



ARMY PROCUREMENT FRAUD ADVISOR'S UPDATE



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Mission of the Procurement Fraud Branch

The Procurement Fraud Branch (PFB) is part of the Contract and Fiscal Law Division, U.S. Army Legal Services Agency. PFB is the Army's single centralized organization with the mission to coordinate and monitor the status of all criminal, civil, contractual, and administrative remedies in cases of fraud or corruption relating to Army procurements. The Procurement Fraud Advisor's Newsletter has been published since September of 1989 on a quarterly basis to advise Army Procurement Fraud Advisors (PFAs) on the latest developments in procurement fraud and remedies coordination. The Update is also distributed electronically to other Government fraud counsel at their request.



MESSAGE FROM THE CHIEF, PROCUREMENT FRAUD BRANCH



Trends. Convictions of both military and civilian Government employees for crimes related to procurement fraud continue to make headlines. I was struck by a 12 April 2010 article on the front page of the *The Army Times*, “They Stole Millions,” summarizing some of the latest procurement fraud related convictions obtained against Army contracting personnel to include MAJ John Cockerham, CPT Michael Nguyen, LTC Bruce Hopfengardner, CPT David Gilliam, and Ms. Bobbie Ryan. All were the subject of suspension and debarment actions reported in past issues of the PFA Update. All are now debarred. New incidents of misconduct by military and civilian employees continue to surface. On 21 April 2010, a U.S. Army sergeant, Ray Scott Chase, pleaded guilty to accepting \$1.4 million in gratuities while deployed as a contracting officer’s representative in charge of a military dining facility in Kuwait. On that same date, an Army contracting official, William Rondell Collins, pleaded guilty to accepting bribes from a contractor in Kuwait, in return for preferential treatment for the contractor’s company. Both have been suspended by the Army.

On the good-news side, I commend the outstanding service of a U.S. Army Corps of Engineers (USACE) contracting specialist with the Afghanistan Engineers

District-North, Kevin Lynch, who worked undercover with the FBI for months to expose a multi-million dollar bribery and corruption scheme, leading to the arrest of former USACE contract administrator Gloria Martinez. The story was reported in *Army Military News* on 16 April 2010. Secretary of the Army, John McHugh, presented the Decoration for Exceptional Civilian Service to Mr. Lynch. Mr. Lynch’s actions deter others from considering similar crimes. Ms. Martinez has been debarred by the Army.

It is important that criminal investigators and Procurement Fraud Advisors (PFAs) alert military and civilian commanders and personnel organizations as early as possible when they learn of significant investigations involving individuals employed by the Army. Just as the Department of Justice (DoJ) uses criminal and civil remedies to punish and deter criminal misconduct, commanders and civilian leaders must ensure that personnel remedies, including reduction in rank and removal, are promptly used against those convicted of procurement fraud related crimes.

Collection of Procurement Fraud Recovery Funds Streamlined. On 1 June 2010, a memorandum of understanding (MOU), establishing an inter-agency agreement, to ensure the timely return of procurement fraud funds to Army command accounts before funds cancel, was reached by the Defense Finance & Accounting Service (DFAS), Department of Justice (DoJ) and the Department of Army. The Office of the Assistant Secretary of the Army, Financial Management and Comptroller (ASA FM&C) and the Office of The Judge Advocate General, USALSA, Contract and Fiscal Law Division (OTJAG-KFLD) led the Lean Six Sigma (LSS) project that resulted in the MOU for the Army. A copy of the MOU providing details of the new procedure is attached to this update. All PFAs should read the MOU to become familiar with the new process.

MESSAGE FROM CHIEF, PROCUREMENT FRAUD BRANCH (CONT FROM PAGE 2).

What was streamlined? The problem was that United States Attorney (USA) offices were sending fraud recovery funds to DFAS without an identification tag. DFAS was parking the money for long periods of time because it could not identify where to send it. Through the LSS study, it was determined that a “tag” needed to be attached to the money when the case is filed with the court. The PFB case number is now attached to the fund cite information forwarded by USA offices to DFAS so DFAS can identify the money. In addition, an accounts receivable form was developed by ASA FM&C for use by PFAs to notify the coordinator at ASA FM&C that a case has been filed with money due to the Government. The process is set out in more detail in the MOU.

PFAs must identify the funds involved in the fraud litigation early in the process and provide adequate information to the USA so that DFAS, ASA FM&C, and PFB may accurately track the recovery. A form is attached to the MOU for use by PFAs in tracking funds. Contact Ms. Angelines McCaffrey at Angelines.McCaffrey@us.army.mil if you have questions about the MOU or the form.

I commend Mr. Ronald Jones, ASA FM&C, the project manager who led the Lean Six Sigma Project, for his tenacity and expertise in the LSS project resulting in streamlining the process. Through Mr. Jones’ efforts, \$14 million has been returned to Army commands to date. The project was highlighted at the 2010 DoD Performance Symposium and has been referred to OSD for replication by other services.

Welcome. PFB welcomes LTC Frank Kiley, USAR, to its staff. LTC Kiley recently completed a 4-year, active-duty tour with USALSA’s Government Appellate Division. He previously worked in investigations with three federal OIGs (Labor, EPA, and SBA) and as a Special AUSA in Washington, D.C. and Alexandria, Va.

PFB also welcomes MAJ Susana Watkins, former Deputy SJA, OSJA, HQ, U.S. Army Aviation Center and Fort Rucker. MAJ Watkins replaces MAJ Art Coulter at DOJ Civil, Commercial Litigation Branch (Fraud) (DOJ, Trial Attorney).

CPT Rina Shah, currently assigned to KFLD, has also joined the PFB Team.

In Memoriam. Sadly, on 12 May 2010, John L. Fugh, MG (Ret), 75, passed away unexpectedly of a heart attack. MG Fugh, TJAG from July 1991 to his retirement in June 1993, was the first Chinese-American General Officer in the U.S. Army. He was responsible for the creation of the Army Procurement Fraud Division in 1986. Under his watch the Army implemented its worldwide system of PFAs at local commands and installations.

Distribution of the PFA Update. Beginning with this issue of the Update, PFB will email copies directly to all PFAs to ensure that all fraudfighters have immediate access to the newsletter. (Mrs. McCommas)



MESSAGE FROM THE SUSPENSION AND DEBARMENT OFFICIAL**“Discipline is what you do when no one is looking.”**

This simple, but powerful quote highlights the difference between a compliance-based approach and a values-based approach to ethics. While being monitored with a checklist on a clipboard, responsibility is easy – and superficial. Our goal and standard needs to be a values-based culture that guides corporate responsibility, even and especially “when no one is looking!”

Our mandate is that the Department of the Army (DA) will solicit offers from and award contracts only to presently responsible contractors. When contractors or their employees engage in misconduct or exhibit a pattern of poor performance, their present responsibility is called into question, and their misconduct or substandard performance becomes the context for evaluating their present responsibility. Suspension and debarment are our regulatory tools to protect the Army from contractors who are not presently responsible.

Suspension or debarment must be forward looking to protect the government, rather than to punish, and may have far reaching consequences. They can severely impact a company and its employees, often

leading to a company’s dissolution and unemployed workers. Certainly, it is not in the Army’s interest to have fewer competitors in the market for Army contracts or for more unemployed workers, especially in this economy.

Administrative Agreements (AA) are another tool available where contractors can demonstrate present responsibility notwithstanding their misconduct or poor performance. The obligations assumed by the contractor address the mitigating factors of the Federal Acquisition Regulation and provide continuing assurance that the interests of the Government will be sufficiently protected without resorting to a suspension or debarment.

In fashioning a corporate responsibility program that will warrant an AA, it is important that the contractor implement a “values-based” as opposed to a “compliance-based” program. While compliance with all laws, regulations, specifications, and policies is necessary, compliance alone is not sufficient. The culture and climate must be focused from top to bottom on ethical values: “doing the right thing” – even “when no one is looking!” (Mr. Fiore)



FRAUD COUNSEL'S CORNER

9th Procurement Fraud Course. The 9th Procurement Fraud Course was hosted by The Judge Advocate General's Legal Center and School (JAG School) on the grounds of the University of Virginia, Charlottesville on 12-14 May 2010. More than 100 Department of Defense (DoD) component personnel and other executive branch agencies personnel, including attorneys from the Departments of Justice and Homeland Security, attended the course. The procurement fraud-fighting community was well represented across various disciplines to include auditors, fraud counsel, investigators, contracting officers and other procurement officials. Also in attendance were more than 30 Criminal Investigative Command (CID) agents.

