for aluminum structure projects.

8. During the conspiracy period, Defendant CONTECH ENGINEERED SOLUTIONS LLC, COMPANY A, and others submitted bids for NCDOT aluminum structure projects.

9. Cooperating witness 2 (“CW-2”), a co-conspirator and person known to the grand jury, was an employee of COMPANY A who directed the preparation, execution, and submission of aluminum structure bid packages to NCDOT, including regularly signing the anti-collusion certification.

10. Cooperating witness 3 (“CW-3”), a co-conspirator and person known to the grand jury, was an employee of COMPANY A who assisted with the preparation, execution, and submission of aluminum structure bid packages to NCDOT.

11. Others not made defendants in this Indictment participated as co-conspirators in the offenses charged herein and performed acts and made statements in furtherance of the conspiracy.

12. Whenever in this Indictment reference is made to any act, deed, or transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, agents, employees, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

Factual Background

13. From at least 2009 and continuing until at least June 2018, Defendant CONTECH ENGINEERED SOLUTIONS LLC and COMPANY A regularly submitted bids for aluminum structure projects in response to bid solicitations from NCDOT.

14. During the relevant time period, Defendant CONTECH ENGINEERED SOLUTIONS LLC and COMPANY A, by prior arrangement, rigged those bids so that

Defendant CONTECH ENGINEERED SOLUTIONS LLC would submit an intentionally higher bid. To this end, after soliciting COMPANY A's total bid price for a specific project, most often through or at the direction of Defendant BRENT BREWBAKER, Defendant CONTECH ENGINEERED SOLUTIONS LLC submitted a rigged bid to NCDOT that was intentionally higher than COMPANY A's bid.

15. Before submitting bids to NCDOT on behalf of Defendant CONTECH ENGINEERED SOLUTIONS LLC, Defendant BRENT BREWBAKER contacted employees at COMPANY A, including CW-2 and CW-3, among others. Defendant BRENT BREWBAKER requested and received COMPANY A's total bid price for upcoming NCDOT aluminum structure projects. Between 2009 and at least June 2018, Defendant BRENT BREWBAKER solicited from COMPANY A's employees, including CW-2 and CW-3, the price COMPANY A planned to bid for most of the NCDOT aluminum structure projects set out for bid during this period. Defendant BRENT BREWBAKER and his co-conspirators understood that he and Defendant CONTECH ENGINEERED SOLUTIONS LLC would use COMPANY A's total bid price to ensure that Defendant CONTECH ENGINEERED SOLUTIONS LLC submitted rigged bids to NCDOT that were intentionally higher than COMPANY A's bids.

16. Initially, Defendant BRENT BREWBAKER called COMPANY A directly to obtain COMPANY A's bid prices for aluminum structure projects prior to submitting a bid on behalf of Defendant CONTECH ENGINEERED SOLUTIONS LLC to NCDOT. Defendant BRENT BREWBAKER, on behalf of Defendant

CONTECH ENGINEERED SOLUTIONS LLC, later directed CW-1, in-person, on telephone calls, and via e-mail, to solicit COMPANY A's bid information for aluminum structure bids solicited by NCDOT. COMPANY A typically provided their total aluminum structure bid price by phone, but also, at times, provided the information via e-mail, text message, and in-person. CW-2, CW-3, and other COMPANY A employees provided this information to Defendant BRENT BREWBAKER and CW-1.

17. During these communications, COMPANY A provided Defendant CONTECH ENGINEERED SOLUTIONS LLC with its total bid price for upcoming aluminum structure bids to NCDOT, but did not solicit Defendant CONTECH ENGINEERED SOLUTIONS LLC's total bid price because COMPANY A representatives, including CW-2 and CW-3, understood that Defendant CONTECH ENGINEERED SOLUTIONS LLC would submit rigged bids that were intentionally higher than those submitted by COMPANY A. That understanding was formed through communications between Defendant BRENT BREWBAKER and COMPANY A employees, and supported over time by Defendant CONTECH ENGINEERED SOLUTIONS LLC's consistent pattern and practice of submitting rigged bids to NCDOT for aluminum structure projects.

18. Bidders, including Defendant CONTECH ENGINEERED SOLUTIONS LLC and COMPANY A, submitted bid packages to NCDOT by hand or by overnight shipping service.

19. NCDOT made payments to COMPANY A for completed aluminum structure projects by check, mailed via the United States Postal Service to COMPANY A at its home office.

20. Defendant BRENT BREWBAKER sent email correspondence to CW-1 to instruct that CW-1 should reach out to COMPANY A to obtain COMPANY A's total bid price for an upcoming NCDOT aluminum structure project.

