



ARMY PROCUREMENT FRAUD ADVISOR'S UPDATE



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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 fraud counsel at their request.



MESSAGE FROM CHIEF, PROCUREMENT FRAUD BRANCH



Message from the Chief, PFB

Recent Initiatives to Prevent Fraud in Federal Contracting. On 14 November 2008, the Executive Office of the President, Office of Management and Budget (OMB), issued a memorandum to all agency Chief Acquisition Officers and Senior Procurement Executives describing several recent initiatives to prevent fraud in Federal contracting. A copy of the memorandum is attached to this newsletter. It is important that all Army Procurement Fraud Advisors (PFAs) are knowledgeable about these initiatives in order to effectively detect and deter fraudulent contracting actions. In addition, PFAs should promptly inform the acquisition workforce at their commands of the following initiatives.

Contractors Must Now Disclose Violations of Criminal Law, Civil False Claims Act Violations, and Overpayments. The Federal Acquisition Regulation (FAR) was recently changed to require contractors to disclose credible evidence related to the award, performance, or closeout of a Government contract in writing to the agency Office of Inspector General (OIG), with a copy to the contracting officer, of violations of criminal law (fraud, conflict of interest, bribery, or gratuity), the civil False Claims Act, and significant

overpayments. Contractors are subject to suspension and debarment for knowingly failing to disclose such violations. The new rule also imposes minimum standards for contractor internal control systems that detect fraud and provide for timely disclosures and full cooperation with Government investigators. **This FAR change, effective on 12 December 2008, was published in the Federal Register on 12 November 2008 (73 FR 219, 67064-93).**

The December 2008 FAR change follows a 2007 FAR change effective 24 December 2007. The 2007 rule requires contractors to implement ethics codes and to post hotline posters before performing most contracts over \$5 million. The rule added 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). The key features of that rule were discussed in PF Update 68 (February 2007).

The 2008 December rule eliminates exceptions present in the 2007 December rule for contracts for commercial items and those performed outside the United States. Also, contracts with small business concerns and contracts for commercial items are now exempt only from compliance training and internal control systems requirements. The mandatory disclosure requirements and the new grounds for suspension and debarment set forth in the December 2008 rule apply to those contracts.

The December 2008 rule resulted from a request by the Department of Justice (DoJ) to require mandatory disclosure by contractors due to the fact that voluntary disclosure has, for the most part, been ignored by contractors over the years

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and from the recently enacted Close the Contractor Fraud Loophole Act, Public Law 110-252, Title VI, Chapter 1, 30 June 2008, which was enacted as part of the Supplemental Appropriations Act, 2008.

Fraud Fighting Resources Provided by the National Procurement Fraud Task Force.

The National Procurement Fraud Task Force (Task Force), initiated by the DoJ in 2006, continues to provide resources to detect and prevent procurement fraud. The Task Force has a web site that provides significant resources regarding fraud training, reporting, and other information helpful to the fraud fighting community. In September 2008, the Task Force held the first National Procurement Fraud Conference in Richmond, Virginia. Training materials and information on procurement fraud training for attorneys, investigators, and auditors may be found on the web site at <http://www.usdoj.gov/criminal/npff>.

Fraud Fighting Resources Provided by the DOD Procurement Fraud Working Group.

The DOD Procurement Fraud Working Group (DODPFWG) was initiated in March 2005 by the Army and Air Force Suspension and Debarment Officials (SDOs). The group has facilitated closer working relationships among DOD and NASA investigators, auditors, and attorneys necessary to detect and deter fraud. The group is led by a Steering Committee, chaired by Russ Geoffrey, Director, Contract Integrity Center, DCMA. The committee meets monthly in Arlington, Virginia, to discuss common issues related to coordination of fraud remedies in the DOD fraud fighting arena. Meetings are open to DOD acquisition executives and DoJ prosecutors as well. Each year, the group holds a training seminar for the DOD fraud fighting community. The fourth DODPFWG Training Seminar, sponsored this year by DCIS, will be held March 31 – April 2, 2009 at the Daytona Beach Hilton, Daytona Beach, Florida.

