

## JUSTICE NEWS

### Department of Justice

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## **More Charges Announced in Ongoing Investigation into Bid Rigging and Fraud Targeting Defense Department Fuel Supply Contracts for U.S. Military Bases in South Korea**

### **Two Additional Companies Agree to Plead Guilty and Enter into Civil Settlements; Indictment Against Seven Individuals Unsealed**

South Korea-based companies Hyundai Oilbank Co. Ltd. and S-Oil Corporation have agreed to plead guilty to criminal charges and pay a total of approximately \$75 million in criminal fines for their involvement in a bid-rigging conspiracy that targeted contracts to supply fuel to United States Army, Navy, Marine Corps, and Air Force bases in South Korea, the Department of Justice announced today. Hyundai Oilbank and S-Oil have agreed to plead guilty to an antitrust charge contained in a superseding indictment that was unsealed today.

The superseding indictment also charges seven individual defendants — associates, managers, and executives of companies that conspired to rig bids for fuel supply contracts — for participating in this bid-rigging conspiracy and in a scheme to defraud the U.S. government.

In separate civil resolutions, Hyundai Oilbank and S-Oil have agreed to pay a total of approximately \$52 million to the United States for civil antitrust and False Claims Act violations related to the bid-rigging conspiracy. These settlements reflect the important role of both Section 4A of the Clayton Act and the False Claims Act to ensure that the United States is fully compensated when it is the victim of anticompetitive conduct.

“These charges reflect the Antitrust Division’s commitment to prosecuting bid rigging and fraud — especially when those crimes directly target taxpayer dollars that fund the U.S. military’s critical work. We will not waver in our dedication to prosecuting corporations and individuals, wherever they are located, that seek to profit at the expense of American taxpayers,” said Assistant Attorney General Makan Delrahim of the Department of Justice’s Antitrust Division. “We will continue to use Section 4A of the Clayton Act to obtain civil settlements that protect the interests of American taxpayers.”

“As the superseding indictment shows, the United States will pursue and hold accountable not only corporate malefactors but also individuals who defraud the military,” said U.S. Attorney Benjamin C. Glassman for the Southern District of Ohio.

“Illegal bid-rigging schemes violate fundamental tenets of government contracting and lead to inflated charges and costs to the government,” said Assistant Attorney General Jody Hunt for the Department of Justice’s Civil Division. “The Department remains steadfast in its commitment to upholding the rule of law and protecting our nation’s military and the American taxpayer from conduct that undercuts competition.”

Pursuant to the Department’s Coordination policy, often labeled the Anti-Piling On policy, the Antitrust Division’s criminal and civil sections and the Civil Division’s Fraud Section worked together effectively to reach coordinated global settlements that were equitable and proportionate to the defendants’ conduct. Furthermore, both divisions successfully coordinated their efforts to avoid imposing fines, penalties, or damages that were unnecessarily duplicative of each other.

**The Criminal Case:**

Today, the Department of Justice unsealed a three-count superseding indictment from the U.S. District Court for the Southern District of Ohio that was returned in September 2018. According to the superseding indictment, the Defense Logistics Agency and the Army and Air Force Exchange Service are two U.S. Defense Department agencies that contract with South Korean companies to supply fuel to the numerous U.S. military bases throughout South Korea.

Count One charges Hyundai Oilbank, S-Oil, and the seven individual defendants with participating in a combination and conspiracy to suppress and eliminate competition during the bidding process for these fuel supply contracts. The individual defendants, all residents and citizens of South Korea, are Hee-Soo Kim, Tae Ho Cho, Jiwon Kang, Young-Ho Yoon, Byung Kuk Kim, Byungik Moon, and Eul-Jin Hyung.

Count Two charges Hyundai Oilbank, S-Oil, and the seven individual defendants with participating in a conspiracy to defraud the United States by impairing, obstructing, and defeating the lawful function of the procurement processes for the fuel supply contracts. As part of its plea agreement with Hyundai Oilbank and S-Oil, the Antitrust Division agreed to move to dismiss Count Two against Hyundai Oilbank and S-Oil upon sentencing.

Count Three charges Hee-Soo Kim with tampering with a witness by use of intimidation, threats, or corrupt persuasion, with the intent to hinder, delay, and prevent communication with a law enforcement officer of the United States.

Hyundai Oilbank and S-Oil have agreed to cooperate with the Justice Department's ongoing criminal investigation. The plea agreements are subject to court approval.

The investigation began based on a tip to the Defense Logistics Agency Inspector General (IG) Hotline. The IG office developed the information, interviewed the complainant, and then referred the case to the Defense Criminal Investigative Service.

"We will vigilantly protect the integrity of our nation's military procurement process and the enabling capabilities it brings to our warfighters across the globe," said Deputy Director Paul K. Sternal of the Department of Defense, Defense Criminal Investigative Service (DCIS). "The criminal charges and fines announced today demonstrate the heavy consequences for those who subvert competition through collusion and price fixing. Joined by our investigative partners, DCIS stands ready to pursue those who threaten our nation's military resources."

