



ARMY PROCUREMENT FRAUD ADVISOR's  
UPDATE



Patrolling Baghdad

Photo by Spc. Jeffery Sandstrum

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## ARMY PROCUREMENT FRAUD ADVISOR'S UPDATE

ARMY PROCUREMENT FRAUD BRANCH  
CONTRACT & FISCAL LAW DIVISION

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### MESSAGE FROM THE CHIEF, PROCUREMENT FRAUD



#### **Contractor Ethics Code and Display of Agency Office of Inspector General (OIG) Fraud Hotline Posters Now Required for Contractors Receiving Awards in Excess of \$5 Million.**

By Mrs. Christine McCommas Chief, PFB

On November 23, 2007, a final rule was published in the Federal Register amending the Federal Acquisition Regulation to require contractors to implement ethics codes and to post hotline posters before performing most contracts over \$5 million. The rule adds a new FAR provision at Subpart 3.10 (Contractor Code of Business Ethics and Conduct) and two new contract clauses, 52.203-13 (Contractor Code of Business Ethics and Conduct) and 52.203-14 (Display of Hotline Posters). 72 FED REG 225 (November 23, 2007). The new rule is similar to a long existing rule in the Department of Defense FAR Supplement (DFARS) at Subpart 203.7000 which states that contrac-

tors should have standards of conduct and internal control systems. Unlike the new FAR rule, the DFARS 203.7000 rule is not mandatory. A second long existing DFARS provision at Subpart 203.7002 directs contracting officers to include a clause requiring the display of the DOD Hotline poster in solicitations and contracts expected to exceed \$5 million, except in contracts performed overseas. DFARS 252.203-7002 provides that the contractor need not display the DOD poster if it has an internal hotline or other reporting mechanism.

#### **Applicability.**

The new mandatory requirement for a contractor code of business ethics and conduct applies if the value of the contract is expected to exceed \$5 million and the performance period is 120 days or more unless the contract is for the acquisition of a commercial item or will be performed entirely outside the United States. FAR 3.1004. The requirement flows down to all subcontracts, including purchase orders, which meet the above tests. The requirements of the rule with respect to small businesses are modified due to the difficulty and expense for small businesses to have training programs and internal controls. While small businesses must have

#### *Mission*

*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*

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a code of business ethics and conduct and provide a copy of the code to each employee, the requirements for a formal training program and internal control system are inapplicable to small businesses.

**Key Features.**

The effective date of the rule is December 24, 2007. After that date, contractors must have a written code of business ethics and conduct in place within 30 days of contract award. A copy of the code must be furnished to each employee and the contractor must promote compliance with its code. Unless the company is a small business concern, the contractor must establish an ongoing business conduct awareness program and an internal control system, within 90 days after award. The internal control system is intended to facilitate discovery of improper conduct in connection with Government contracts. Features of such systems may include periodic reviews of company business practices, internal reporting mechanisms such as hotlines, audits, and disciplinary actions for improper conduct. During contract performance, the contractor must prominently display a hotline poster in common work areas within business segments performing work under the contract. The contracting officer may identify a particular hotline poster to be displayed. If the contractor has a website, it must display an electronic version of the poster on its website as well.

**Enforcement by the KO.**

With respect to enforcement of the new rule's mandatory requirements by the contracting officer, guidance included with the rule

in the Federal Register clarifies that contracting officers are not expected to verify compliance with the rule, but may inquire about compliance as part of their contract administrative duties.

The Government does not intend to routinely review codes or internal control systems unless a problem arises. The contractor's ethics code will not be a deliverable under the contract and, where applicable, the contracting officer will not be called upon to evaluate the internal control system but only to verify its existence. Similarly, contractors are not required to judge or monitor the codes and systems of their subcontractors – just verify their existence. Contractors needing more time than the 30 days (after award) allotted by the new rule to develop and implement their code and more than 90 days after award to develop and implement their internal control system, may request an extension from the contracting officer.

**Regulatory Developments.**

On November 14, 2007, a proposed rule was published in the Federal Register proposing amendments to the above final rule. The proposed rule was initiated by the Department of Justice (DOJ) National Procurement Fraud Task Force. The proposed rule would require contractors to notify contracting officers without delay whenever they become aware of violations of Federal criminal law related to the award or performance of a Government contract. 72 FED REG 219 (November 14, 2007).