COUNT 1

21. Paragraphs 1 – 20 are realleged and incorporated by reference into this Count.

22. From at least 2009 and continuing until at least March 2018, the exact dates being unknown to the Grand Jury, in the Eastern District of North Carolina and elsewhere, Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER, and their co-conspirators, knowingly participated in a combination and conspiracy to suppress and eliminate competition by rigging bids to NCDOT for aluminum structure projects. The combination and conspiracy engaged in by Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER and their co-conspirators was a *per se* unlawful, and thus unreasonable, restraint of interstate trade and commerce in violation of the Sherman Antitrust Act, 15 U.S.C. § 1.

23. The charged combination and conspiracy consisted of a continuing understanding and concert of action among Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER and their co-conspirators.

the substantial terms of which were to rig bids submitted to NCDOT for aluminum structure projects in the Eastern District of North Carolina and elsewhere.

Means and Methods of the Conspiracy

24. For the purpose of forming and carrying out the charged combination and conspiracy, Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER, together with their co-conspirators, did those things that they combined and conspired to do, including, among other things:

- a. participated in discussions and communications about bids for upcoming NCDOT aluminum structure projects, during which COMPANY A provided its total bid price for upcoming NCDOT aluminum structure projects to Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER;
- b. manipulated their bid prices to ensure the bids submitted by and on behalf of Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER were higher than COMPANY A's bids;
- c. submitted intentionally losing bids at manipulated percentages above COMPANY A's total bid price for the same project, to make it appear to NCDOT that Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER had competed, when, in fact, they knew that Defendant CONTECH ENGINEERED SOLUTIONS LLC's bid was intended to lose.

Trade and Commerce

25. During the relevant period, Defendant CONTECH ENGINEERED SOLUTIONS LLC and its co-conspirators supplied and shipped materials for NCDOT aluminum structure projects in interstate commerce. Defendant CONTECH ENGINEERED SOLUTIONS LLC manufactured aluminum pieces used in NCDOT aluminum structure projects in Kentucky, and shipped them to North Carolina for fabrication and installation.

26. During the relevant period, the business activities of Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER and their co-conspirators in connection with aluminum structure bids to NCDOT that are the subject of this Count were within the flow of, and substantially affected, interstate trade and commerce.

All in violation of Title 15, United States Code, Section 1.

COUNT 2

27. Paragraphs 1 – 20 and 24 – 26 are realleged and incorporated by reference into this Count.

28. From at least 2009 and continuing until at least June 2018, the exact dates being unknown to the Grand Jury, in the Eastern District of North Carolina and elsewhere, Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER, and their co-conspirators, including CW-1, CW-2, and CW-3, did knowingly combine, conspire, confederate and agree with others known to the Grand Jury, to commit offenses against the United States, that is:

- a. to knowingly and willfully execute and attempt to execute a scheme and artifice to: (1) defraud the NCDOT by submitting false, fraudulent, and misleading aluminum structure bids and certifications; and (2) obtain money and property by means of materially false and fraudulent pretenses, representations, omissions, and promises that were false and fraudulent when made, to wit, false, fraudulent, and misleading aluminum structure bids and the certifications submitted with each bid stating the bids had been submitted competitively and without collusion when Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER knew they were false, fraudulent, and misleading, and to knowingly cause to be delivered certain mail matter by the United States Postal Service and by private or commercial interstate carrier, according to the directions thereon, in violation of Title 18, United States Code, Section 1341.
- b. to unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud the NCDOT by submitting false, fraudulent, and misleading aluminum structure bids and certifications and obtain money and property by means of materially false and fraudulent pretenses, representations, omissions, and promises, would and did transmit and caused to be transmitted by wire some communication in interstate commerce to help carry out the scheme to defraud; to wit, false, fraudulent, and misleading aluminum structure

bids and the certifications submitted with each bid stating the bids had been submitted competitively and without collusion when Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER knew this was false, fraudulent, and misleading, in violation of Title 18, United States Code, Section 1343.

Purpose of the Conspiracy

29. It was the purpose of the conspiracy for Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER, and other co-conspirators, including CW-1, CW-2, and CW-3, to mislead NCDOT in order to be awarded aluminum structure project contracts and to benefit from the creation and submission of fraudulent and rigged bids to NCDOT.