The group seeks to increase representation from

the contracting community and from DoJ civil and criminal prosecutors throughout the U.S. This year, the seminar format will involve smaller group discussions covering the coordination of remedies. The focus will be resolution of conflicts arising between program (contract) officials, investigators, agency counsel, auditors and DoJ. Information about the training seminar may be found at the DODPFWG web site, <http://home.dcmil/cntr-dcmac-y/pfwg/index.htm>. If interested in attending the seminar, contact a member of the Steering Committee from your agency ASAP, as space is limited. Those contacts are listed on the web site.

Final Note: Hail and Farewell to Army Suspension and Debarment Officials. Mr. Robert N. Kittel has stepped down from his SDO duties in view of his pending retirement from Federal service (June 2009). Mr. Kittel served as the Army SDO from 12 September 2003 to 1 October 2008. During this time, he rendered over 1200 suspension and debarment decisions. His decisions were appealed to Federal courts only twice, and both appeals resulted in decisions upholding his administrative determinations. Mr. Kittel was also instrumental in establishing the DODPFWG and in leading the organization as part of its "Board of Directors" for the past three years. On behalf of the Army Procurement Fraud Program, we thank Mr. Kittel for his outstanding service to the Army fraud fighting community.

Mr. Uldric L. Fiore, Jr. has replaced Mr. Kittel as the Army SDO, effective 2 October 2008. The Office of the Judge Advocate General welcomed Mr. Fiore as its newest member of the Senior Executive Service in July 2008. At that time, Mr. Fiore assumed duties as the Director, Soldier & Family Legal Services, Office of the Judge Advocate General. Mr. Fiore has now assumed the additional duty of serving as the Army SDO. Mr. Fiore's biography and photo may be found on the next page.

ARMY SUSPENSION & DEBARMENT OFFICIAL

ULDRIC L. FIORE, JR.
Army Suspension & Debarment Official
Director, Soldier & Family Legal Services
Office of The Judge Advocate General
U.S. Army

On 2 October 2008, Mr. Uldric L. (“Ric”) Fiore, Jr. became the Army SDO. Mr. Fiore assumed duties as Director, Soldier & Family Legal Services, on 16 July 2008. He is responsible for policy and oversight of legal services provided to soldiers and their families, including legal assistance and claims services, with particular emphasis on legal support to Army Wounded Warriors in the Medical Evaluation and Physical Disability Evaluation processes.

From May 2005 to July 2008, Mr. Fiore served as General Counsel for the Department of Defense Office of the Inspector General, with responsibility for ensuring independent counsel and legal advice to the Inspector General and to the Office of Inspector General senior managers across the range of In-

spector General missions and functions, including criminal and administrative investigations, audits, inspections, and reviews.

Mr. Fiore began his Federal service following graduation in 1973 from the United States Military Academy and commissioning in the United States Army, where he went on to serve for 30 years, 25 of which were in The Judge Advocate General’s Corps, from which he retired with the rank of Colonel. From July 2000 to his Army retirement in July 2003, Mr. Fiore served as Chief of the Army Litigation Division, which has the mission to represent the Department of the Army and Army officials in civil litigation before Federal, State, and international courts. Following his retirement until May 2005, Mr. Fiore served as an Assistant United States Attorney in the Civil Division of the United States Attorney’s Office for the District of Columbia.

Mr. Fiore is admitted to practice before the Bars of the States of New Jersey and New York, the District of Columbia, as well as various Federal courts. Mr. Fiore earned his Juris Doctor, with honors, from Rutgers University, School of Law (Newark), and a Bachelor of Science from the United States Military Academy. He is also a graduate of the Army War College and the Army Command and General Staff College.