Disclosures by contractors of improper conduct would increase under the proposed rule. In addition, DOJ recommended a FAR change to change FAR 52.203-13 to more closely match requirements of the U.S. Sentencing Commission's Guidelines Manual. The Manual provides guidance on what the U.S. Sentencing Commission expects in the way of an effective compliance and ethics program from convicted contractors. The proposed rule would incorporate this guidance into the FAR, adding mandatory features to contractor internal control systems and provide a uniform standard or definition throughout the Government of the essential elements of a contractor compliance program. The proposed rule raises questions whether the contractors will be required to disclose suspected violations of criminal law as soon as suspected or after they are internally investigated and proven to be legitimate. Public comments on the proposed rule are under review by the FAR councils. The proposed rule, if finalized, will not impact the new mandatory requirement, discussed in this article, for contractors to have a code of business ethics and conduct and internal control system.

**Conclusion.** The new final rule will strengthen the requirements for corporate compliance and provide a framework for contractors in developing codes of business ethics and conduct, hopefully without imposing additional administrative burdens on contracting officers, already taxed under the current volume of contracting actions.

## MESSAGE FROM SUSPENSION AND DEBARMENT OFFICIAL



By Mr. Robert N. Kittel, SDO

The DOD Procurement Fraud Working Group continues to be widely attended by DOD procurement fraud attorneys, investigators,

auditors, Department of Justice (DOJ) criminal and civil attorneys, and DoD acquisition policy makers. The group provides a needed forum for exchange of information and current practice and increasingly facilitates the prevention and detection of fraud, waste, and abuse in the DoD acquisition community. A fourth annual conference is planned for the spring of 2008 and will be hosted by the Air Force. This year the conference will be held on 1-3 April 2008 at the Hilton Daytona Beach Hotel. The conference is at the advanced-level and is intended for fraud fighters who are

experienced in the subject matter and who can benefit from an exchange of best practices. Prospective attendees should contact Mrs. Christine McCommas by e-mail at [Christine.McCommas@hqda.army.mil](mailto:Christine.McCommas@hqda.army.mil) to be considered for selection to attend as an Army attendee. The conference is limited to 150 attendees, 25 from each service. Mr. Russ Geoffrey, DCMA Director, Contract Integrity Center, DCMA, may be contacted for more information about the course at [russell.geoffrey@dcma.mil](mailto:russell.geoffrey@dcma.mil)

## SIGNIFICANT ACTIONS

### Suspensions

(1) Conspiracy to Commit Fuel Fraud (Bagram Air Base, Afghanistan). On 11 October 2007, the Army Suspension and Debarment Official (SDO) suspended James N. Sellman and Wallace A. Ward, former employees of KBR, from contracting with the Government. On 1 October 2007, warrants for the arrests of Mr. Ward and Mr. Sellman were filed in the United States District Court for Eastern District of Virginia on the basis of criminal complaints filed against them alleging probable cause to believe that Mr. Sellman and Mr. Ward conspired to defraud the Government by submitting false claims related to

The delivery of fuel to the base. (Ms. McCaffrey)

(2) Fuel Card Fraud (99<sup>th</sup> Regional Readiness Command Employee): On 2 November 2007, the Army SDO suspended Jimi Edward Keener as a result of his 6 August 2007 arraignment in the 28th Judicial District of Pennsylvania, Venango County, on one count of Access Device Fraud, 18 Pa. C.S. Section 4106, in connection with his alleged use of at least 4 Government Voyager credit cards between 4 November 2004 and 16 June 2007 for personal fuel purchases valued at \$6,457.01. Mr. Keener acquired the cards prior to his February 2007 retirement from a civilian Department of the Army position at the 99th Regional Readiness Command, Conneaut Lake, PA, Army Reserve Center. (Mr. Persico)

(3) Wire Fraud and Bribery (USASMDC/Alabama). On 16 November 2007, the Army SDO suspended Michael Lee Cantrell from contracting with the Government on the basis of the criminal information filed against him on 1 November 2007 in the United States District Court for the Northern District of Alabama charging him with wire fraud, transportation in aid of racketeering enterprises and bribery. Mr. Cantrell was an employee of the United States Army Space and Missile Defense Command. In his capacity as the Director, Joint Center for Technology Integration from 2000 to 2005 and as the Director of the Integrated Capabilities Management Directorate from 2005 to April 2007, Mr. Cantrell and his co-conspirators devised a scheme to defraud the Government by obtain-

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ing money through fraudulent pretenses and then used interstate wire transfers to distribute the fraudulently-obtained funds. (Ms. McCaffrey)

(4) False Statements (USASMDC/Alabama): On 16 November 2007, the Army SDO suspended Douglas Harry Ennis on the basis of a criminal information filed against him in the United States District Court for the Northern District of Alabama charging him with making a false statement. Mr. Ennis is an employee of the Department of the Army and assigned to United States Army Space and Missile Defense Command (USASMDC). In his capacity as the Deputy Director, Joint Center Integrated Technologies, Mr. Ennis was obliged to complete an annual Confidential Disclosure Form, Office of Government Ethics (OGE Form 450) for the period covering 1 October 2001 through 30 September 2002, Mr. Ennis submitted an OGE Form 450-A, Confidential Certificate of No New Interests. Mr. Ennis was obliged to identify new interests he had acquired since he last filed the OGE Form 450. After completing this form, Mr. Ennis certified that the statements therein were true and correct, although he had failed to disclose having received two bank deposits in the amount of \$4,900 from the account of Nikon Shah and \$75,000 from an officer and representative of certain companies which were subcontractors and vendors on contracts funded by USASMDC. (Ms. McCaffrey)

