

DOJ Breaks its Silence in 2015 FCPA Enforcement

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Last week, the DOJ [announced](#) its first corporate enforcement action under the Foreign Corrupt Practice Act (“FCPA”) for 2015. IAP World Services, Inc., a Florida-based defense and government contractor, agreed to pay \$7.1 million in a non-prosecution agreement (NPA) for conspiring to bribe Kuwaiti officials in exchange for a contract to build a large-scale homeland surveillance system in Kuwait. The primary employee involved, James Rama, pleaded guilty to one count of conspiracy to violate the FCPA. (see [here](#) for criminal information and [here](#) for plea agreement). Fresh off the heels of the announcement that the DOJ has declined to prosecute Petro Tiger (only the second publicly-acknowledged declination of its kind), the IAP settlement is the first significant case from the DOJ in a year where FCPA enforcement has thus far been dominated by the SEC.

According to the [NPA](#), Kuwait’s Ministry of the Interior started a homeland security project in 2004, which was divided into two phases. Rama and others allegedly created a shell company, Ramaco, which bid on and won the Phase I contract. Rama and IAP allegedly designated half of the approximately \$4 million Ramaco received from the Phase I contract to bribe Kuwaiti officials through a consultant to assist IAP in gaining the lucrative Phase II contract.

In addition to the \$7.1 million penalty, IAP has agreed to address deficiencies in its anti-corruption internal controls, compliance code, policies and procedures. Specifically, IAP has agreed to implement, among other things: (i) a comprehensive set of policies and procedures covering several types of potentially suspect payments; (ii) training programs; (iii) periodic risk-based reviews and other monitoring and testing; (iv) internal reporting mechanisms; and (v) accurate accounting, recordkeeping and internal reporting. The company also conducted an internal investigation, disciplined the officers and employees responsible, and going forward will subject proposals for relevant IAP contracts to a heightened review. Rama is to be sentenced in September.

To minimize FCPA risk, companies should adopt and enforce a robust anti-corruption compliance regime, including policies covering high risk payments, training programs, internal reporting mechanisms, and appropriate disciplinary measures. Companies need to be diligent in monitoring their and their agents’ interactions with foreign officials.

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