FRAUD COUNSEL'S CORNER

Compelling Reasons Determinations as a Basis to Contract with Suspended and Debarred Contractors, by Brian Persico

As part of its Procurement Fraud Program, the Department of the Army utilizes suspension and debarment as a means of preventing disreputable contractors from entering into contracts with it to provide goods and services. Often called the “death sentence,” because of its effect on contractors, suspension and debarment can be based on a criminal conviction for fraud, a determination of liability in a civil False Claims Act case, a failure of contract performance, or the presence of any reason that casts doubt on the business integrity or honesty (i.e., present responsibility) of a contractor. The sanctions of suspension and debarment, however, also may have an adverse effect on Government purchasers due to the elimination of contractors who have previously been able to provide needed goods and services. This impact can be especially severe in deployed environments, information technology, aerospace, or other low density, high demand areas of procurement. There is, however, a vital, but seldom used, tool for contracting officers faced with the debarment of a sole supplier: urgent need or adverse impacts on national defense – the compelling reasons determination. This article will discuss the legal basis for the compelling reasons determination, list what reasons are “compelling” in nature, and describe the procedures within the Army for processing these requests and what should be included in them. Finally, this article will discuss the standard of review used for these decisions, and propose a four-part test for use by contracting officers in evaluating when to make requests for compelling reasons determinations.

A review of law and regulation providing the basis for suspension and debarment shows ample support for the use of compelling reasons determinations. Since 1981, the prohibition on contracting with suspended or debarred contractors by the Department of Defense has resided in 10 U.S.C. § 2393(a)(1). This paragraph states that “the Secretary of a military department may not

solicit an offer from, award a contract to, extend an existing contract with, or . . . approve a subcontract to, an offeror or contractor which to the Secretary’s knowledge has been debarred or suspended...” This direct prohibition is, however, prefaced by an exception, located in 10 U.S.C. § 2393(a)(2), specifically allowing the Secretary to solicit an offer, award or extend a contract, or to approve a subcontract with a contractor upon the determination of a “compelling reason” to do so. The Federal Acquisition Regulation (FAR), at section 9.405(a), uses similar language to describe the prohibitions against contracting with suspended and debarred contractors and subcontractors. The exception language found in 10 U.S.C. § 2393(a)(1) also appears here, stating that contractors may receive contracts and subcontracts if “the agency head determines that there is a compelling reason for such action.” While the criteria for determining what is “compelling” are not listed, nor is a procedure for determining how to evaluate those criteria, 10 U.S.C. § 2393(a)(2) and the FAR clearly establish that an exception can be made for “compelling reasons.”

Within the Department of Defense, the compelling reasons determination analysis process is addressed in the Defense Federal Acquisition Regulation Supplement (DFARS) at subpart 209.405. In discussing the “effect of listing” a contractor as suspended or debarred, DFARS 209.405(a) addresses the requirement of providing notice of compelling reasons determinations to the General Services Administration (GSA), per 10 U.S.C. § 2393(b). Included in this subpart is the following list of examples of compelling reasons that the GSA may consider acceptable as the basis for notice, per 10 U.S.C. § 2393(b):

- (1) Only a debarred or suspended contractor can provide the supplies or services;
- (2) Urgency requires contracting with a debarred or suspended contractor;
- (3) The contractor and a department or agency have an agreement cover-

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ing the same events that resulted in the debarment or suspension and the agreement includes the department or agency decision not to debar or suspend the contractor; or

- (4) The national defense requires continues business dealings with debarred or suspended contractors.

A review of the original language found in the original publication of this rule in the Defense Acquisition Regulation, 47 Fed. Reg. 37476 (1982), uses the language "some examples of circumstances that may constitute a compelling reason include..." while the current DFARS entry only uses "some examples of compelling reasons are..." While it is unclear why this language changed in revisions made after 1982, the original intent of DFARS 209.405(a) was not solely a list of what would be acceptable to GSA as a compelling reason, but a listing of valid reasons for determining the existence of a "compelling reason." Using this intent as a basis for interpretation of DFARS 209.405(a), these four criteria can be the basis for any evaluation of compelling reasons to contract with a suspended or debarred contractor or subcontractor.