(5) Bribery (MNC-I, Camp Liberty, Baghdad, Iraq). On 3 December 2007, the Army SDO suspended CW2 Joseph Crenshaw, USA, as a result of an 8 November 2007 filing of a criminal complaint was filed in the United States District Court for the Southern District of New York. This complaint alleged that CW2 Crenshaw, while deployed to Baghdad, Iraq, received cash payments in exchange for facilitating the theft of fuel from the U.S. Army. Specifically, this complaint alleges that CW2 Crenshaw escorted fuel tankers to the Fuel Depot at Camp Liberty on three occasions during June and August 2007 and facilitated the theft of fuel using large tanker trucks in exchange for payments of several thousand dollars in violation of 18 U.S.C. § 201, Bribery. He subsequently admitted to his participation in this scheme and his receipt of cash payments for facilitating access to the Camp Liberty fuel depot. (Mr. Persico)

### Proposed Debarments

(1). Government Purchase Card Fraud. On 19 October 2007 the Army SDO proposed Edward H. Artis, Jr., and his company, A2 Computers, LLC, for debarment based on allegations of fraud and false statements made providing IT equipment to the Army under the "GSA Advantage" program. It is alleged that between September 2004 and August 2005, Mr. Artis, acting through A2 Computers, allegedly impersonated a United States Government employee for the purpose of defraud-

ing a subcontractor, failed to pay at least one subcontractor for approximately \$117,000.00 worth of computer equipment and, made unauthorized charged to a Government Purchase Card in the amount of \$71,728.00. In addition, Mr. Artis did not disclose criminal convictions since 2002 for conspiracy to defraud the United States Government, Wire Fraud and federal probation violations in accordance with the requirements of FAR 52.209-5. (Mr. Persico)

(2) Inflated Claim/Iraq. On 6 November 2007, the USAREUR SDO proposed Yuksel Insaat, a Turkish construction contractor doing business in Iraq, and two of its managers, M. Zafer Demirsalcuk and Hande Umit Tarikahya, for debarment. Yuksel Insaat (Yuksel) was awarded a \$19.8 million contract to construct barracks in Iraq. The contract was terminated for convenience in February 06. In April 06, Yuksel submitted a \$2,598,941 termination cost claim, \$2,497,440 of which was determined to be false by a Defense Contract Audit Agency (DCAA) audit. (CPT Meketen)

(3) Violation of Host Nation Laws by International Moving Contractors. On 26 November 2007, the USAREUR SDO proposed for debarment Delta Overseas SRL (Delta), Three Stars Scarl (Three Stars), Pasquale Barca, Giovanni Barca, Carmine Barca and Raffaele Maurano. The USAREUR moving contract was awarded by

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USACCE, RCO-Bavaria to Delta, a company headquartered in Naples, Italy. Delta then subcontracted with Three Stars, also headquartered in Naples Italy. Pasquale Barca was determined to be the Chief Executive of both companies. Giovanni and Carmine Barca, sons of Pasquale Barca, and Raffaele Maurano were involved in the management of Three Stars. The SDO found that Delta and Three Stars defrauded the Italian government by hiring illegal workers and by not paying Italian social security taxes for its workers. (CPT Meke-ten)

(4) Bribery, Wire Fraud, Money Laundering, Conspiracy (MNF-I, LSA Anaconda, Iraq). On 27 November 2007 the Army SDO proposed MAJ John Allen Rivard, USA (Retired), for debarment based upon his 30 July 2007 plea of guilty to one count each in violation of 18 U.S.C. §§ 371 and 201(b)(2)(A) and (C), Conspiracy to Defraud the United States, 18 U.S.C. § 201(b), Bribery and 18 U.S.C. §§ 1956(h) and 1957, Conspiracy to Launder Money in the United States District Court for the District of Texas, Austin Division. MAJ Rivard was sentenced on 29 October 2007 to at total of 120 months confinement; three years supervised release, a \$5,000.00 fine and a \$300.00 Special Assessment. The basis for MAJ Rivard's plea of guilty was his fraudulent award of approximately \$20 million in contracts for tractor trailers, electronic feeders and stackable living containers to contractors owned by an unnamed individual residing in Dubai, United