The two-day course covered hands-on tools for new fraud-fighters and also served as a refresher for more seasoned procurement fraud experts. Instructors were drawn from across the executive branch agencies, including the Army, Navy, Air Force, DLA, DCAA, DCMA and DoJ. The instruction highlighted emerging areas of fraud such as the contingency environment, fraud prevention and fraud awareness training, identifying fraud indicators, agency case studies, and the day-in-the-life of fraud counsel at the installation, command, and agency levels. The course also emphasized the coordination of fraud remedies available to the fraud-fighter, and concluded with a Suspension and Debarment Official panel discussion providing a view of the decision-making process to suspend or debar Government contractors.

Slides from the presentations are available by emailing Mr. Trevor Nelson at Trevor.Nelson@us.army.mil. (Mr. Nelson)

DOD Procurement Fraud Working Group Training Seminar. On 23-25 March 2010, the DoD Procurement Fraud Working Group held its annual training seminar in Daytona Beach, FL. Approximately 150 people attended the conference, to include contracting personnel, attorneys, investigators and auditors. The keynote speaker was James Burch, Deputy Inspector General for Investigations for the Department of Defense Inspector General (DoDIG). The three-day seminar provided a comprehensive review and discussion of the issues and initiatives in the area

of fraud in Government contracting. It included a report on DoD Working Group projects developed from last year's conference, as well as an update on the Contractor Disclosure Program after one year of existence.

Two Commissioners from the Commission on War-time Contracting gave a well received presentation outlining the Commission's findings to date. The Commission, an independent, bipartisan legislative commission established to study wartime contracting in Iraq and Afghanistan, was created by Section 841 of the National Defense Authorization Act for FY 2008. The Commission will issue a final report in 2011. The latest hearings held by the Commission relate to the use of private security contractors in the theatre.

One of the barriers noted by the Commissioners to investigation of contingency contracting fraud is the implicit incentive to focus on "low-hanging fruit" like bribery, kickbacks, and false claims involving only U.S. citizens and U.S. companies. The differences in language and culture, possible multi-national involvement in cases, coordination/commitment issues with foreign governments and law-enforcement agencies, travel restrictions and lack of security for investigators, as well as the high cost of investigating and prosecuting fraud contributed to this phenomenon.

There was also a presentation by representatives from the Special Inspector General for Afghanistan Reconstruction (SIGAR) outlining the mission, responsibilities and progress since SIGAR's creation in the National Defense Authorization Act for 2008. In addition, DoJ representatives provided a summary of the important developments and changes in the law affecting civil and criminal procurement fraud issues in the past year and their impact on the practitioner. Other topics covered were: working with qui tam relators; recovering money back to the agency; compliance agreements; DoD Inspector General Subpoena Program; counterfeit electronic part cases; conflicts of interest; and utilizing auditors to support a fact-based action. (Ms. McDonald)

SIGNIFICANT ACTIONS**Debarments.**

The following list on debarments includes all debarments taken by the Army from 1 July 2009 through 30 June 2010.

1. Attempted Bribery (CENTCOM CC / Baghdad, Iraq). On 1 July 2009, the Army SDO debarred Nazar Abd Alama, San Juan Company (SJC) and Mississippi Company (MC) on the basis that Mr. Alama offered a CCC contracting officer a \$250,000.00 payment in return for the award of a solicitation to San Juan Company (SJC). (Mr. Persico)

2. Espionage (AMC / Picatinny Arsenal, NJ). On 7 August 2009, the Army SDO debarred Ben-Ami Kadish based on his plea of guilty to one count of conspiracy to act as an agent of a foreign government. Mr. Kadish, while employed as a mechanical engineer at Picatinny Arsenal, New Jersey, signed out classified documents at the request of an employee of the Government of Israel's consulate in New York. After gaining possession of these documents, Mr. Kadish then allowed them to be photographed in the basement of his residence in New Jersey by an employee of the Israeli consulate in New York. Mr. Kadish was sentenced to pay a \$50,000.00 fine and a \$100.00 assessment. (Mr. Persico)

3. Bribery and Filing a False Federal Tax Return (Armed Forces Recreation Center / Garmisch, Germany). On 7 August 2009, the Army SDO debarred Steven G. Potoski on the basis of the guilty plea entered against him. Mr. Potoski was convicted of one count of bribing a public official and three counts of filing a false federal income tax return. Mr. Potoski admitted that, while employed by the U.S. Department of the Army as the Director of Contracting (DOC) at the Edelweiss Lodge and Resort (ELR), Armed Forces Recreation Center (AFRC), Garmisch, Germany, he demanded and received payments from fifteen contractors. In return, Mr. Potoski agreed to approve inflated contract line items for work performed at AFRC. He was sentenced to serve 31 months in prison, to make restitution in the amount of \$24,057 to the Internal Revenue Service, and make restitution in the amount of \$4,007 to the New York State Department of Taxation. (Ms. McCaffrey)

4. Receipt of Stolen Goods (MNSTC-I / Camp Victory, Iraq). On 7 August 2009, the Army SDO debarred Jacqueline A. Fankhauser based on her guilty plea to receiving stolen goods. Ms. Fankhauser admitted to receiving \$370,000 in cash from her daughter in Iraq as part of a scheme to fraudulently award contracts to Raman International, Inc. Ms. Fankhauser also accepted delivery of a Harley Davidson motorcycle on behalf of her daughter directly from a representative of Raman International, Inc. Ms. Fankhauser was sentenced to one year of probation, a \$10,000 fine, and forfeitures of \$246,500 and two motorcycles and a laptop computer. (Mr. Persico)

5. False Claims (MNF-I International Zone / Baghdad, Iraq). On 10 August 2009, the Army SDO debarred Mohammad Abdel Latif Zahed, a former linguist employed by Titan Corporation in the International Zone, Baghdad, Iraq. Mr. Zahed submitted time sheets via Titan's electronic recordkeeping system stating that he was present for 1,003 hours of work valued at \$31,998.71. In fact, Mr. Zahed had departed Iraq for leave in the United States in late March 2006. Mr. Zahed later departed the United States for an unknown location in Egypt. Titan Corporation reimbursed the Government for the \$31,998.71 in improper charges in November 2006. (Mr. Persico)

6. Contract Mismanagement (ACA / Fort Belvoir, VA). On 11 August 2009, the Army SDO debarred Mark D. Newton, Ray Kidd, R. Kidd Construction a/k/a RK Construction LLC and RCD Contracting Inc., Pamela Kidd and Ernest Elkie. The debarments were based upon the findings of misconduct in an investigation conducted pursuant to Army Regulation (AR) 15-6, into complaints of contract mismanagement, misconduct, and contract irregularities within the office of the Directorate of Contracting (DOC), Fort A.P. Hill, Virginia. The findings indicated that Mr. Newton, former Director of Contracting (DOC), Fort A.P. Hill, Virginia, used his position as the DOC to provide preferential treatment to a Government contractor, Mr. Kidd, and his companies and mismanaged the contracting office. (Ms. McCaffrey)

7. Theft of Government Property (Huntington Park Army Recruiting Station / CA). On 20 August 2009,

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the Army SDO debarred Alberto Valle on the basis of his conviction of three counts of theft of Government property. Mr. Valle is a former Sergeant in the U.S. Army. He last served as a recruiting officer at the Huntington Park Army Recruiting Station (Huntington). The recruiting officers at the Huntington office regularly used Government vehicles provided by the General Services Administration (GSA) and Voyager Fleet Credit Cards (VFCC). The vehicles and credit cards were provided to the Huntington office for business purposes only. After leaving the Army, Mr. Valle stole and used several VFCCs to purchase gasoline for re-sale to other individuals. Mr. Valle stole and converted to his use a total of \$2,177.00 using VFCCs. He was sentenced on to pay restitution in the amount of \$2,177.00, pay a special assessment of \$75, and placed on probation for two years. (MAJ McDonald)