In addition to the DFARS, the FAR and the Army Federal Acquisition Regulation Supplement (AFARS) provide basic criteria for submissions of compelling reasons determination requests. FAR 9.405(a) designates the agency head as the authority for making suspension and debarment determinations, as well as compelling reasons determinations. In the Army, the Secretary of the Army has delegated this authority to the Suspension and Debarment Official (SDO), a General Officer or Senior Executive Service member within the U.S. Army Judge Advocate General's Corps. As of 2 October 2008, the Army SDO position was delegated to Mr. Uldric L. Fiore, Jr., Director, Soldier & Family Legal Services, Office of The Judge Advocate General. Requests for compelling reasons determinations within the Army are processed based on AFARS 5109.402(a) and are initiated at the contracting

officer level. Approval is then sought from the contracting organization's Head of the Contracting Activity (HCA), often the commander or Principal Assistant Responsible for Contracting (or "PARC,"), depending on the organization. Contracting officers that "believe that a compelling reason exists to do business with a contractor who has been debarred, suspended or proposed for debarment . . . must send a request for a determination to the HCA." If the HCA concurs with the request, it's sent to the U.S. Army Legal Services Agency, Contract and Fiscal Law Division, Procurement Fraud Branch (PFB), for submission to the SDO. The SDO then evaluates it to determine if it is of a "compelling" nature.

In discussing the compelling reasons requests, the original request from the contacting officer is one of the most important parts of the process. This request should lay out the event that initiated the evaluation, the need of the command for continuing work by the contractor, and include any available supporting documents. Three of the four examples listed in DFARS 209.405(a) - sole supplier, urgency, and national defense - provide broad criteria for the SDO to use in making a compelling reasons determination. While any one of these is sufficient to meet the criteria for approval, the most persuasive requests to the SDO address as many of the four examples as possible. For example, a request based on the "sole supplier" basis should contain information on the lack of other contractors that can supply a good or service in the manner required, as well as why time constraints prevent allowing other contractors to enter the market or geographic area of performance. Requests based on "urgency" should contain information on why contracting with the suspended or debarred party is necessary to meet mission objectives by the command, and how delay to allow other contractors to perform the service or supply the needed good would negatively impact those objectives. "National defense" - based requests should state how failure to use the contractor would increase the risk of endangering the life, health, safety, or force protection of persons and organizations depending on the con-

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tractor's performance. Requests for compelling reasons determinations should never include classified or other information that is operationally-sensitive except under extraordinary circumstances, and then only with advance notice to PFB.

The fourth example listed in DFARS 209.405(a), - the existence of an agreement between the agency and the contractor not to suspend or debar - has an extremely limited application to the compelling reasons request process. The existence of such an agreement, generally in exchange for an administrative compliance agreement or some other concession by the contractor, results in the lifting of the suspension or debarment of a contractor as part of its terms.

In evaluating the rationale for compelling reasons exceptions, reference should be made to the standard of review that should be applied by the SDO in making a compelling reasons determination. One of the few cases discussing this standard is based on a contractor protest of an Air Force decision to reject the bid of a contractor listed on EPLS. In Matter of: J.B. Kies Construction Company, Inc., B-250797, 11 Feb. 1993, 1993 U.S. Comp. Gen. LEXIS 126, the GAO cited the DFARS 209.405(a) bases for the determination, and stated that the existence of a compelling reason is "within the determination of the agency" and that it would "review the exercise of that discretion only to ensure that it was reasonable." The GAO went on to say that the examples in DFARS 209.405(a) refer to situations where the Government has "no reasonable alternative" to using an excluded contractor, and, therefore, "infrequent exceptions to the general rule" provide an "extremely narrow exception" to the prohibitions in the FAR and 10 U.S.C. § 2393 (a).

Based on the GAO's opinion in Matter of: J.B. Kies Construction Company, Inc., a test emerges for what circumstances exist that could be classified as "compelling" in nature, justifying a request to the SDO by a contracting officer. This test consists of a determination of the exis-

tence of: a) one or more of the criteria in DFARS 209.405(a); b) a finding that no reasonable alternative to the contractor is available; c) the basis for using the contractor is not one that will regularly occur in the future; and d) the requested exception should be for a limited period of time. The last criteria, while not specifically listed by the GAO, acknowledges the intent of the suspension and debarment process that envisions the eventual replacement of a contractor accused of wrongdoing with a replacement contractor at the earliest opportunity available. While this four-part test is not binding on the SDO, it contains the essential elements that the contracting officer must take into account when preparing a compelling reasons request for HCA approval.