Arab Emirates. In return for these awards, MAJ Rivard admitted to receiving at least \$271,400.00 in cash, and an unknown amount of Iraqi Dinars. During the time that MAJ Rivard engaged in these activities, he was Acting Chief of Contracting and Deputy Chief of Contracting for LSA Anaconda, Iraq, responsible for the award and administration of 52 contracts worth approximately \$36.8 million. (Mr. Persico)

(5) Theft (INSCOM, Camp Zama, Japan). On 3 December 2007, the Army SDO proposed John Willie Taylor, a former INSCOM civilian employee at Camp Zama, Japan, for debarment based on his 2 March 2007 plea of guilty to theft of public funds. As part of this plea, Mr. Taylor admitted that on at least 20 occasions he falsified accounting vouchers resulting in the conversion of \$106,556.00 to his personal use from INSCOM accounts. On 19 June 2007, Mr. Taylor was sentenced to 12 months and one day of confinement; 36 months supervised release, \$106,556.00 in restitution to the U.S. Treasury and a \$100.00 Special Assessment. (Mr. Persico)

(6) Conspiracy to Commit Fraud (Fort Valley State University, Georgia). On 12 December 2007, the Army SDO proposed Patricia Barrett and Linda Abrams for debarment. On 23 May 2006, Ms. Barrett and Ms. Abrams were indicted in the United States District Court, Middle District of Georgia, for conspiracy to de-

fraud the Government and making a false statement. On 19 December 2006, they both entered a pre-trial diversion program and the indictment was dismissed, without prejudice. Thereafter, in the United States District Court, Middle District of Georgia, on 19 December 2006 a Stipulation and Consent Judgment, was signed and filed with the court pursuant to the pre-trial diversion agreement. On 12 March 2007, a Writ of Execution was filed against Ms. Abrams and Ms. Barrett pursuant to the Consent Judgment. In the Stipulation each agreed to pay \$69,510 in criminal restitution to the Government as a result of the false statements and their respective roles in the conspiracy to defraud the Government. In addition, they consented to a judgment against each in the amount of \$69,510 in favor of the Government, in the event each of them was not able to complete payment within the 12-month period of the pretrial diversion program. (Ms. McCaffrey)

#### Debarments.

(1) Conspiracy and Money Laundering (Coalition Provisional Authority, Iraq). On 20 September 2007 the Army SDO debarred LTC Bruce D. Hopfengardner, USAR, for a period of approximately 5 years, until 19 July, 2011. On Jul 07, LTC Hopfengardner pled guilty to one count of conspiracy and one count of money laundering in the United States District Court for the District of Columbia resulting

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from his participation in a scheme to fraudulently award Iraq reconstruction contracts while deployed to the Coalition Provisional Authority – South Central Region (CPA-SC) between January and June of 2004. On that same date he was sentenced to 21 months confinement, 3 years supervised release and forfeiture of the proceeds of his participation in the conspiracy to defraud the Government, approximately \$210,000.00. (Mr. Persico)

(2) Wire Fraud (USAOSC). On 4 October 2007, the Army SDO debarred Mohammed Shabbir Khan (Mr. Khan) from contracting with the Government until 27 April 2013. Mr. Khan was employed by Tamimi Global, Ltd. (Tamimi), as its Director of Operations for Kuwait and Iraq. Tamimi was KBR's subcontractor for the Camp Arifjan, DFAC. Prior to the award of the contract, Mr. Khan offered Mr. Seamans, a KBR employee, an offer of a kickback in exchange for the award of the DFAC subcontract. From about October 2002 through November 2002, Mr. Khan paid Mr. Seamans at least \$30,000 in cash (in the form of U.S. currency) as kickbacks in exchange for Mr. Seamans' award of the subcontract to Tamimi. In addition, there were 11 instances in which Mr. Khan electronically transferred various sums of money, amounting to \$72,000, to Mr. Seamans' bank account in Maryland. On 23 June 2006, in the United States District Court, Central District of Illinois, Rock Island Division, Mr. Khan pled guilty to wire fraud, conspiracy to launder money, and making a false statement. On 8 December

2006, he was sentenced to serve a term of 51 months confinement, followed by 2 years of supervised release; ordered to pay an assessment of \$1,400; fined \$10,000; and ordered to make restitution in the amount of \$133,860 to HQ U.S. Army Operations Sustainment Command. (Ms. McCaffrey)