8. Bribery (CPA, Camp Victory, Iraq). On 20 August 2009, the Army SDO debarred COL Kevin Arthis Davis, USA (Retired), based on his participation in a scheme to fraudulently award contracts for warehouse management services to companies under the control of George H. Lee between June 2003 and October 2004. While assigned to the Coalition Provisional Authority's Office of Security Cooperation as Chief of the Technical Evaluation Team, COL Davis provided procurement sensitive data to Mr. Lee regarding the award and modification of a contract to manage warehouses supplying the Iraqi armed forces and police. In return for this information, COL Davis admitted to receiving a \$50,000 payment from Mr. Lee upon his departure from Iraq. (Mr. Persico)

9. Aiding and Abetting Bribery (Aberdeen Test Center / Aberdeen Proving Grounds, MD). On 20 August 2009, the Army SDO debarred Douglas Atwell, Gerard Yursis, and R. Wayne Silbersack based upon their conviction to aiding and abetting bribery. Mr. Atwell and Mr. Yursis were civilian employees of the Army who worked at the Aberdeen Test Center, Aberdeen Proving Grounds, Maryland. Mr. Yursis was a test director, and, as such, authorized the purchases of materials by Mr. Atwell needed for the tests he administered. Many of the orders placed by Mr. Atwell were for the purchase of goods for his own personal use, and for use by Mr. Yursis and other Aberdeen Test Center employees. These goods were then deliv-

ered to Mr. Silbersack's house, or other nearby locations, from which they were either delivered to, or picked up by, the party who requested them. Mr. Atwell was sentenced to an 18-month term of imprisonment, three-years of supervised release, ordered to pay an assessment of \$100 and make restitution in the amount of \$294,525; Mr. Yursis was sentenced to three years of probation; thereafter, one year on supervised release, ordered to pay an assessment of \$100 and make restitution in the amount of \$146,453. Mr. Silbersack was sentenced to a 30-month term of imprisonment, and three years on supervised release. (Ms. McCaffrey)

10. Theft of Government Property (Fort. Bliss / TX). On 21 August 2009, the Army SDO debarred Darnell McCleod. He was debarred on the basis of his court-martial conviction for theft of Government property. McCleod is a former Army Sergeant who was employed as a Supply Sergeant for D 1/7 ADA and the 178th Maintenance Company at Ft. Bliss, Texas. In February 2007, the General Services Administration (GSA) reported that there was a potential theft of government property via GSA-Advantage by McCleod. An investigation revealed that McCleod used two DODAACs to purchase numerous electronic items. He bought four plasma televisions and five laptop computers which he shipped directly to his personal residence. McCleod pled guilty and was sentenced to reduction to Private, E-1, confinement for 18 months and a bad conduct discharge. (MAJ McDonald)

11. Overcharging/Lack of Present Responsibility (ACA-TA). On 3 September 2009, the Army SDO debarred Alexandre Castro Braga and his company, Fast Cell, as a result of substandard business practices as demonstrated by erroneous billing and failure to respond to efforts to resolve the disputed charges. (MAJ McDonald)

12. Violation of Ethics Regulations, False Statements (MNF-I / Baghdad, Iraq). On 4 September 2009, the Army SDO debarred MSG Gerald Thomas Krage, SSG Andrew John Castro and Alrafidane, LLC, based on MSgt Krage's guilty plea submitted at his court-martial to one charge and four specifications of failure to obey a general order or regulation, Article 92 of the Uniform Code of Military Justice (UCMJ), and

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one specification of false official statement, Article 107 of the UCMJ. Between January and October 2008, MSG Krage was assigned to the Civil Affairs section of Task Force Dragon, Multi-National Corps - Iraq at Victory Base Complex, Baghdad, Iraq. Prior to his deployment, MSG Krage, SSG Castro and two other individuals formed Alrafidane, LLC, to sell water purification units designed specifically for the Iraqi climate and water conditions. During his deployment, MSG Krage worked on several civil affairs projects which created a conflict of interest with his position at Alrafidane. MSG Krage was sentenced to reduction to the rank of E-8 (he had previously been a Sergeant Major, E-9) and a \$10,000 fine. The debarments of Krage, Castro and Alrafidane were terminated on 4 December 2009, after the individuals completed an ethics training program approved by the SDO. (Mr. Persico)

13. Unlawful Gratuities, Money Laundering (CECOM / Tobyhanna Army Depot / PA). On 4 September 2009, the Army SDO debarred Richard A. Feola, Michael P. Clery, Thruput, Ltd., Sierra Computer Products, Ltd., Newman Computer Products, Ltd. and Graphix Factory, Ltd. based on Mr. Feola's guilty plea to one count each of unlawful gratuities and money laundering. Mr. Feola and Mr. Clery engaged in a scheme to arrange for the purchase of Thruput computer equipment, valued at \$308,595.00, for use at Tobyhanna Army Depot in return for payments to Mr. Feola totaling \$83,332.00. Mr. Feola was sentenced to 38 months confinement, 3 years probation, a \$7,500 fine and a \$200 special assessment. (Mr. Persico)

14. Fraud, Failure to Perform (Stuttgart, Germany). On 8 September 2009, the USAREUR SDO debarred Cherie Burgis, Charles Burgis and CCC & C Exclusive based on CCC & C Exclusive's failure to perform under the terms of contract with the Government, through Army NAF Contracting Europe. The company owners represented that for \$10,094 they would provide and deliver various sports equipment. Although payment was received, the items were never delivered. (CPT Stem)

15. Conspiracy (NGB / Jackson, MS). On 10 September 2009, the Army SDO debarred Catherine A. Jackson and Anthony P. Moore based on their guilty pleas to one count each of conspiracy to commit theft of Government property. As part of their guilty pleas,

Ms. Jackson and Mr. Moore admitted to fraudulently using Voyager fleet fuel cards on more than 10,000 occasions to purchase fuel valued at more than \$645,135.83 for their personal use and resale to others. The cards were obtained by Ms. Jackson during her employment as a Fuel Supply Technician with the U.S. Property Office for Mississippi, responsible for the oversight of fuel distribution to units of the Mississippi National Guard. Both were sentenced to 37 months of confinement and restitution of \$645,135.83. (Mr. Persico)

16. Misprision of a Felony (USACE-FL). On 10 September 2009, the Army SDO debarred Gregory Wagner on the basis of his conviction for misprision of a felony. Mr. Wagner was employed by the U.S. Army Corps of Engineers (USACE) as a Construction Representative and Construction Inspection Technician. He was responsible for administering contracts to ensure that all acquisition and regulations were met. He was assigned with supervision and oversight of USACE projects in the area of Homestead and Florida City related to the Comprehensive Everglades Restoration Program (CERP). He received kickbacks for allowing individuals to farm land and remove trees within the Everglades. He pled guilty and was sentenced to five years of probation, 12 months of home detention, 250 hours of community service at a minimum of 50 hours per year, a \$100 assessment and a criminal monetary penalty of \$100. (MAJ McDonald)

17. Conspiracy, Bribery, Fraud and Theft of Government Property (Tobyhanna Army Depot, PA). On 10 September 2009, the Army SDO debarred Kafu Chung and Mark Cooper from Government contracting as a result of their conviction for conspiracy to commit bribery. Chung was previously employed as a salesman and later served as a General Manager for Computer Giants. Cooper was employed at Tobyhanna. Chung conspired with him and other co-conspirators by giving them things of value in exchange for their decisions to purchase supplies and services from Computer Giants. Chung was sentenced to 24 months' imprisonment, three years' supervised release, restitution in the amount of \$22,000.00, and a \$100 assessment. Cooper was sentenced to 15 months' imprisonment, two years' supervised release, \$20,000.00 restitution and a \$100.00 assessment. (MAJ McDonald)

