

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 06-CR-20 (RTR)

GEORGIA THOMPSON,

Defendant.

**DEFENDANT'S REPLY IN SUPPORT
OF MOTION FOR BILL OF PARTICULARS**

The accused has moved the Court to require the government to (1) define certain phrases used in the Indictment; (2) identify the source of a duty or obligation; and (3) disclose the identity of unnamed individuals. The answers to these queries are found neither in the Indictment, nor in the GOVERNMENT'S CONSOLIDATED RESPONSE BRIEF, nor in the 3,500 pages of documents the government has provided to defense counsel. The motion ought be granted.

I. Defining Words and Phrases.

There are three words and phrases, which, although used repeatedly by the government, are not defined. They are: "obligated" (Indictment, ¶ 10), "political considerations" (Indictment, ¶ 13), and "an additional evaluation step" (Indictment, ¶ 14). In particular, with respect to "political consideration," the

government, in its brief uses these terms repeatedly as if to imbue the terms with meaning. Yet the government never explains what is meant by “political considerations;” it is a term that has no discernible meaning. *See, e.g.* GOVERNMENT’S CONSOLIDATED RESPONSE BRIEF at 8, 13, 14, and 19.

Thompson noted in her first brief that “*political*” bears the same Latin root as does the word “*policy*.” “*Political*” is a word too oft confused with “*partisan*.” The difference, however, is of import. And it is worth emphasizing again that state law is replete with *political* (as opposed to *partisan*) considerations. In the area of procurement, for example, the statutes give preferences in treatment or in the award of contracts, in some circumstances, to minority contractors (WIS. ADMIN. CODE, ADM § 6.01(2); WIS. STAT. § 16.75(3m)) , to small businesses (WIS. STAT. §§ 16.701 and 16.75(4)), to veterans (WIS. STAT. § 16.75(4)), to in-state contractors (WIS. ADMIN. CODE, ADM § 8.03(4)), and to U.S. manufacturers (WIS. ADMIN. CODE, ADM § 7.07); and they require applicants and successful contractors to adopt and enforce policies that prohibit discrimination against selected groups of people. Is this what the Indictment speaks of when it alleges that Georgia Thompson used “political considerations?” What about the term “politically motivated”? GOVERNMENT’S CONSOLIDATED RESPONSE BRIEF at 2.

Absent some clarification, the government’s tautological use of “political

consideration,” to mention one example, does nothing to allow Georgia Thompson adequately to prepare for trial.

II. Aid and/or Abet.

The Indictment alleges a violation of 18 U.S.C. § 2. This alone prompted Thompson’s initial request to identify who, if Thompson did not act as a principal, she aided and/or abetted, or, alternatively, who did the same with regard to her. So too, she requested that the government identify any unindicted co-conspirators as well as those individuals (assuming that there are any) whose interest were advanced by the accused’s alleged conduct.

Thompson’s concern was amplified when she read the GOVERNMENT’S CONSOLIDATED RESPONSE BRIEF. Though not alleged in the Indictment, in its brief, the government repeatedly (more than ten times) alleges that Thompson engaged in “bid-rigging.” *See id.* at 1, 2, 13, 19, 20 and 26. By its very nature, “bid-rigging” necessarily involves more than one person, because collusion is its essence. *See United States v. Heffernan*, 43 F.3d 1144 (7th Cir. 1994); and *JTC Petroleum v. Piasa Motor Fuels, Inc.*, 190 F.3d 775, 777 (7th Cir. 1999).

The government’s brief does not dispel the notion that it thinks others are involved in the charged conduct. *See, e.g.*, GOVERNMENT’S CONSOLIDATED RESPONSE BRIEF at 9 (“The Indictment alleges that Thompson did so for private

gain for herself *and others*, including the improper, non-merits purpose of trying to increase her own job security and to gain political advantage for *her supervisors.*"); *id.*, at 18 ("The indictment clearly alleges, however, that Thompson *and others* benefitted from her misuse of her office.").

Read together, and in the absence of information in the Indictment, the government's brief, or the open-file discovery that would inform Thompson as to the identity of these individuals, there exists a legitimate need for information about those to whom the government refers.

For these reasons the Thompson's Motion for a Bill of Particulars ought be granted.

Dated this 29th day of March, 2006.

Respectfully submitted,

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