(3) Wire Fraud and Bribery (INSCOM, Fort Belvoir). On 26 October 2007, the Army SDO debarred Michael G. Kronstein, Karla R. Kronstein, Kenneth N. Harvey and Program Contract Services, Inc. (PCS) from contracting with the Government. Between November 1998 through May 2001, Mr. Kronstein and Ms. Kronstein provided \$35,000 in cash payments and an offer of future employment to Kenneth N. Harvey who was the Chief of Acquisition Logistics and Field Support at U.S. Army Intelligence and Security Command (INSCOM), Fort Belvoir, Virginia, for the purpose of steering INSCOM contracts to their company, PCS. As part of this scheme, Mr. Harvey caused INSCOM to award a contract to PCS, and recommended modifications to the contract which benefited PCS. As a result of these actions, INSCOM paid over \$4.7 million to PCS during 1999, 2000, and 2001. On 6 March 2007, the U.S. District Court for the Western District of Virginia, found Mr. Kronstein and Mr. Harvey each guilty of wire fraud and bribery. Mr. Kronstein was sentenced to 70 months confinement and Mr. Harvey was sentenced to

72 months confinement. Both were sentenced to three years supervised release, and ordered to pay \$383,621.00 in restitution. On 20 February 2007, Ms. Kronstein was found guilty, pursuant her plea, to Aiding and Abetting of the Supplementation of a Government Employee's Salary and was sentenced to three years probation. (Mr. Persico)

(4) Conflict of Interest/Balkans Contract. On 7 November 2007, the USAREUR SDO debarred Dragon Group International, Daliborka Ristevska, and Paul Leaker, until 10 December 2009, Tamilo Fea and Douglas Johnson until 9 January 2010. The SDO found evidence that Dragon Group International was formed by two DoD employees (Mr. Douglas Johnson and Mr. Tamilo Fea) who were in a position to influence the award of the Balkan range support contract. Specifically, Mr. Fea and Mr. Johnson both were involved in revising the statement of work for the range support contract received by Dragon Group International. (CPT Meketen)

(5) Soliciting Gratuities (USACE, Sacramento, CA). On 14 December 2007, the Army SDO debarred Balraj S. Sandhu from contracting with the Government until 19 July 2010. On 19 July 2007, Mr. Sandhu was proposed for debarment. In October 2005, Mr. Sandhu was removed from his position as a project manager, GS-12, with the United States Army Corps of Engineer, (USACE) Sacramento District in October 2005 for soliciting gratui-

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ties from a contractor. Mr. Sandhu appealed his removal to the Merit Systems Protection Board, which upheld the USACE's decision to remove Mr. Sandhu on 21 December 2006. (MAJ McDonald)

### (6) Theft of Government Property (Fort Stewart, Georgia).

On 28 December 2007, the Army SDO debarred Richard W. Patrick, Sr. (Mr. Patrick), from contracting with the Government. On 9 February 2006, Mr. Patrick was convicted of theft of Government property in the U.S. District Court for the Southern District of Georgia. The court sentenced Mr. Patrick to serve 60 months imprisonment; 3 years supervised release, and payment of \$223,305.99 of criminal restitution to the Department of Treasury. Between January 2001 and January 2004, Mr. Patrick used his Government Purchase Card (GPC) to make unauthorized payments to his family members. Although the specific amount of money Mr. Patrick embezzled is unknown, the estimated value is over \$200,000.00. (Ms. McCaffrey)

### **Termination of Suspension/ Proposed Debarments.**

(1) Axion Corporation, Alexander Latifi, Cherokee Advanced Systems and Beth Latifi (AMCOM, Redstone Arsenal, AL). On 14 November 2007 the Army SDO terminated the suspensions of Mr. Alexander Nooredin Latifi, and Axion Corporation based on the acquittal of Mr. Latifi and Axion, and dismissal of indictment, after a trial in the United States District Court for

the Northern District of Alabama. The suspensions of Ms. Beth Latifi and Cherokee Advanced Systems were also terminated by the Army SDO on November 14, 2007 based on their affiliation with Mr. Latifi and Axion. (Mr. Persico)

(2) Eric W. Barton (MNSTC-I, International Zone, Baghdad, Iraq). On 20 December 2007 the Army SDO notified Eric W. Barton that a determination had been made that he was a presently responsible Government contractor and that the proposal for debarment was terminated on that same date and his name was removed from the GSA Excluded Parties List System. The Army SDO made this determination in accordance with FAR 9.406-1 based on written and oral presentations by Mr. Barton regarding accusations of misconduct in the award of convoy security delivery orders in Iraq. (Mr. Persico)