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18. Conspiracy, Bribery, Fraud and Theft of Government Property (Tobyhanna Army Depot, PA). On 10 September 2009, the Army SDO debarred Charles Marsala and Hieu Tran from Government contracting. They were debarred on the basis of their conviction for conspiracy to commit bribery. They conspired with Kafu Chung, a salesman and General Manager for Computer Giants. Between February 2001 and November 2005, Computer Giants was paid approximately \$7,829,559.80 in Government funds for supplies and services provided to Tobyhanna based contracts negotiated by Chung. Marsala and Tran were employed at Tobyhanna. Chung conspired with them and others by giving them things of value in exchange for their decisions to purchase supplies and services from Computer Giants. Tran was sentenced to imprisonment for 22 months, three years supervised release, restitution in the amount of \$16,400.00, and a \$100.00 assessment. Marsala was sentenced to imprisonment for 18 months, three years of supervised release, restitution in the amount of \$29,242.82, and a \$100.00 assessment. (MAJ McDonald)

19. Conspiracy, Bribery, Fraud and Theft of Government Property (Tobyhanna Army Depot / PA). On 10 September 2009, the Army SDO debarred Leo J. Yesvetz from Government contracting on the basis of his conviction for conspiracy to commit bribery. Yesvetz is a former public official employed at Tobyhanna. Kafu Chung was previously employed as a salesman and later served as the General Manager for Computer Giants. Between February 2001 and November 2005, Computer Giants was paid approximately \$7,829,559.80 in Government funds for supplies and services provided to Tobyhanna based contracts negotiated by Chung. Yesvetz conspired with Kafu Chung, General Manager for Computer Giants, by giving them things of value in exchange for his decisions to purchase supplies and services from Computer Giants. Yesvetz was sentenced to 20 months of imprisonment; restitution in the amount of \$11,018.00 and a \$100 assessment. (MAJ McDonald)

20. Conspiracy to Commit Bribery (MEDCOM, Walter Reed Army Medical Center, Washington, DC). On 25 September 2009, the Army SDO debarred Kevin R. Roach (Mr. Roach) based on his plea

of guilty to one count of conspiracy to commit bribery. As part of his guilty plea, Mr. Roach admitted to using his position as a contracting specialist at Walter Reed Army Medical Center to award landscaping and moving contracts to Platinum Contractors, Inc., and Home Sweet Home Moving and Storage, Inc. between 1999 and 2001. As the beneficiaries of Mr. Roach's actions, Platinum Contractors, Inc., d/b/a Father and Sons Home Improvement and Father and Sons Platinum Contractors, Inc., as well as Home Sweet Home Moving and Storage, Inc. d/b/a All in the Family Moving and Storage, Inc., were also debarred as his affiliates and imputees. Mr. Roach was sentenced to 41 months' confinement, three years' supervised release and a \$3,000 fine. (Mr. Persico)

21. Illegal Gratuities (ARCENT, Kuwait City, Kuwait). On 25 September 2009, the Army SDO debarred Javid Yousef Dalvi based on his violation of Department of Defense ethics regulations while employed by the U.S. Army Support Group, Kuwait at the U.S. Embassy in Kuwait City, Kuwait. During an interview with criminal investigators, Mr. Dalvi admitted that he used his position as a customs agent for personal gain by expediting the processing of customs forms for the tax free entry of goods into Kuwait. (Mr. Persico)

22. Bribery and Conspiracy to Commit Bribery (SAEP/CN). On 25 September 2009, the Army SDO debarred William Delorenze and Delorenze Industrial Mechanical Service (IMS) based on the conviction of Delorenze for subscribing a false tax return. Delorenze is the owner and president of IMS. IMS performed work as a subcontractor at the Stratford Army Engine Plant (SAEP) in Connecticut. Delorenze failed to report all earned income on his federal income tax return. His sentence was to five months imprisonment; one year of supervised release, and a \$100 special assessment. His term of debarment continues until 1 May 2012. (Ms. McDonald)

23. Conflicts of Interest, False Statements (CENTCOM CC, Camp Victory, Iraq). On 30 September 2009, the Army SDO debarred Ali N. Jabak, Liberty A. Jabak, Liberty's Construction, Tharwat Taresh, Babwat Dourat Al-Arab, Dourat Al-Arab, Hussein Ali Yehia, Amina Ali Issa, and Adel Ali Ye-

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hia based on a preponderance of evidence that they failed to inform contracting officers of conflicts of interest and made multiple false statements to investigators. Mr. Jabak, a linguist at the Camp Victory Regional Contracting Center, deliberately concealed his ownership interest in Dourat Al-Arab, a CENTCOM CC contractor for barrier materials in the Baghdad area. Mr. Tawash, an employee of Dourat Al-Arab, made multiple false statements to investigators alleging that Mr. Jabak stole \$650,000 from the company. Both Mr. Jabak and Mr. Tawash admitted to the false statements and conflict of interest during a criminal trial. Mr. Jabak and his wife, Liberty Jabak, were acquitted of the theft of the \$650,000 from Dourat Al-Arab based on these admissions. (Mr. Persico)

24. Evading Currency Reporting Requirements (USFK, Korea). On 10 November 2009, the Army SDO debarred Roland Geronimo Curo based on his guilty plea to knowingly evading currency reporting requirements. Mr. Curo was a Government Purchase Card (GPC) holder and had responsibility as the supply management officer for the DPW, with control over warehouse operations, stock control, inventory, and requisitions. Mr. Curo made eleven transaction deposits to his USA Federal Credit Union (USAFUCU) account ranging in amounts from \$1,000.00 to \$9,900.00. Mr. Curo deposited less than \$10,000.00 per transaction to avoid the IRS reporting requirement. Mr. Curo also transported \$30,000.00 into the United States without declaration. The Court sentenced Mr. Curo to one year of supervised probation, a \$3,000.00 fine, and a \$200.00 assessment. (Mr. Nelson)

25. Bribery and Conspiracy to Commit Bribery (USACE/New Orleans, LA). On 14 January 2010, the Army SDO debarred Durwanda Elizabeth Morgan Heinrich and Kern Carver Bernard Wilson based on their conviction for bribery and conspiracy to commit bribery. Wilson was a contractor consultant and Heinrich owned a business that did work for the U.S. Army Corps of Engineers. A Government official provided confidential proprietary procurement information to Wilson and Heinrich in exchange for money. Heinrich's sentence was 60 months' imprisonment, three years' supervised release, a \$5,000.00 fine, and a special assessment of \$300.00. Wilson's

sentence was 70 months' imprisonment, three years' supervised release, a \$15,000.00 fine, and a special assessment of \$200. (Ms. McDonald)

26. False Claim (Small Business Administration, MD). On 21 January 2010, the Army SDO debarred Scott Reiter based on his guilty plea to defrauding the SBA. Mr. Reiter did not qualify as a disadvantaged individual under the SBA Section 8(a) program. He conspired with other non-disadvantaged individuals to provide personal indemnification for the liabilities of a disadvantaged company under the 8(a) program, and signed a third-party indemnity agreement. This agreement enabled the company to obtain bonding and 8(a) contracts of a higher value than it would have been eligible for without the indemnifications. The court sentenced Mr. Reiter to 18 months of imprisonment, three years of supervised release, a \$400,000.00 fine and \$300,000.00 in restitution. (Mr. Nelson)

27. Conspiracy to commit Major Fraud and Wire Fraud (AMC / Bagram Airfield, Afghanistan). On 21 January 2010, the Army SDO debarred Raschad L. Lewis (Mr. Lewis) based on his conviction for conspiracy to defraud the United States, making a false statement, bribery of a public official and making a false claim in connection with the diversion of fuel. Mr. Lewis was an employee of Kellogg Brown and Root (KBR) hired to work in the Movement Control area at the Bagram Airfield (Airfield), operated and maintained by the Department of Defense in support of military operations in Afghanistan. Mr. Lewis was sentenced to 84 months, thereafter, to be placed on supervised release for three years, ordered to pay an assessment of \$400, and pay restitution in the amount of \$891,000. (Ms. McCaffrey)

28. Theft (MNF-I / FOB Paliwoda, Iraq). On 21 January 2010, the Army SDO debarred Captain Elbert W. George III, USA, (CPT George) and SFC Roy Greene Jr., USA, (SFC Greene) based on their guilty pleas to conspiracy to steal Government property. Specifically, CPT George and SFC Greene were charged with using their authority to access the Joint Base Balad and the Defense Reutilization and Marketing Office (DRMO) storage area for the purpose of stealing vehicles and equipment to sell to local Iraqi