"We are pleased with today's guilty pleas from the defendants for their unconscionable involvement in this bid-rigging conspiracy that threatened to place our forces in jeopardy while fulfilling their missions," said Frank Robey, the Director of the U.S. Army Criminal Investigation Command's Major Procurement Fraud Unit. "As we have stated many times before, the highly trained special agents from our Major Procurement Fraud Unit, along with our federal law enforcement partners, will continue to aggressively investigate organizations that commit crimes against our Army, our Soldiers and our nation."

"The Air Force Office of Special Investigations has an unwavering commitment to identify, exploit, and neutralize fraud impacting the integrity of the Air Force, Department of Defense and U.S. Government acquisition process," said Director Timothy Ries, of the Air Force Office of Special Investigations, Office of Procurement Fraud. "These significant criminal and civil penalties are the result of the exceptional collaborative efforts of our organization and its law enforcement and Department of Justice partners to bring these corporations to justice for engaging in the decade-long bid-rigging conspiracy that targeted fuel supply contracts for U.S. Army, Navy, Marine Corps, and Air Force bases in South Korea."

"Today's announcement demonstrates the FBI's persistence in investigating fraud against the United States wherever it occurs," said FBI Executive Assistant Director Amy Hess. "These companies and individuals thought they could cheat the system and the American taxpayer, but the FBI, working with our partners, exposed their scheme. This case should be a lesson to all: the FBI will aggressively pursue those who attempt to defraud the United States and will bring them to justice."

"Open competition remains a cornerstone of our free democratic society," said Assistant Director in Charge Paul D. Delacourt of the FBI's Los Angeles Field Office. "These criminal and civil charges demonstrate the FBI's determination to investigate companies and individuals, foreign and domestic, who engage in bid rigging and other corruption

schemes to defraud the U.S. Government. Working with our federal law enforcement partners, the FBI is committed to bringing to justice those who enrich themselves through illegal activity at the expense of the U.S. taxpayer.”

An indictment merely alleges that crimes have been committed, and all defendants are presumed innocent until proven guilty beyond a reasonable doubt.

A criminal violation of Section 1 of the Sherman Act carries a maximum sentence of 10 years in federal prison and a criminal fine of \$1 million for individuals and a maximum criminal fine of \$100 million for corporations. The maximum fines may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine.

A criminal violation of 18 U.S.C. § 371 carries a maximum sentence of 5 years in prison.

Today’s pleas are the fourth and fifth respectively resulting from an ongoing federal investigation into bid rigging, price fixing, and other anticompetitive conduct targeting U.S. Department of Defense fuel supply contracts in South Korea. The criminal case is being prosecuted by the Antitrust Division’s Washington Criminal I Section and the United States Attorney’s Office of the Southern District of Ohio, in conjunction with the DCIS, the Federal Bureau of Investigation, the Army CID, the Defense Logistics Agency Office of the Inspector General, and the Air Force Office of Special Investigations. Anyone with information in connection with this investigation is urged to call the Antitrust Division’s Citizen Complaint Center at 888-647-3258 or visit [www.justice.gov/atr/contact/newcase.html](http://www.justice.gov/atr/contact/newcase.html).

### **The Civil Case:**

The Department’s Antitrust Division today filed a civil antitrust complaint in the U.S. District Court for the Southern District of Ohio, and at the same time filed proposed settlements that, if approved by the court, would resolve the lawsuit against Hyundai Oilbank and S-Oil for their anticompetitive conduct targeting the U.S. military in South Korea.

As a result of this conduct, the United States Department of Defense paid substantially more for fuel supply services in South Korea than it would have had Hyundai Oilbank and S-Oil competed for the fuel supply contracts. Under Section 4A of the Clayton Act, the United States may obtain treble damages when it has been injured by an antitrust violation. The proposed settlement provides that Hyundai Oilbank pay \$39.1 million and S-Oil pay \$12.98 million to the United States to resolve the civil antitrust violations. In addition to the payments, Hyundai Oilbank and S-Oil have agreed to cooperate with the ongoing civil investigation of the conduct and to abide by antitrust compliance program requirements. The amount paid by each defendant exceeds the amount of the individual overcharge and reflects the value of defendants’ cooperation commitments and the cost savings realized by avoiding extended litigation.

The payments will also resolve civil claims that the United States has under the False Claims Act against Hyundai Oilbank and S-Oil for making false statements to the government in connection with their agreement not to compete. The Civil Division has entered into separate settlement agreements with the companies to resolve these claims.

Except where based on admissions by defendants in the criminal pleas, the claims resolved by the civil agreements are allegations only.

The civil settlements were handled by the Antitrust Division’s Transportation, Energy, and Agriculture Section, by the Civil Division, and by the Civil Fraud section of the United States Attorney’s Office in the Southern District of Ohio.

The United States’ civil investigation resulted from a whistleblower lawsuit filed under the *qui tam* provisions of the False Claims Act. Those provisions allow for private parties to sue on behalf of the United States and to share in any recovery.

The proposed civil antitrust settlement, along with the Antitrust Division’s competitive impact statement, will be published in *The Federal Register*, as required by the Antitrust Procedures and Penalties Act. Any person may submit written comments concerning the proposed settlement within 60 days of its publication to Kathleen O’Neill, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, U.S. Department of Justice, 450 Fifth Street, N.W., Suite 8000, Washington, D.C. 20530. At the conclusion of the 60-day comment period, the court may enter the civil antitrust settlement upon a finding that it serves the public interest.

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