### **Administrative Hearings/ Compliance Agreements**

(1) Compliance Agreement with ITT Corporation. On 11 October 2007, the Army SDO, on behalf of the Army, executed an Administrative Compliance Agreement with ITT Corporation as a result of its 29 March 2007 guilty plea to two counts of violating the Arms Export Control Act as implemented by the International Traffic in Arms Regulations and to the company's deferred prosecution agreement with the U.S. Attorney's Office for the Western District of Virginia for a

third count. As part of its guilty plea, ITT admitted to knowingly violating export regulations by sending exporting technical data, drawings, specifications, services and equipment related to classified military night vision systems to third parties in Singapore and the United Kingdom without export licenses from the Department of State. As a result of its failure to adhere to export controls, classified information regarding night vision systems was passed on to manufacturers in China. The Agreement entered into by the Army with ITT provides for Army oversight of the company's internal control systems, government contracts and ethics training and mandates regular reports to the Army Procurement Fraud Branch regarding its progress in meeting specific milestones designed to improve its responsibility as a Government contractor. Also, an Independent Monitor, John S. Pachter, has been appointed by the Army SDO to oversee the day to day administration of the agreement, conduct investigations into allegations of misconduct on the part of the corporation and to assist in the accounting of the deferred prosecution monetary penalty required by the deferred prosecution agreement with the Department of Justice. With regard to this deferred prosecution monetary penalty, Attachment 3 to the Agreement implements the provision by ITT to the Army of \$50 million in research and development into advanced night vision technologies under the oversight of the Army

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Night Vision Laboratory, Roanoke, Virginia. Attachment 3 was signed by Dr. Thomas H. Killion, Deputy Assistant Secretary for Research and Technology and Chief Scientist for the Department of the Army due in recognition of the cooperation necessary between the Procurement Fraud Branch and the Army Night Vision Laboratory in the implementation of this requirement of the Agreement. (Mr. Persico)

On 29 November the Army SDO and the Chief, PFB met with company officials at ITT in McLean VA for a presentation on the company's plan to implement its ethics program throughout its company. (Mr. Kittel, Mrs. McCommas and Mr. Persico).

(2) EOD Technologies, Inc (MNSTC-I, International Zone, Baghdad, Iraq). On 3 December 2007, the Army SDO met with representatives of EOD Technologies, Inc., regarding a 14 September 2007 show cause letter regarding the award of convoy security delivery orders. Specifically, the letter addressed allegations of misconduct by an EOD Technologies employee charged with overseeing the submission of bids for convoy security work. EOD Technologies presented materials in support of its claim that it is a presently responsible contractor and steps taken to correct the circumstances which led to the dispatch of the Show Cause Letter. (Mr. Persico)

(3) Eric W. Barton (MNSTC-I, International Zone, Baghdad, Iraq). On 18 December 2007, the Army SDO met with Eric W. Barton, a former employee of EOD Tech-

nologies, Inc., regarding a 14 September 2007 proposal for debarment resulting from allegations of misconduct in the award of convoy security delivery orders associated with contract number W91GY0-06-A-0003. Mr. Barton presented materials in support of his claim that he is a presently responsible contractor and had taken steps to prevent similar allegations in the future. (Mr. Persico)

### Show Cause Letters

(1) EOD Technologies, Inc. (MNSTC-I, International Zone, Baghdad, Iraq). On 14 September 2007 the Army SDO sent EOD Technologies, Inc., a show cause letter in response to allegations that one of its employees received procurement sensitive information regarding the prospective awards of contracts and delivery orders from a Government official in a violation of 41 U.S.C. § 423(b). Due to the fact that the employee's actions resulted in an alleged an unfair advantage in the award of convoy security delivery orders valued at \$2,555,332.50, the SDO determined that it was in the best interests of the Government to have EOD Technologies show cause as to why it should not be proposed for debarment as a result its employee's actions. (Mr. Persico).

(2) ABSI Corporation and Telepresence LLC (Washington State National Guard). On 19 September 2007 the Army Procurement Fraud Branch sent show cause letters to ABSI Corporation and Telepresence LLC regarding

their relationships with Mr. Richard O'Connor, a former employee of the Washington National Guard indicted on 12 March 2007 in the United States District Court for the Western District of Washington. Mr. O'Connor is accused of actively seeking employment for himself, and his company, Information Technologies Associates, as well as commission payments for obtaining contracts, with companies seeking the award of contracts which he oversaw as a Government employee, in violation of 18 U.S.C. §§ 208 and 216 (a)(2). Both ABSI Corporation and Telepresence LLC employed Mr. O'Connor on a commission basis for the purpose of obtaining Government contracts, resulting in the purchase of computer software by the Washington National Guard. (Mr. Persico).

