

# Firm Accused of Overcharging DOD \$12.6M for AV Gear

Law360 (October 3, 2023, 8:34 PM EDT) -- The U.S. Department of Justice will be prosecuting a whistleblower's decade-long claims that a contractor bilked the U.S. Department of Defense for \$12.6 million by adding hidden markups to audiovisual equipment, attorneys for the whistleblower announced.

The U.S. Attorney's Office for the District of Columbia accused Innovative Technologies Inc. and its founder, Mariano Martinez, of violating the False Claims Act, saying in a complaint unsealed Monday that they added hidden fees to equipment they sold the DOD under two contract awards, instead of passing along discounts, as required by the terms of the deals.

"The government was misled into thinking it was receiving the lowest possible price," prosecutors said in the complaint, which was filed in D.C. federal court.

Their case was filed following an investigation into a related lawsuit, filed in 2013, from Humberto Irizarry, a former employee of Innovative Technologies.

Innovative Technologies is a federal contractor that provides design-build and on-site operations support of broadcast television and production facilities, multimedia centers and video conference facilities for the DOD and several other federal agencies.

Irizarry began working for Innovative Technologies in 2001, holding a variety of managerial roles within the company, including senior program manager for DOD contracts. As senior manager, he oversaw Innovative Technologies' performance on two audiovisual contracts — issued in 2007 and 2012 — to provide audiovisual equipment for DOD-operated communications facilities.

In its proposals for each contract, Innovative Technologies allegedly said it wouldn't charge a fee on equipment and would pass along any discounts it received from the manufacturer, according to the complaint.

On spreadsheet PDFs detailing its pricing, prosecutors said Innovative Technologies showed customer extension prices that were cheaper than the list prices for each piece of equipment, which made it appear that the contractor had passed along all discounts. But the original Excel spreadsheets, "which were never provided to the DOD," included hidden columns showing markups between 8% and 20%, prosecutors said.

They further accused Innovative Technologies of quoting higher equipment prices than the manufacturer's in some cases.

The prosecutors alleged that Innovative Technologies had illegally added \$10.1 million worth of hidden fees and costs to the 2007 contract and \$2.5 million to the 2012 contract.

According to the complaint, Irizarry had raised questions about Innovative Technologies' no-fee guarantees in both its contract proposals, with Martinez allegedly assuring him of the legality of the pricing structure.

"Martinez would remind ... Irizarry twice a year to 'stick with the story' that there were no equipment fees and Innovative Technologies was only getting its share of additional manufacturer's discounts," prosecutors said.

In his 2013 complaint, Irizarry says he confronted Martinez, allegedly pressing him to self-report the purported fraud and voluntarily pay back the extra fees. He was eventually forced out in 2012, according to the suit.

"This vindication has been a long time coming for Bert," said Janel Quinn, one of Irizarry's attorneys, in a Monday statement. "As the United States says in its complaint, Mr. Martinez begged him to 'stick with the story' and ignore a fraud on taxpayers. He refused, demanding honesty until Mr. Martinez shoved him toward the door. Then he

assembled evidence to show to the authorities, and after a deep investigation the U.S. government is supporting his cause."

Representatives for Innovative Technologies didn't immediately respond to a Tuesday request for comment.

The U.S. is represented by Darrell Valdez of the U.S. Attorney's Office for the District of Columbia.

Counsel for Innovative Technologies wasn't available.

Irizarry is represented by Janel Quinn of The Employment Law Group and Jay Holland of Joseph Greenwald & Laake PA.

The case is U.S. v. Innovative Technologies et al., case number 1:13-cv-00705, in the U.S. District Court for the District of Columbia.