The compelling reasons determination is an important tool for contracting officers faced with exceptional circumstances brought on by suspension and debarment actions. While such determinations are rare, the authority for their use is well established in law and regulation. If used carefully and deliberately by the contracting community, compelling reasons determinations can be a useful tool for maintaining supplies and services to the warfighter.



This photo appeared on www.army.mil.

SIGNIFICANT ACTIONS**Suspensions**

(1) Procurement Integrity Act Violation (USACE). On 18 August 2008, the Army Suspension and Debarment Official (SDO) suspended David M. Honbo (Mr. Honbo) on the basis of the criminal information filed against him in the U.S. District Court for the District of Columbia on 24 June 2008, charging him with having provided source selection information to a potential bidder on a U.S. Army base relocation contract in order to provide a competitive advantage in the award of that contract. Specifically, Mr. Honbo, while a civilian employee of the U.S. Army Corps of Engineers stationed in South Korea, unlawfully provided sensitive source selection and procurement information to a bidder seeking to win the contract to relocate the U.S. Army base in Yongsan, South Korea. On 22 July 2008, Mr. Honbo pled guilty to the information. He is scheduled to be sentenced on 30 October 2008. (Mr. Csokmay)

(2) Wire Fraud and Bribery (FORSCOM). On 20 August 2008, the Army SDO suspended Richard E. Long (Mr. Long), Debra L. Long (Mrs. Long), and Laurie A. LeChevalier (Ms. LeChevalier) on the basis of the indictment filed against Mr. and Mrs. Long in the U.S. District Court, Northern District of Georgia, charging each with bribery and wire fraud. Mr. Long was the Water and Petroleum Program Manager for FORSCOM. In this capacity, he reviewed bids submitted by civilian contractors vying for Reverse Osmosis Water Purification Unit (ROWPU) contracts. He was also responsible for overseeing the contractor's performance after the contracts were awarded. Mr. Smith was the owner and president of WATEC, a contractor that provides ROWPU training, maintenance, and related services for mobile water purification systems. Mrs. Long is the wife of Mr. Long and Ms. LeChevalier is Mrs. Long's sister. From approximately November 1996 through approximately 31 December 2004, Mr. Long reviewed bids and proposals submitted by WATEC for ROWPU contracts. During that period, based on recommendations from Mr. Long, FORSCOM continually awarded contracts to WATEC, either as the pri-

mary contractor or as a subcontractor. At least one such contract, awarded in August 2003, had an estimated value exceeding \$32,000,000. Pursuant to the conspiracy, from approximately October 1998 until as late as approximately May 2007, Mr. Smith, or WATEC, would make payments to Mr. Long, either directly or indirectly through Mrs. Smith or Ms. LeChevalier, in return for Mr. Long providing favorable treatment to WATEC in the procurement process. From 2001 to 2007, Mr. Smith paid Mr. Long, either directly or indirectly, 55 separate payments totaling more than \$550,000. WATEC and Mr. Smith were suspended by DLA. (MAJ Woolverton)

(3) Conspiracy, Bribery (Camp Arifjan, Kuwait). On 21 August 2008, the Army SDO suspended Major James Momon (MAJ Momon), USA, and Omega Construction and Support Services, from contracting with the Government based on the filing of a criminal information in the U.S. District Court for the District of Columbia on 25 June 2008. This information charged MAJ Momon with one count of conspiracy, and two counts of bribery, based on allegations that he participated in a scheme to fraudulently place orders for bottled water and award at least one contract for services at Camp Arifjan, Kuwait, in exchange for cash payments. The criminal information also included information regarding Omega Construction and Support Services, a company allegedly created as a means of concealing payments to MAJ Momon by contractors. On 25 June 2008, MAJ Momon entered into a plea agreement with the Government admitting to the allegations made in the criminal information - specifically, the receipt of approximately \$1,600,000 in return for the placement of orders for bottled water. (Mr. Persico)