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businessmen between December 2007 and June 2008. During this period CPT George and SFC Greene checked and sold out one bus, eight trucks, nineteen generators, five trailers, and other miscellaneous items. CPT George was sentenced to two years of probation. SFC Green was sentenced to three years of probation. Both were required to jointly make restitution of \$52,288.60 to the DRMO. (Mr. Persico)

29. Larceny, Conspiracy, Bribery, Extortion and Failure to Obey a Lawful Order, (MNC-I, FOB / Rustamiyah, Iraq). On 21 January 2010, the Army SDO debarred PVT Patrick A. Faust (PVT Faust) and SSG Ofeila A. Webb (SSG Webb) based on their January 2009 courts-martial convictions. Specifically, PVT Faust and SSG Webb, while serving as the senior enlisted personnel for the 94th Brigade Support Battalion, 4th Brigade Combat Team, 10th Mountain Division, participated in a scheme to extort payments from Iraqi vendors at FOB Rustamiyah in exchange for access to the installation. SSG Webb pled guilty to one charge and seven specifications of larceny, while PVT Faust was found guilty at trial of 11 specifications of larceny, conspiracy, bribery, extortion and failure to obey a lawful order. SSG Webb was sentenced to a reduction in rank from E-9 to E-6 and thirty days of confinement. PVT Faust was sentenced to reduction in rank from E-8 to E-1, 30 months confinement and a bad conduct discharge. (Mr. Persico)

30. Conspiracy to Defraud the Government (San Fernando Valley, CA). On 21 January 2010, the Army SDO debarred Capital Data Products, LLC based on its conviction for conspiracy to defraud the Government with respect to claims. Representatives of CDP made sales of ink toner and cartridges pursuant to an unlawful price predication scheme. The sentenced imposed was three years probation with the following requirements: that CDP appoint an Independent Corporate Monitor, adopt and implement a Code of Ethics and Corporate Compliance Program, pay restitution in the amount of \$137,919.96, a fine \$280,000, and a special assessment of \$400. (Ms. McDonald)

31. False Impersonation and False Statements (USACE, MA). On 2 March 2010, the Army SDO debarred William Coccione Fateiger and JLA Land Survey, Inc. based on Mr. Fateiger's conviction for false impersonation and false statements. Mr.

Fateiger was required to submit necessary wetland documentation to the USACE for jurisdictional determination to facilitate the sale of wetland properties. He failed to secure the proper certification pursuant to the Clean Water Act, and instead submitted falsified document purporting to be sanctioned by USACE. The court sentenced Mr. Fateiger to 2 years' probation, a \$200.00 assessment, and \$250.00 fine. (Mr. Nelson)

32. Conspiracy (ARCENT / Camp Arifjan, Kuwait). On 2 March 2010, the Army SDO debarred John Lee Cockerham, Jr., Melissa Cockerham, Carolyn Blake and Ms. Nyree Pettaway. MAJ Cockerham was debarred based on his conviction for engaging in a scheme to fraudulently award contractors multiple contracts and task orders in Kuwait. Ms. Cockerham, Ms. Blake, and Ms. Pettaway were debarred based on their convictions related to the assistance they provided in support of the scheme to defraud the Government. MAJ Cockerham was sentenced to 210 months of confinement, three years of supervised release, restitution of \$9,600,000 and a special assessment; Ms. Cockerham was sentenced to 41 months of confinement, three years of supervised release, restitution of \$1,400,000 and a \$100 assessment; Ms. Blake was sentenced to 70 months of confinement, three years of supervised release, restitution of \$3,100,000 and a \$100.00 special assessment; and Ms. Pettaway was sentenced to 12 months and one day of confinement, two years of supervised release, restitution of \$5,000,000 and a \$100 special assessment. (Mr. Persico)

33. False Statement (ASC / Rock Island, Illinois). On 31 March 2010, the Army SDO debarred Jeff Alex Mazon on the basis of his guilty plea to making a false statement. During the time Mr. Mazon was employed as the Procurement, Materials, Property Manager for KBR in Kuwait from approximately December 2002 through June 2003, Mr. Mazon regulated the execution and administration of subcontracts on behalf of KBR in regard to the LOGCAP III contract. On 14 February 2003, Mr. Mazon signed subcontract 39 with La Nouvelle General Trading & Contracting Company (LaNouvelle), and agreed to pay it a firm-fixed price of \$5,521,230, which was five million U.S. dollars higher than the original KBR estimate of \$685,080 U.S. dollars. Mr. Mazon falsely

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stated in a memorandum for record that the additional funds required for the subcontract were communicated to the Project Manager who had signed the approvals on the Bid Tabulation for the subcontract on the date of the award. He was sentenced to serve one year on supervised release and ordered to pay a fine of \$5,000 and an assessment of \$25. (Ms. McCaffrey)

34. Kickbacks (Fort Gordon, GA). On 31 March 2010, the Army SDO debarred Michael Craig Waters (Mr. Waters) based on his conviction for soliciting and accepting a kickback. Mr. Waters was an employee of IAP World Services, Inc. (IAP), a subcontractor who submitted bids to Akima Facilities Management LLC (Akima), a prime contractor for base support on Fort Gordon, Georgia. He was sentenced to serve a five year term of probation, ordered to pay an assessment of \$100 and a fine of \$ 3,000. (Ms. McCaffrey)

35. Theft, Bulk Cash Smuggling, Money Laundering, False Statement (JCC-I/A, Kandahar, Afghanistan). On 7 April 2010, the Army SDO debarred David Sili-vano Gilliam based on a guilty plea to theft of Government property and money laundering. Mr. Gilliam improperly removed at least \$284,000.00 from the vault assigned to the 125th Finance Battalion, Alpha Detachment, while employed as a civilian disbursing officer between 14 April 2004 and 7 April 2005. Mr. Gilliam later used these funds to purchase a home in South Carolina, a vehicle and other items for personal use. He was sentenced to 50 months of confinement, three years of supervised release, restitution in the amount of \$450,565.64 and a \$300 special assessment. (Mr. Persico)

36. Embezzlement (U.S. Military Academy (USMA), West Point, N.Y.). On 16 April 2010, the Army SDO debarred Ms. Bobbie Cyana Ryan and Bobbie Cyana Ryan, dba CWG Enterprises, based on her guilty plea to charges that she embezzled more than \$2.9 million from USMA, wire fraud, and engaging in monetary transactions with criminally derived funds. From 2001 through 2007, Ms. Ryan, while directing USMA's Information, Education, and Technology Division, submitted numerous invoices to USMA in the name of CWG Enterprises for training programs

that were never conducted. Ms. Ryan paid these invoices using government purchase cards, which resulted in more than 500 wire transfers to her bank account. The court sentenced Ms. Ryan to 46 months of confinement and 36 months of supervised release. The court also ordered Ms. Ryan to pay \$2,924,966.03 in restitution and \$300 in special assessments. (LTC Kiley)

37. Conspiracy to Defraud (TACOM, NJ). On 16 April 2010, the Army SDO debarred Robert Spadaro based on his guilty plea for conspiracy to defraud the United States. Mr. Spadaro was the general manager with Parmatic Filter Corporation, Denville, New Jersey, which manufactured air, oil, and water filters used in commercial and military applications. Parmatic was awarded a Department of the Army contract to manufacture M48A1 Filter, Gas-Particulate for TACOM. The M48 filter was designed to provide breathable, uncontaminated air to military personnel conducting operations in environments contaminated by nuclear, biological, and chemical (NBC) agents, and used primarily in the M1A1 and M1A2 Abrams Main Battle Tanks. Mr. Spadaro and his co-conspirators submitted hand-selected and specifically manufactured sample filters to DoD for testing. Mr. Spadaro directed the production of these special lots of custom-fabricated NBC filters designed for fraudulent submission to the Army for testing at Aberdeen Proving Grounds, as purported randomly selected production run filters. The court sentenced Mr. Sparado to two years of probation, four months of home confinement, and \$381,780 criminal restitution. (Mr. Nelson)

38. Bribery (Fort McPherson, GA). On 16 April 2010, the Army SDO debarred Richard E. Long, Debra L. Long, and Laurie A. Chevalier based on Richard E. Long's (Mr. Long) conviction for bribery of a public official, wire fraud of honest services and money laundering. Although Debra L. Long (Mrs. Long), Mr. Long's spouse, was indicted, she was acquitted and subsequently debarred, together with Laurie A. LeChevalier (Ms. LeChevalier), Mrs. Long's sister-in-law, on the basis of affiliation with Mr. Long. Mrs. Long and Ms. LeChevalier knew of and assisted Mr. Long in his plan to defraud the Government. Mr. Long was the Water and Petroleum Pro-