Means and Methods of the Conspiracy

30. For the purpose of forming and carrying out the charged combination and conspiracy, Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER, together with their co-conspirators, including CW-1, CW-2, and CW-3, did those things that they combined and conspired to do, including, among other things:

- a. shared bid pricing information knowing it would be used to prepare fraudulent, misleading, and rigged bids. Defendant BRENT BREWBAKER, or CW-1 at his direction, would contact COMPANY A directly to obtain COMPANY A's total bid price for aluminum structure

projects prior to submitting a bid on behalf of Defendant CONTECH ENGINEERED SOLUTIONS LLC to NCDOT;

- b. after receiving COMPANY A's total bid price for an upcoming NCDOT aluminum structures project, Defendant BRENT BREWBAKER added – or instructed CW-1 to add – a percentage to the price COMPANY A was bidding to create Defendant CONTECH ENGINEERED SOLUTIONS LLC's total bid price. Defendant CONTECH ENGINEERED SOLUTIONS LLC manipulated its bid price in ways to avoid detection and not make it obvious that Defendant CONTECH ENGINEERED SOLUTIONS LLC's bids to NCDOT were fraudulent and misleading bids that were manipulated and rigged pursuant to the scheme;
- c. submitted, or caused to be submitted to NCDOT, false, fraudulent, and misleading bids that were intended to lose. In addition, the bids submitted by Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER were intended to mislead and defraud NCDOT and to rig the NCDOT aluminum structure bidding process. This was intended to give COMPANY A an unfair advantage in bidding on and winning NCDOT aluminum structure projects;
- d. submitted, or caused to be submitted to NCDOT, rigged bids with false and fraudulent certifications stating that “[b]y executing this quote, the undersigned Vendor certifies that this quote is submitted competitively and without collusion . . .” when in fact Defendant CONTECH

ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER knew they had colluded with COMPANY A to obtain COMPANY A's total bid price, and submitted a non-competitive bid that was intentionally higher than COMPANY A's bid; and

- e. Defendant CONTECH ENGINEERED SOLUTIONS LLC held itself out as a competitor to COMPANY A when submitting aluminum structure project bids to NCDOT, but it also benefited when COMPANY A won NCDOT aluminum structure project bids because it supplied aluminum pieces to Company A for use in those projects.

Overt Acts

31. In furtherance of the conspiracy, and to affect the objects thereof, there were committed in the Eastern District of North Carolina and elsewhere various overt acts, including, but not limited to the following:

32. September 2017

- a. On or about September 28, 2017, Defendant CONTECH ENGINEERED SOLUTIONS LLC contacted COMPANY A to receive its total bid number for NCDOT aluminum structure bid solicitation 11740702.
- b. COMPANY A provided its total bid number of \$190,873.86 to Defendant CONTECH ENGINEERED SOLUTIONS LLC.
- c. On or about September 29, 2017, Defendant BRENT BREWBAKER instructed CW-1 to submit Defendant CONTECH ENGINEERED SOLUTIONS LLC's bid for the same project at \$206,900.

d. COMPANY A submitted a bid for the NCDOT aluminum structure bid solicitation 11740702 in the amount of \$190,873.86. Defendant CONTECH ENGINEERED SOLUTIONS LLC submitted its bid for the same project in the amount of \$206,900.

33. February 2018

a. On or about February 9, 2018, Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER contacted COMPANY A to receive its total bid number for NCDOT aluminum structure bid solicitation 11769724.

b. COMPANY A provided its total bid number of \$47,957.93 to Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER.

c. COMPANY A submitted a bid for the NCDOT aluminum structure bid solicitation 11769724 in the amount of \$47,957.93. Defendant CONTECH ENGINEERED SOLUTIONS LLC submitted its bid for the same project in the amount of \$54,600.

34. March 2018

a. On or about March 14, 2018, a representative from COMPANY A provided its total bid number for NCDOT aluminum structure bid

solicitation 11782053 to CONTECH ENGINEERED SOLUTIONS LLC.

The total bid number was \$124,565.

- b. That same day, Defendant BRENT BREWBAKER instructed CW-1 to submit a bid for the same NCDOT aluminum structure bid solicitation in the amount of “136,500, or anything in that neighborhood.”
- c. COMPANY A submitted a bid for the NCDOT aluminum structure bid solicitation 11782053 in the amount of \$124,565. Defendant CONTECH ENGINEERED SOLUTIONS LLC submitted its bid for the same project in the amount of \$136,500.

All in violation of Title 18, United States Code, Section 1349.

COUNTS THREE THROUGH FIVE

35. Paragraphs 1 – 20, 24 – 26, and 29 - 34 are realleged and incorporated by reference into this Count.

The Scheme and Artifice

36. Paragraphs 1 – 20, 24 – 26, and 29 - 34 are realleged and incorporated by reference herein as a description of the scheme and artifice.

Use of the Mails

37. On or about the dates enumerated below, Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER and their co-conspirators, known and unknown to the grand jury, for the purpose of executing and in furtherance of the scheme and artifice to defraud and for obtaining money and property by means of materially false and fraudulent pretenses, representations,

omissions, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, did knowingly cause to be delivered certain mail matter by a private and commercial interstate carrier, according to the directions thereon, as more particularly described below:

Count	Approx. Date	Description of Mailing
3	January 29, 2018 March 8, 2018	Check # 3902544 from NCDOT sent via U.S. Mail to COMPANY A in North Carolina. Check # 3916285 from NCDOT sent via U.S. Mail to COMPANY A in North Carolina.
4	August 23, 2018	Check # 3967354 from NCDOT sent via U.S. Mail to COMPANY A in North Carolina.
5	June 11, 2018	Check # 3947637 from NCDOT sent via U.S. Mail to COMPANY A in North Carolina.

