



Ferrovial executives to go on trial in Spain in connection with kickbacks scheme worth millions

Denver International Airport recently selected a group led by Ferrovial Airports to privatize the airport's Great Hall

Key findings in the this report:

- A judge in Barcelona has decided to try people associated with a kickbacks scheme in which Ferrovial allegedly paid money to influence the award of public contracts. Two Ferrovial executives face a sentence of 4.5 years in prison and a 10 million euro fine.
- Ferrovial partnered with two Denver political insiders in its winning bid to takeover the airport's Great Hall.
- The airport has not made public the bids and other documents associated with this project, unlike the Colorado Department of Transportation which has released documents associated with bids for its public infrastructure projects.

Given Ferrovial's track record, the insiders involved in this bid, and the unprecedented nature of this deal, the need for transparency in the airport's competitive bidding process is paramount.

Ferrovial linked to corruption trial in Barcelona

A judge in Barcelona has collected evidence that Ferrovial allegedly paid bribes for large public works contracts. The Spanish judge has decided to try 16 people associated with the kickbacks schemes. Juan Elizaga, who was Director of Institutional Relations for Ferrovial and Pedro Buenaventura, who was Director General of Ferrovial Agroman, face a sentence of 4.5 years in prison and a 10 million euro fine.

In 2013, a judge and the public prosecutor office suspected that Ferrovial gave between 5.1 and 6.6 million euros in illegal commissions to the Democratic Convergence of Catalonia political party in exchange for awarding public works projects. According to the anti-corruption attorney Emilio Sanchez Ulled, the primary form of payment were "opaque cash deliveries" that alone were worth 2.3 million euros from 2002 to 2008.¹ The judge indicted two Ferrovial executives, Juan Elizaga and Pedro Buenaventura, in addition to the treasurer of the Convergence political party, a member of parliament, and four managers of the Palau de la Música Foundation.² As of June 29, 2015,

Elizaga was a director of Ferrovial Agroman.³ It is unclear if Buenaventura still holds any position with Ferrovial.

Ferrovial is alleged to have paid a 4 percent commission for awarded work: 2.5 percent of the commission allegedly went to the Convergence political party, with the remaining 1.5 percent going to the ex-president of the concert hall and a close associate.⁴

The anti-corruption attorney prepared a 37-page report for the investigating judge in 2013. The report stated:

“Whether the original initiative came from CDC or from Ferrovial, the fact is that the criminal agreement was simple yet devastating: in exchange for large sums of money calculated according to a percentage of the business volume that Ferrovial expected to make out of the contracts with Catalan agencies, CDC officials – at the very least the treasurers - had to use their position to ensure that the regional and local agencies’ decision-making bodies would generate a constant flow of contracts for the company.”⁵

In March 2016, the provincial court in Barcelona sent the case to trial. The court stated that discoveries during the investigation led it to allege “the existence of a considerable recurring diversion of funds from Ferrovial to the political party.”⁶

Procedural objections raised in June 2016 have further delayed the trial. *El Pais* recently reported that a source close to the case said: “if at any moment we thought the trial would be held in 2017, now that is not going to be possible.”⁷ In July 2016, the case was referred to the Court of Barcelona to set the trial date.

Political Insiders in Denver's Ferrovial Airport Deal

The group selected by DIA to privatize the Jeppesen Terminal, led by Ferrovial Airports, includes familiar Denver political insiders:

- **Gilmore Construction** is owned by the brother-in-law of Denver City Councilmember Stacie Gilmore, whose district includes the airport.⁸
- **Burgess Services** President and CEO Denise Burgess previously co-chaired Mayor Hancock’s transition team for development services.⁹ Burgess Services’ \$39.6 million contract for mechanical work on the DIA hotel and transit project was the subject of a *Denver Post* and Denver City investigation into whether the entire contract value could legitimately be counted toward the city’s goal of 30 percent participation in the M/WBE program. The investigation led to Denver adapting new protocols for tracking M/WBE

goal attainment and improving communications between contractors and different city departments. No action was taken against Burgess.

- **Saunders Construction** was a member of the tri-venture that built the recently finished Denver airport hotel transit center that came in \$221 million, almost 44 percent, over the initial 2010 budget.¹⁰

DIA should increase transparency, release all bids

Denver International Airport began the process to choose a private developer for the Jeppesen Terminal in January 2015. The process, however, has been much less transparent than another large infrastructure privatization project, the Colorado Department of Transportation’s (CDOT) current competitive bidding process for the Central I-70 redevelopment.

DIA Jeppesen Terminal Bidding Process Compared to CDOT Central I-70

Step in bidding process:	DIA:	CDOT:
Request for Qualifications (RFQ)	Public	Public
Statements of Qualifications (SOQs – responses to the RFQ)	NOT PUBLIC	Public
Evaluations of SOQs to shortlist bidders	NOT PUBLIC	Public
Request for Proposal (RFP)	NOT PUBLIC until after bids were due	Public before bids are due
Bids Received	NOT PUBLIC	<i>Bids due February 2017¹¹</i>

Although the airport has already selected Ferrovial, the public still does not know the proposed length of the public-private partnership, what competing offers the airport received, and the amount of public money that will go towards the project. The airport’s reasons for shortlisting bidders and selecting Ferrovial are also not public.

The airport has denied an open records request for any memos, briefings, presentations or other internal documents discussing the shortlisted bidders, the evaluation of bidders, and reasons why bidders were shortlisted.

Meanwhile, CDOT is in the process of selecting a firm to redevelop the Central I70 highway corridor. Unlike the airport, CDOT has made public the initial responses and evaluations used to shortlist bidders, and the Request for Proposal (RFP) documents, even though bids are not due until next year.¹² The airport did not make the RFP public until after bids from the shortlisted groups were due in May.

LaGuardia Airport's Central Terminal Building Procurement Process

In 2015, the Port Authority of New York and New Jersey finished a multi-year procurement process to select a private development team to replace LaGuardia Airport's Central Terminal Building.¹³ The LaGuardia project is one of few public-private partnerships in U.S. airports.¹⁴ Unlike DIA's Request for Qualifications (RFQ) for the Jeppesen Terminal redevelopment, the Port Authority set out in its initial RFQ the expected minimum equity contributions from any private development team.¹⁵



UNITE HERE Airport Group

The Airport Group is the policy and development arm of UNITE HERE, the union for airport food and retail employees. UNITE HERE has over 270,000 members in the U.S. and Canada, including 35,000 members in airport concessions and airline catering at 62 airports in North America. The Airport Group has expertise in concessions development, policy, and information tracking.

Endnotes

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