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gram Manager at Ft McPherson. In this capacity, Mr. Long reviewed bids submitted by civilian contractors who were vying for Reverse Osmosis Water Purification Unit (ROWPU) related contracts. He was also responsible for overseeing the contractors' performance after the contracts were awarded. In return for payments, Mr. Long gave favorable treatment to contractors. He was sentenced to serve 120 months in prison. (Ms. McCaffrey)

39. Poor Performance (USAREUR). On 19 April 2010, the USAREUR SDO debarred MB-TRONIC GmbH for failure to perform more than 15 Army contracts. (CPT Stem)

40. Wire Fraud, False Claims, Transporting Funds to Promote Unlawful Activity(DCMA/CA). On 27 April 2010, the Army SDO debarred Janusz Lament and Porex Precision Machining based on Lament's conviction for wire fraud, false claims and transporting funds to promote unlawful activity. Lament is the sole owner of Porex. The company falsified testing certifications of disc brake pad kits provided to the Government, in addition to using parts obtained from Poland. Porex then transferred its payments to banks in Poland. The sentence imposed was imprisonment for a year and a day; supervised release for two years; \$48,841.00 restitution; a fine of \$25,000.00 and an assessment of \$1,100.00. (Ms. McDonald)

41. Embezzlement (Recruiting Office, Mobile, AL). On 6 May 2010, the Army SDO debarred Staff Sergeant Andre Demyron Bend based on his guilty plea to charges of embezzlement and aggravated identity theft. While serving as a full-time U.S. Army Reserve recruiter in Mobile, Alabama, SSG Bend used his position to obtain personal identification information from Army Reserve Soldiers, in order to establish part-time recruiter accounts, known as Army Reserve Recruiter Assistance Program (AR-RAP) accounts. SSG Bend established AR-RAP accounts and used the personal identification information, unbeknownst to three Army Reserve Soldiers and without their authority, to obtain recruiting incentive payments of \$2,000 per recruit nominated in the fictitious accounts. SSG Bend received from this scheme a total of \$60,000, which was deposited into his bank accounts. The court sentenced SSG Bend to 30 months

of confinement and three years of supervised release. The court also ordered SSG Bend to pay \$60,000 in restitution and a \$200 special assessment. (LTC Kiley)

42. False Statements/Procurement Fraud (Ft. Benning, GA). On 6 May 2010, the Army SDO debarred Marie Ann Cimino and her company, Military Services Support, LLC (MSS), based on Ms. Cimino's guilty plea to a charge of making a false statement. Ms. Cimino's brother, Allen Thrower, was Chief of the Quality Support Division, Human Resources Directorate (HRD), Ft. Benning, where he was responsible for preparing purchase requests and contract justifications and reviewing contractor performance. Ms. Cimino admitted that from August 2004 to February 2008, she and Mr. Thrower had a scheme to obtain contracts for MSS. They concealed their family relationship, and he falsely represented to contracting officials that MSS was highly recommended and experienced. The court sentenced Ms. Cimino to 24 months of probation, payment of a \$100 special assessment, and forfeiture of \$330,561.34 and a truck that she derived from her criminal activity. Mr. Thrower's trial began on 12 July 2010. (LTC Kiley)

43. Embezzlement (National Guard Bureau / Arlington, VA). On 3 June 2010, the Army SDO debarred David A. Hust based on his conviction for embezzlement. Between March 2006 and March 2007, the National Guard Bureau entered into a contract with Docupak, Inc., Pelham, Alabama, to administer the Guard Recruiting Assistance Program (GRAP), a \$16.5 million program designed to encourage National Guard members to recruit others to serve in the National Guard (NG). Mr. Hust was a Sergeant First Class (SFC) NG service member who served as a recruiting sergeant for the Georgia Army National Guard (GANG). As a recruiting sergeant, SFC Hust was not eligible to personally receive G-ARP incentives for referring GANG recruits; however, SFC Hust registered two individuals, identified in the criminal information, as "B.V. and "P.S.," in the G-ARP program and was paid for the individuals recruited by "B.V. and "P.S.," who applied for entrance into the GANG and completed basic training. He was sentenced to serve a two-year term of probation and ordered to pay restitution in the amount of \$5,000 to

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Docupak, Inc., an assessment of \$25, and a fine of \$1,000. (Ms. McCaffrey)

44. False Statement, Mail Fraud, and Aiding and Abetting (Lawrence Livermore Lab, CA, Walter Reed, DC). On 3 June 2010, the Army SDO debarred Chiching C. Yang, Yang Bioscience, LLC, Chi C. Yang, and SynBioSci Corporation based on their guilty pleas to making false statements. SynPep produces customized polypeptides from amino acids for public and private research institutions such as Walter Reed Army Hospital and the National Institute of Health. Mr. Yang and SynPep Corp. conspired to falsify the chromatograms of polypeptides produced and sold to the Government by misrepresenting the purity of the polypeptides, and changing chromatograms graphs by cutting and pasting over the data. The court sentenced Mr. Yang to eight months' imprisonment, three years' probation, a \$77,227.86 fine, and \$22,772.14 in criminal restitution (Mr. Nelson)

45. Bribery (Kirkuk, Iraq). On 23 June 2010, the Army SDO debarred Mr. Joselito B. Domingo based on his guilty plea to the charge of bribery. While he was employed by the Army Corps of Engineers as a resident engineer in Kirkuk, Iraq, Mr. Domingo solicited a \$40,000 bribe from a contractor. In exchange for the money, Mr. Domingo agreed to assist the contractor in obtaining a \$2.5 million contract for the construction of parks in Kirkus. In addition, Mr. Domingo admitted that he received a total of \$453,000 in bribes from contractors in exchange for recommending their selection for projects and approving their contract payments. The Court sentenced Mr. Domingo to 39 months of confinement, followed by two years of supervised release; in addition, the Court ordered Mr. Domingo to pay a \$70,000 fine. (LTC Kiley)

46. Receipt of Kickbacks (Los Angeles Air Force Base, El Segundo, CA). On 23 June 2010, the Army SDO debarred Mr. Alejandro Rivera based on his guilty plea to an eleven-count indictment, charging him with receiving kickbacks, mail fraud, and causing an act to be done. From February 2008 to October 2008, Mr. Rivera worked as maintenance director for a prime contractor for the Army Corps of Engineers. In this role, Mr. Rivera directed two subcontractors to

submit inflated contract bids and then caused the subcontractors to be awarded the work. After the subcontractors completed their jobs, Mr. Rivera caused them to submit inflated invoices, to cover kickbacks to him. On four occasions in 2008, one of the subcontractors paid Mr. Rivera a total of \$43,446. On four other dates in 2008, Mr. Rivera caused kickbacks in the total amount of \$65,998, to be included in the contract price that the subcontractor charged to the prime contractor. The court sentenced Mr. Rivera to 18 months of confinement and three years of supervised release. The court ordered Mr. Rivera to pay \$38,170 in restitution and a special assessment of \$1,100. (LTC Kiley)

Administrative Agreements

Conspiracy and Fraud (SBA). On 30 December 2009, the Army entered into an Administrative Agreement (AA) with Alonso Bernate and his company, Environmental & Demolition Services (EDS), Inc., in lieu of debarment. Mr. Bernate, the President of EDS, Inc., pled guilty to conspiracy to defraud the SBA. Mr. Bernate was sentenced to serve three years probation and ordered to pay a fine of \$100,000.00. EDS is a Maryland corporation which conducted asbestos and lead abatement, and demolition work under the SBA 8(a) program. An investigation by the SBA IG found that non-disadvantaged individuals were at times agents of EDS, and exercised significant financial and operational control over EDS. Mr. Bernate and his co-conspirators exercised authority over the federal asbestos and demolition contracts bid on by 8(a) companies, providing personal indemnification in order for the companies to gain critical bonding, and managing the daily operational and financial control over the companies. After a hearing with EDS, the Army SDO determined that the company implemented an ethics and compliance program and that an AA would adequately protect the Army interests. (Mr. Nelson)

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All photos courtesy of www.army.mil.