All in violation of Title 18, United States Code, Section 1341.

COUNT SIX

38. Paragraphs 1 – 20, 24 – 26, and 29 – 34 are realleged and incorporated by reference into this Count.

The Scheme and Artifice

39. Paragraphs 1 – 20, 24 – 26, and 29 – 34 are realleged and incorporated by reference herein as a description of the scheme and artifice.

Use of the Wires

40. On or about the enumerated date below, Defendant CONTECH ENGINEERED SOLUTIONS LLC and Defendant BRENT BREWBAKER, and their co-conspirators, known and unknown to the grand jury, did unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud

and for obtaining money and property by means of materially false and fraudulent pretenses, representations, omissions, and promises, would and did transmit and caused to be transmitted by wire some communication in interstate commerce to help carry out the scheme to defraud, as more particularly described below:

Count	Approx. Date of Use of Wires	Description of Transmission
6	March 14, 2018	COMPANY A provided its total bid number to Defendant CONTECH ENGINEERED SOLUTIONS LLC for NCDOT aluminum structure bid solicitation 11782053. That same day, Defendant BRENT BREWBAKER instructed CW-1 by e-mail communication to submit a false, fraudulent, and misleading bid for the same NCDOT aluminum structure bid solicitation. Defendant BRENT BREWBAKER caused the e-mail communication to be sent from Tennessee to a recipient in the Eastern District of North Carolina.

All in violation of Title 18, United States Code, Section 1343.

FORFEITURE NOTICE

Each named defendant is given notice that all of their interest in all property specified herein is subject to forfeiture.

Upon conviction of any of the offenses set forth in Counts Two through Six of the Indictment, the Defendants shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C), as made applicable by 28 U.S.C. § 2641(c), any property, real

or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the offense(s).

The forfeitable property includes, but is not limited to, the gross proceeds of the offenses personally obtained by each defendant.

If any of the above-described forfeitable property, as a result of any act or omission of a defendant:

- (a) Cannot be located upon the exercise of due diligence;
- (b) Has been transferred or sold to, or deposited with, a third party;
- (c) Has been placed beyond the jurisdiction of the court;
- (d) Has been substantially diminished in value; or
- (e) Has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

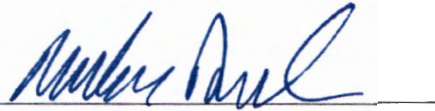
A TRUE BILL

REDACTED VERSION

Pursuant to the E-Government Act and the federal rules, the unredacted version of this document has been filed under seal.

~~F~~OREPERSON

Dated: 10/20/2020, 2020



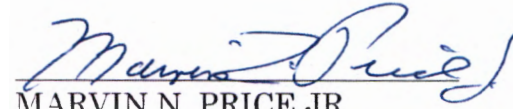
MAKAN DELRAHIM
Assistant Attorney General



BERNARD A. NIGRO JR.
Principal Deputy Assistant Attorney
General



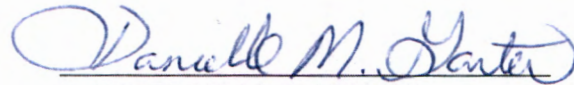
RICHARD A. POWERS
Deputy Assistant Attorney General



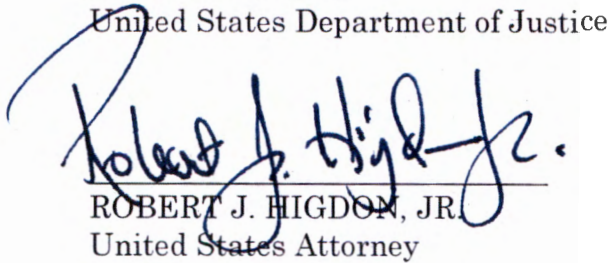
MARVIN N. PRICE JR.
Director of Criminal Enforcement



RYAN DANKS
Chief, Washington Criminal I
Antitrust Division
United States Department of Justice



DANIELLE M. GARTEN
JUSTIN P. MURPHY
TARA SHINNICK
Trial Attorneys, Antitrust Division
U.S. Department of Justice



ROBERT J. HIGDON, JR.
United States Attorney

450 5th Street, NW
Washington, DC 20350
(202) 532-4156
danielle.garten@usdoj.gov



WILLIAM GILMORE
Assistant United States Attorney

United States Attorney's Office
Eastern District of North Carolina