(3) AKAL Security Inc. (IMCOM/ACA). On 13 December 2007, the Army Procurement Fraud Branch issued a show cause letter to AKAL based on a 13 July 2007 civil settlement by the company with the DOJ for \$18 million to resolve a qui tam complaint filed in the United States District Court, Topeka, KS by former AKAL security guards at Fort Riley who were allegedly terminated by the company when they raised questions about improper and inadequate training that was required by the contract. AKAL was awarded contracts at a number of Army installations in 2003. Allegations concerning inadequacy of training surfaced at other Army installations including Fort Lewis, Fort Hood, Fort

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Campbell, Fort Stewart, Blue Grass Army Depot, Anniston Army Depot and Cherry Point Munitions Depot. (MAJ McDonald)

(4) Al Qabandi United Company WLL (ARCENT, Camp Arifjan, Kuwait) On 31 December 2007 the Army SDO sent Al Qabandi United Company WLL, a show cause letter in response to accusations that the company failed to provide proper amounts of conforming gravel/getch and ¾" gravel for two construction projects on Camp Arifjan during a seven month period in 2007. Al Qabandi was asked to provide a response to these allegations prior to a decision regarding the company's present responsibility as a Government contractor. Al Qabandi is a Kuwaiti-owned supplier of construction materials, leased vehicles, printing services, telephone equipment and prefabricated buildings to U.S. military installations in Kuwait. (Mr. Persico)

### **Compelling Reasons Waiver.**

Yuksel Insaat. On 30 November 2007, the Army SDO issued a "compelling reasons determination" (pursuant to DFARS 209.405-1) regarding Yuksel Insaat A.S., a Turkish company proposed for debarment by the USAREUR SDO. Yuksel had been proposed for debarment for allegedly submitting \$2.4 million in false claims to the U.S. Army Corps of Engineers, Gulf Regional Division. Yuksel provides construction, engineering, and power supply services to Coalition Forces in Iraq, both as a prime contractor and as a LOGCAP sub-

contractor. The compelling reasons determination permits the renewal of a LOGCAP subcontract for the provision of operations, maintenance, and power supply services to Coalition Forces in northern Iraq. The Army SDO determined that there was an immediate need to allow the award of this subcontract based on the operational needs of the Coalition Forces, continuity of life, health, safety, and force protection requirements, and the lack of sufficient time to mobilize an alternate contractor to perform the subcontract. (Mr. Persico and Mr. Kittel)

### **Regulatory Developments**

(1) FAR Case 2006-007/ Contractor Codes of Ethics, Internal Reporting Systems, and Hotline Posters: On 23 November 2007, a final rule was published in the Federal Register amending the FAR to require contractors to implement ethics codes and internal reporting systems and to post hotline posters before performing most contracts over \$5 million. The rule adds a new FAR provision at Subpart 3.10 (Contractor Code of Business Ethics and Conduct) and two new contract clauses, 52.203-13 (Contractor Code of Business Ethics and Conduct) and 52.203-14 (Display of Hotline Poster(s)). 72 FED REG 225 (November 23, 2007). The new rule is similar to a long existing rule in the DFARS at Part 203.7000 which states that contractors should have standards of conduct and internal control sys-

tems. DFARS provision 203.7002 further directs contracting officers to include a clause requiring the display of the DOD Hotline poster in solicitations and contracts expected to exceed \$5 million, except in contracts performed overseas. The FAR case was initiated based on Congressional concerns about the lack of a FAR provision mandating contractor ethics programs and hotline posters. (Mrs. McCommas)

(2) FAR Case 2007-006/ Contractor Compliance Programs and Integrity Reporting: On 14 November 2007, a proposed rule was published in the Federal Register proposing to amend the FAR at the request of the Department of Justice to require contractors to notify contracting officers without delay whenever they become aware of violations of Federal criminal law related to the award or performance of a Government contract. 72 FED REG 219 (November 14, 2007). Public comments on the proposed rule are due by 14 January. The proposed rule supplements an earlier rule (FAR Case 2006-007) that requires contractors to have ethics codes, hotline posters and internal reporting procedures. The FAR case was initiated by the Department of Justice's National Procurement Fraud Task Force. DOJ recommended a FAR change to increase the number of disclosures by contractors and also to incorporate more detailed requirements of the U.S. Sentencing Commission's Organizational Sentencing Guidelines into a new FAR provision at Part 3.10. As

**SIGNIFICANT ACTIONS** (CONT'D FROM PAGE 10)

drafted, the proposed rule raises questions whether the contractors are required to disclose suspected violations of criminal law as soon as suspected or after they are internally investigated and proven to be legitimate. (Mrs. McCommas)

**Training.**

(1) Contract and Fiscal Law Symposium. On 5 December 2007, the Army SDO, the Chief, PFB and Mr. Persico presented a breakout session on Coordination of Remedies and Suspension and Debarment in Southwest Asia (SWA) at the Contract and Fiscal Law Symposium at TJAGLCS in Charlottesville VA. (Mrs. McCommas)

(2) Lean Six Sigma Study. On 13 December 2007, a briefing was made by Army Comptroller representatives and Lean Six Sigma (LSS) Experts at PFB on the LSS Process in preparation for a LSS study on the Army Fraud Recovery Process. (Mrs. McCommas and Ms. McCaffrey)

**Upcoming Events**

We remind all PFAs who have not attended the Procurement Fraud Course at the Judge Advocate General's Legal Center and School (TJAGLCS) in Charlottesville, Virginia to register as described below for the next course, 28-30 May 2008. The course will provide the necessary tools to identify and fight procurement fraud in various environments. The course is given only once every two years—so do not

miss this current opportunity to attend. Mrs. Christine McCommas is the PFB coordinator for the course. Contact Mrs. McCommas with questions at 703 696-1542.