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REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
FINANCIAL MANAGEMENT AND COMPTROLLER
109 ARMY PENTAGON
WASHINGTON DC 20310-0109

JUN 01 2010

**MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE DEFENSE
FINANCE AND ACCOUNTING SERVICE (DFAS), THE DEPARTMENT OF THE
ARMY, THE DEPARTMENT OF JUSTICE (DOJ), AND THE U.S. COURTS**

SUBJECT: Collection of Army Procurement Fraud Recovery Funds

1. Purpose/Scope. Establish an inter-agency understanding to ensure the timely return of procurement fraud funds to Army command accounts before funds cancel. Scope is collections resulting from DOJ civil and criminal cases.

2. Dates of Performance: 1 October 2009 thru 30 September 2012.

3. References:

- a. U.S. Army Audit Agency Report A-2007-0161-FFM, Follow-up Audit of the Army Criminal and Civil Fraud Recovery Process.
- b. FY 2009 Army Chief Financial Officer Strategic Plan.
- c. Lean Six Sigma (LSS) Project #LD09299, Improving Financial Management of the Army Procurement Fraud Recovery Process.

4. Definitions:

a. Canceled Funds. Means "closed/canceled accounts," which are defined in the Glossary of the Department of Defense Financial Management Regulation (DODFMR) as follows: "An appropriation that has been closed in accordance with 31 U.S.C 1551-1557. This term also includes an appropriation that otherwise would have been closed by 31 U.S.C. 1551-1557, but has not been closed by the Department of Treasury because the appropriation has a negative balance. When balances are canceled, the amounts are not available for obligation or expenditure for any purpose."

b. Court Decision. For civil cases the court decision can be a judgment or settlement. For criminal cases the decision will be a restitution judgment.

c. Commands. Major organizational units of the U.S. Army which are either: a) the Procurement Activity that issued the contract(s) covered by the court decision or, b) the Customer Activity who had the requirement and funded the contracts(s) covered by the court decision. In some cases the Procurement Activity and the Customer Activity are the same entity. Because Federal Acquisition Regulation Part 17.5, Interagency Acquisitions Under the Economy Act (31 U.S.C. 1535) and the Economy Act itself

allows for the placement of orders between agencies, the Procurement Activity and the Customer Activity could belong to any federal agency and not just the Army.

d. Lines of Accounting (LOAs). The detailed appropriation(s) or account(s) cited on the contract(s) covered by the court decision. If the funds have not canceled, this information is used to collect the funds back to their originating appropriation(s) or account(s). If the funds have canceled, they are returned to the U.S. Treasury through the Canceled/Closed Appropriations Account.

e. Department of Justice (DOJ) Financial Litigation Units (FLUs). Within the Department of Justice, the U.S. Attorney's Offices' Financial Litigation Units (FLUs) enforce and collect criminal judgments and civil judgments or settlements.

f. Department of Justice (DOJ) Debt Collection Management Debt Accounting Operations Group (DAOG). Within the Department of Justice, the Debt Collection Management Debt Accounting Operations Group (DAOG) processes and disburses civil collection payments to government agencies.

5. Background. An audit report (Reference 3a) identified problems in the timely return of recovered funds to Army accounts. Once the Department of Defense received the Army funds from DOJ, the process took an average of over 900 days and a significant portion of the funds canceled during that time. The audit report recommended that procedures be developed. A strategic plan (Reference 2) incorporated the audit's recommendations to develop procedures and resolve funds awaiting disposition in DFAS suspense accounts. Subsequent to the audit, the Office of the Judge Advocate General (OTJAG) and the Office of the Assistant Secretary of the Army (Financial Management and Comptroller) (OASA(FM&C)) agreed to jointly sponsor a LSS Project to resolve the issues cited in the audit report and strategic plan. The LSS project formed an interagency workgroup that developed and tested the procedures cited in this MOU. The LSS project had two main goals: to increase by 100% the timely collection of funds from suspense accounts, and to reduce the cycle time to collect the funds into the Army accounts from 900 to a range of 30 to 60 days.

6. Agreement/Administrative Procedures. This MOU provides interagency understanding on existing actions and procedures to be enhanced or established. An interagency Standing Operating Procedures (SOP) will provide more detailed procedures. If action is required by more than one agency, the agency responsible to lead or initiate the action is shown first. If action is jointly accomplished, the joint agencies are shown.

a. Fraud Recovery Monitor. OASA(FM&C) will establish a fraud recovery monitor to help monitor and coordinate the collection of Army funds. If appropriate, the monitor role may be assigned or delegated to another Army activity.

b. Case Identification (ID) Number. OTJAG's Procurement Fraud Branch (PFB), located in the U.S. Army Legal Services Agency, Contract and Fiscal Law Division, will

generate a Case ID Number when a case file is opened in its database. The OTJAG PFB attorney and the Army Procurement Fraud Advisor (PFA) attorney at the Army Procurement Activity that issued the contract(s) under investigation are the lead Army personnel to work with DOJ personnel.

c. Coordination. When DOJ begins formulating the Government's draft position and court decision document(s), the DOJ Assistant US Attorney responsible for the case generally contacts the Army Procurement Fraud Advisor (PFA) attorney handling the case to discuss the draft position. As part of the coordination, the PFA attorney will: 1) provide OTJAG's Case ID Number, and 2) request information on the draft decision, subject to court restrictions. The PFA attorney will then contact the OTJAG PFB attorney and OASA(FM&C) monitor to inform them of the coming decision. The PFA attorney will also initiate a work group of Army resource management and other personnel to begin to research and determine how the restitution was calculated, the command(s), contract(s), lines of accounting, dollar amounts involved, and if the funds have canceled or not. At the time the settlement/judgment decision is entered by the court, the PFA attorney will initiate an Army Procurement Fraud Recovery Collection / Accounts Receivable Form (enclosure one) which will include the OTJAG Case ID Number on the form. The PFA attorney will fax or email the form to the DOJ FLU.

d. OTJAG Monthly Report. PFB will provide a monthly report to the other Army agencies and DFAS which includes the status of all cases where a disposition (criminal or civil judgment/settlement) has been issued/filed. The case status will include the contractor or defendant's name, date the disposition was issued/filed, the name of the PFB attorney assigned to the case, the name, phone number and email address of the DOJ attorney assigned to the case, and the estimated dollar amount of the decision.

e. Investigative Agencies. Investigative agencies (for example the U.S. Army Criminal Investigation Division (CID) or Defense Criminal Investigative Service) are actively involved in the case from inception. Within CID, this MOA applies to the Major Procurement Fraud Unit (MFPU). When the court's decision is imminent (30-60 days prior), the MFPU agent assigned to the case will contact the OTJAG PFB attorney and OASA(FM&C) monitor to inform them of the coming decision and provide enough information so the PFB attorney can identify which case(s) in the OTJAG database are involved. If necessary, the investigative agent may be asked to obtain documents.

f. Accounts Receivable/Standard Document Number. Based on information obtained in paragraphs 6c, Coordination, DFAS will continue to perform the accounting function and post accounts receivable transactions and all related collections. The efficiency of this accounting function will be enhanced by the information generated, which includes using the Case ID Number as part of the accounts receivable Standard Document Number. If an accounts receivable cannot be established prior to receipt of funds at DFAS, a journal voucher will be used to process the collection, as is done today.

g. Agency File Number and Disbursement of Funds. For civil cases, the FLU is responsible to collect and record payments and DAOG is responsible to disburse funds to the appropriate agency. For criminal cases, DOJ is responsible to collect funds; but the U.S. Court is responsible to record payments and disburse funds to the appropriate agency. For civil cases, when disbursing funds to DFAS, DAOG will provide OTJAG's Case ID Number as the Agency File Number. For criminal cases, when disbursing funds to DFAS, the U.S. Court will provide OTJAG's Case ID Number as the Agency File Number. At the time this MOU was signed, DAOG used the Intra-Governmental Payment and Collection (IPAC) system (see paragraph 6i below) to disburse funds, while the U.S. Courts issued a U.S. Treasury check to disburse funds.

