

recommended that the prosecution of Bilfinger SE be deferred for a period of three years. The DPA required Bilfinger SE to pay a \$32 million criminal penalty, to cooperate with the government's ongoing investigation, to implement an enhanced compliance program, and to engage an independent compliance monitor regarding the implementation of the compliance program, among other obligations.

3. On or about September 23, 2016, the government and Bilfinger SE agreed to modify the terms of the DPA, including by extending the time period of the DPA until December 9, 2018 (the "extended DPA"). The government filed the extended DPA with this Court on the same date.

4. The extended DPA provides that the government would not continue the criminal prosecution against Bilfinger SE and would move to dismiss the Information within six months of the expiration of the extended DPA, if Bilfinger SE has fully complied with all of its obligations. *See* extended DPA ¶ 14.

5. Based on the information provided to the government, Bilfinger SE has fully met the obligations under the extended DPA, including timely payment of the monetary penalty, full cooperation with the government, implementation of an enhanced compliance program and procedures, and successful completion of the compliance monitorship.

6. Given that Bilfinger SE has fully complied with all of its obligations under the extended DPA, the government has determined that dismissal with prejudice of the Information is appropriate pursuant to Paragraph 14 of the extended DPA. The

government has conferred with counsel for Bilfinger SE, who concurs that dismissal is appropriate at this time.

WHEREFORE, pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, and by leave of Court endorsed hereon, the government hereby moves to dismiss the criminal Information filed in the instant case.

Respectfully submitted,

Robert A. Zink
Acting Chief, Fraud Section
Criminal Division
United States Department of Justice

s/ David M. Fuhr

David M. Fuhr
Trial Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this motion has been provided to counsel for the defendant, on this 14th day of June, 2019.

s/ David M. Fuhr
David M. Fuhr
Trial Attorney

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA,

v.

BILFINGER SE,

Defendant.

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Criminal No: 4:13-cr-745

ORDER

Having considered the Government’s motion to dismiss the Information with prejudice, it is hereby ordered that said motion is granted. It is hereby further ordered that the Information (Dkt. 1) filed in this matter on December 9, 2013, is hereby dismissed with prejudice. It is further ordered that this matter is now closed.

Signed in Houston, Texas, on June ____, 2019.

UNITED STATES DISTRICT JUDGE