

SFO announces DPA in principle with Serco Geografix Ltd

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The Serious Fraud Office today announces that a Deferred Prosecution Agreement (DPA) with Serco Geografix Limited (SGL), a wholly-owned subsidiary of Serco Group, has been approved in principle by Mr Justice William Davis. On Thursday 4 July 2019, the SFO will apply for final approval of the DPA before the same judge at Southwark Crown Court.

If approved, the DPA will result in a payment by SGL of £19.2m and payment of the SFO's costs. Compensation to the victim of the conduct, the Ministry of Justice (MoJ), has already been paid by Serco as part of a £70m civil settlement in 2013.

Accompanying the DPA with SGL is an Undertaking in which Serco Group assumes certain obligations including ongoing cooperation with the SFO and further strengthening of its Group-wide Ethics and Compliance functions, as well as annual reporting on its Group-wide assurance programme. Separately, Serco have agreed that this annual report will be provided to the Cabinet Office.

In entering the DPA, SGL has taken responsibility for three offences of fraud and two of false accounting arising from a scheme to dishonestly mislead the MoJ as to the true extent of the profits being made between 2010 and 2013 by SGL's parent company, Serco Limited (SL), from its contract for the provision of electronic monitoring services. The scheme was designed to prevent the MoJ from obtaining information to which it was entitled and from using this to decrease SL's revenues under that contract.

The SFO has agreed in principle to this resolution based on a number of factors, including SGL's prompt and voluntary self-disclosure of the conduct giving rise to the above charges, its substantial cooperation with the SFO's investigation, and its significant remedial efforts – achieved through company-wide efforts undertaken by Serco Group. These include prompt and complete disgorgement and compensation paid to the MoJ, implementation of a multi-year, Group-wide Corporate Renewal Programme, a complete change of senior management, and the agreement of Serco Group – despite not being a party to the DPA – to guarantee SGL's performance of its obligations under the DPA and to commit to substantial cooperation, self-reporting, and compliance-related obligations of its own.

The matters that are the subject of the DPA were reported to the SFO by Serco in late November 2013. This followed the launch in October 2013 of an investigation into Serco and its employees in respect of the electronic monitoring contract, which initially focused on the question of whether SL had improperly invoiced and been paid by the MoJ for electronically monitoring subjects where no actual monitoring of those subjects had taken place. These matters are not the subject of the DPA and having been fully investigated, no criminal charges are to be brought against Serco based upon them.

The Director of the Serious Fraud Office, Lisa Osofsky said:

“SGL engaged in a concerted effort to lie to the Ministry of Justice in order to profit unlawfully at the expense of UK taxpayers. The SFO will pursue those who engage in this sort of criminal conduct so that they are held to account.

This resolution not only ensures such accountability, but also recognises SGL’s voluntary self-reporting of the misconduct, its and Serco Group’s substantial cooperation with our investigation and Serco Group’s extensive corporate reform and other remediation. It also provides substantial assurances regarding the future corporate integrity of Serco Group, one of the UK’s largest government contractors.

These measures are designed to achieve the goal of fair and transparent dealing with the Government and other market participants.”

The full reasons for and the terms of the agreement will be given in open court at the public hearing of the application to approve the DPA, subject to any reporting restrictions ordered by the Judge to protect potential future criminal proceedings against individuals. Should the judge approve the DPA, the SFO will publish it.

The hearing will take place at the Southwark Crown Court at 10.00am on Thursday 4 July 2019.

Notes to editors:

1. The prospective DPA concerns only the potential criminal liability of SGL. Whilst it brings to a close the SFO’s investigation into the conduct of SGL and all Serco Group companies, it does not address whether any liability of any sort attaches to any current or former employee or agent of SGL, SL or Serco Group. The investigation into individuals in respect of SL’s electronic monitoring contract continues.
2. If the DPA is approved:
 - SGL would be credited for payments made pursuant to Serco Limited’s 2013 Settlement Agreement with the UK’s Ministry of Justice (MoJ), which fully offset the compensation (£12.8 million) SGL otherwise would be obligated to pay. This payment also represents disgorgement of Serco’s profits
 - The term of the DPA is three years, during which time SGL agrees to:
 - Fully cooperate with the SFO and any other law enforcement and regulatory authorities and agencies
 - Promptly report any evidence or allegation of serious or complex fraud by itself, its parent entities or affiliates, or its officers, directors, employees, or agents that would satisfy the SFO’s criteria for case acceptance
 - Enhance and report annually on the effectiveness of its ethics and compliance programme.
 - The DPA will be accompanied by an undertaking by SGL’s ultimate parent entity, Serco Group, to both guarantee SGL’s performance of its obligations under the DPA and to engage at a Group-wide level for the term of the DPA in cooperation, self-reporting, and ethics and compliance programme enhancements of a type largely identical to those agreed to by SGL.