h. Central DFAS Office to Receive Collections. DFAS currently has a Debt Management Office (DMO) that serves as the centralized office for processing DOJ collections. The DMO will continue to serve in this capacity, utilizing the information described in paragraph 6c. This agreement is applicable to contract and vendor pay debts only. Individual out-of-service debts originating from personnel pay activities will be reviewed for improvements at a subsequent time. The other agencies will use codes or other mutually agreed upon methods to help DFAS differentiate between contract-related recoveries and all others.

i. IPAC Locator Codes and Addresses. For civil cases, DOJ's DAOG uses the Treasury standard system known as IPAC to electronically transmit funds to other agencies. To facilitate paragraphs 6g and 6h, DFAS will provide the FLUs and DAOG with a current IPAC code list and use our best efforts to communicate any changes to the IPAC.

j. DFAS Accounts Receivable Processes. DFAS will continue to record and post accounts receivable transactions, utilizing the information provided, and post collections to the proper appropriations, thereby increasing the availability of funds.

k. Interagency SOP. The OASA (FM&C) monitor will develop an interagency SOP. This SOP will assist with the agency interaction and improve the sharing of information necessary to ensure the timely return of procurement fraud funds to Army command accounts before funds cancel.

l. Interagency Points-of-Contact (POC). Enclosure two lists key POCs at the headquarters level. To facilitate communication, the OASA(FM&C) monitor will develop a more detailed list and include it in the SOP.

m. Responsible, Accountable, Consulted, Informed (RACI) Action Item or Task List. As part of the LSS project, the interagency workgroup developed a mutually agreed upon RACI list. The list identified the lead agency for each action item or task and depicts at a high-level how the agencies will work together on the task. The list was also the outline for this MOU.

n. Criminal Cases and U.S. Court Responsibilities. For criminal cases, the U.S. District Court is responsible for receipting criminal debt payments and disbursing restitution funds to the appropriate victim. Currently, the U.S. District Court issues a Treasury check to disburse restitution to victims. Per paragraph 6b, the OTJAG's Procurement Fraud Branch will generate a Case ID Number when a case file is opened. When a criminal case has been adjudicated in a Federal District Court, the Procurement Fraud attorney handling the case will initiate an Army Procurement Fraud Recovery Collection / Accounts Receivable Form, which will include the OTJAG Case ID Number on the form. The Army will fax or email the form to the U.S. District Court. The Court will include the OTJAG Case ID Number on each restitution check disbursed to DFAS for that particular case. If space permits on the check, the Court will include the defendant's first name and last name. If the Court does not have the OTJAG Case ID Number, the Court should contact the Army Procurement Fraud attorney handling the case to obtain the necessary form.

7. Effective date. 1 June 2010.

Monica

MONICA MALIA

LSS Project Sponsor & Acting Chief,
Cost and Resource Integration Division
Office of the Assistant Secretary of the Army
(Financial Management & Comptroller)

18 Aug 09

(Date)

James K. Podolak

JAMES PODOLAK

Director, Major Procurement Fraud Unit
U.S. Army Criminal Investigation Command

18 Aug 09

(Date)

ECB 4 for

CYNTHIA B. GARCIA

Director, Accounting Mission Area
Defense Finance & Accounting Service

5/21/2010

(Date)

Charles Glenn

CHARLES GLENN

Controller

Accounting & Financial Systems Division ;
Administrative Office of U.S. Courts

9/24/09

(Date)

Holley O'Brien

HOLLEY O'BRIEN

Director, Debt Collection Management Staff
Justice Management Division
Department of Justice

March 18, 2010

(Date)

A. Helm

ANTHONY HELM

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2/23/10

(Date)

Edna J. Knight

EDNA J. KNIGHT

Central Site Director - Indianapolis

Defense Finance & Accounting Service

5/26/2010

(Date)

Army Procurement Fraud Recovery Collection / Accounts Receivable Form

Instructions: This form provides information needed by DFAS to record and collect Army procurement fraud recoveries. It can be used for either civil recoveries (Part 4a) which are disbursed by DOJ, or criminal recoveries (Part 4b) which are disbursed by the District Court. The procurement fraud attorney working the case will initiate the form, completing Parts 2, 3, 4, 5, 7 and as much of Part 6 that is known when the Court makes the decision or collection. The procurement fraud attorney will then forward the form concurrently to DOJ or the Court and ASA(FM&C). Next, DOJ or the Court will check the appropriate box in Part 1, fill in Court information still needed in Parts 2,3, 4, 6 and forward the form to the DFAS office where payment was sent. If DFAS receives the funds without Part 6 being completed, then the Army command that issued the contract(s) is the lead to complete Part 6. If you have questions on completing the form, call Mr. Ron Jones, the ASA(FM&C) monitor, at (703) 692-5887.

Part 1 Remit To Information

Agency Code: **DEFB**Agency Location Code: **00006551**
☐ **IPAC (Electronic Funds Transfer)**
Mail IPAC printout, this form and other
documents to:

DFAS-Columbus

Attention: DFAS-CO/JAIAC

Columbus Center, Building 21

P.O. Box 182317

Columbus, Ohio 43218-2317

☐ **U.S Treasury Check**
Mail checks, this form & other documents to:

DFAS- Columbus

Attention: DFAS-CO/JAIAC

P.O. Box 979049

St. Louis, MO 63197-9000

(Include OTJAG Case ID Number on check)
If sending documents by fax or scanned email, send to:

 DFAS Point of Contact: **Marian Watson**, marian.watson@dfas.mil, Phone (614) 693-8693, Fax (216) 367-3455

Part 2 Case Numbers

 Court Case Number
 CDCS Number (civil only)
 **OTJAG Case ID/
Agency File Number**
 21FRDP

Part 3 Defendant / DOJ / Court Information

 **Defendant/
Contractor Name**
 Contract Number
 **Delivery Order Numbers
(if applicable)**
 Federal Judicial District
 **DOJ Attorney
(name, email, phone number)**
 **FLU Representative / Court Financial
Administrator (name, email, phone number)**

Part 4a Civil Settlements (Actual/Compensatory Damages)

 **Actual/
Compensatory
Damages Ordered**
 Date of Order
 **Initial Lump
Sum Amount**
 **Monthly Payment
Amount
(if applicable)**
 **Date First
Payment Due**
 **Amount of
this Payment**

Enclosure One

Explanation of Debt	
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Part 4b Criminal Judgments (Restitution)					
Restitution Amount Ordered		Date of Order		Initial Lump Sum Amount	
Monthly Payment Amount (if applicable)		Date First Payment Due		Amount of this Payment	
Explanation of Debt					

Part 5 Investigative Agency			
Investigative Agency Case Number (if known)		Special Agent Name/ Office	
Email Address		Phone Number	

Part 6 Payment / Collection Information	Amount
Gross Payment	
Less collection fee (Civil Cases only)	
Net Payment	
Accounting Classification/Appropriation Data (attach additional sheets if needed)	
Total Collected	

Part 7 Other Points of Contact				
Role	Organization	Name	Email Address	Phone Number
OTJAG Procurement Fraud Attorney				
Command Procurement Fraud Attorney (if known)				
Command Resource Manager (if known)				

Enclosure Two
Key Interagency Points-of-Contact

For Army:

- Ron Jones, OASA(FM&C), (703) 692-5887, ronald.h.jones@us.army.mil
- Angelines McCaffrey, OTJAG, (703) 696-1554, angelines.mccaffrey@us.army.mil
- Frank Robey, USACIDC, (703) 806-0479, marion.robey@us.army.mil

For DFAS:

- Ed Bright, DFAS Indianapolis, (317) 510-4558, ed.bright@dfas.mil
- Andy Durewicz, DFAS Columbus, (614) 693-0798, andrew.durewicz@dfas.mil

For DOJ:

- Darrell Curtis, DOJ, (801) 325-3215, darrell.curtis2@usdoj.gov
- Leslie Bournes, DOJ, (202) 616-1867, leslie.c.bournes@usdoj.gov

For the U.S. Courts:

- Alvin Dixon, U.S. Courts, (202) 502-2228, Alvin_dixon@ao.uscourts.gov
- Michele Makle, U.S. Courts, (202) 502-2231, michele_makle@ao.uscourts.gov