If you plan to attend, you must make formal reservations through your personnel office in the Army Training Requirements and Resources System (ATRRS) at (TJAGLCS). Space is limited to 150 attendees. If you would like to attend the course and your organization has not obtained a quota through ATRRS for your organization you may send a registration request by sending an e-mail to Mr. Gregory Campbell@hqda.army.mil. Army and DOD attorneys will have priority in this process. We will focus on offering basic instruction. All new Procurement Fraud Irregularities Coordinator (PFICs) and Procurement Fraud Advisors (PFAs) should attend. The course is also available to investigators, contracting officers, and paralegals as space permits.

## DID YOU KNOW?



Photo by Sgt. Michael Connors

Soldiers from Company B, 1-30th Infantry Regiments, 2nd Brigade Combat Team, 3rd Infantry Division, drive a new mine-resistant, ambush-protected vehicle, or MRPA, through an off-road confidence course at Camp Liberty, Iraq.

7 November 2007

### MRAP

Mine Resistant Ambush Protected (MRAP) vehicles are a family of armored fighting vehicles designed to survive blasts from improvised explosive devices and armor-piercing IEDs known as improvised explosive projectiles, the main killers of American service-members in Iraq.

The vehicles have a V-shaped hull that deflects shrapnel, providing more effective protection for service-members inside. This design dates back to the 1970's when it was first implemented by a South African company, Land Systems, OMC in the Caspir armored personnel carrier. The MRAPs are replacing armored Humvees. They are designed to be both safe and

effective for soldiers conducting patrols, convoy security, and missions throughout Iraq. They are being fielded to units that need them the most and that operate in areas with the highest threat levels.

The MRAP class is separated into three categories, which describe the vehicles' weight class and size: Category 1 (MRAP-MRUV), the Mine Resistant Utility Vehicle, is smaller and lighter, designed for urban operations; Category 2 (MRAP-JERRV), the Joint Explosive Ordnance Disposal (EOD) Rapid Response Vehicle (JERRV), is designed for missions including convoy lead, troop transport, ambulance, explosive ordnance dis-

posal, and combat engineering; Category 3, Buffalo (mine protected vehicle). This vehicle has six wheels and is fitted with a large articulated arm used for ordnance disposal.

Several criticisms of the MRAP program have been its lack of a common design, which presents a wartime logistical challenge, and the vehicle's inability to withstand Explosively Formed Penetrator (EFP) attacks. However, some analysts see the diversity of the MRAP vehicles as an advantage. Other criticisms include the vehicles' weight and size, which severely limit its mobility off main roads, in urban areas, and over bridges. Its heft also restricts several of the vehicles from being transported by the C-130 cargo aircraft. Although three MRAP vehicles will fit in a C-17 aircraft, airlifting, is very expensive in comparison with sea lifting which is less expensive but delays delivery to the theatre by three to four weeks.

The MRAP may not be effective against EFPs, which use a shaped charge to form a hypervelocity jet of metal, capable of cutting through thick armor. Use of EFPs more than doubled in 2006 and is expected to continue to increase. However, it is believed that the MRAP could reduce casualties in Iraq due to IED attacks by as much as 80%. However, on 19 January 2008, a 3rd Infantry Division U.S. Army soldier, an exposed turret gunner, in an MRAP vehicle was killed by an IED.

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PARTING SHOTS: JUST ANOTHER DAY IN THE LIFE OF A SOLDIER



Mountaintop Duty  
Photo by Capt. Nicholas Melin  
January 25, 2008 Sgt. Carlos Bell nails the wall  
for a bunker.



Operation Patriot Strike Nets AQI Suspects  
Photo by Sgt. Ben Brody  
January 2, 2008  
Capt. George Morris, commander of Co. B, 2-502 Infantry, and his soldiers hit the ground running in the opening salvo of Operation Patriot Strike in Ubaydi.  
December 29, 2007

**MRAP References**

<http://www.globalsecurity.org/military/systems/ground/mrap.htm>  
[http://en.wikipedia.org/wiki/MRAP\\_\(armored\\_vehicle\)](http://en.wikipedia.org/wiki/MRAP_(armored_vehicle))

These photos appeared on [www.army.mil](http://www.army.mil).