(4) Conspiracy and Bribery (USACE, New Orleans). On 22 August 2008, the Army SDO suspended Durwanda Elizabeth Morgan Heinrich (Ms. Heinrich) and Kern Carver Bernard Wilson (Mr. Wilson). Ms. Heinrich and Mr. Wilson were indicted on 15 May 2008 and charged with conspiracy and bribery. In August of 2006, the U.S. Army Corps of Engineers (USACE) solicited bids for the reconstruction and enlarge-

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ment of the Lake Cataowatche Levee, which is located south of New Orleans. The value of the contract exceeded \$16 million. Raul Miranda (Mr. Miranda) was a contractor consultant to the USACE and a member of the Source Selection Evaluation Board for the solicitation. Mr. Wilson was also a USACE contractor consultant involved in sourcing the subject project. Ms. Heinrich was affiliated with a dirt, sand, and gravel business. During the solicitation process for the Lake Cataowatche project, Mr. Miranda, pursuant to a conspiracy with Mr. Wilson and Ms. Heinrich, unlawfully passed confidential proprietary procurement information to Ms. Heinrich, who then forwarded same to a prime contractor that was seeking the award. In exchange for this improper flow of information, both Mr. Miranda and Mr. Wilson were to receive a certain amount of money from Ms. Heinrich, who, in turn, was expecting that the business she was affiliated with would be awarded a subcontract. Mr. Miranda previously pled guilty to one count of bribery and has already been suspended by the Army SDO. (Mr. Csokmay)

(5) Conspiracy and Fraud (USACE/MEDCOM). On 22 September 2008, the Army SDO suspended Joseph Terry and Government Technical Services, LLC (GTS), from Government contracting. On 16 April 2008, a criminal indictment was filed against Aaron Terry, Timothy Thomas (Mr. Thomas), James McMann, Eric Auyang, and John Doe, in the U.S. District Court, Northern District of Georgia, charging them with conspiracy and fraud. The charges stem from the named parties' involvement in Government contracts for Army medical facilities construction projects throughout the United States. On 5 May 2008, these parties and affiliated companies, Global Engineering and Construction, Inc.; Global Engineering and Construction, LLC; Global Engineering and Construction Joint Venture Partnership; and Medical Construction and Maintenance Joint Venture Partnership were suspended from Government contracting by the Army SDO as a result of the 16 April 2008 indictment. Aaron Terry and Mr. Thomas are also corporate officers of GTS. GTS is currently doing business with the Government.

The Notice of Suspension specifically provided that the parties should advise the Army of any affiliations or other business interests that involve doing business with the Government. Neither Aaron Terry nor Mr. Thomas advised the Army of their business interests with GTS. Joseph Terry (allegedly Aaron Terry's son) did not advise the Army of their association with GTS, although he had reason to know of their conduct and suspension. (MAJ McDonald)

(6) False Statement and Theft (Camp Liberty, Iraq). On 23 September 2008, the Army SDO suspended Lee W. Dubois (Mr. Dubois), Robert Jeffrey (Mr. Jeffrey), Bal Ram Shrewtha (Mr. Shrewtha), Elias Maalouf (Mr. Maalouf), and Robert Young (Mr. Young) based on the filing of a criminal complaint against Mr. Dubois in the U. S. District Court for the Eastern District of Virginia on 18 July 2008. This complaint alleges that Mr. Dubois used fraudulent documents to draw JP-8 aviation fuel and DF-2 diesel fuel from the Victory Bulk Fuel Point, located at Camp Liberty, Iraq. The affidavit filed in support of the criminal complaint also alleges that Mr. Dubois, assisted by Mr. Jeffrey, Mr. Shrewtha, Mr. Maalouf, and Mr. Young, allegedly then resold this fuel to unknown persons in Iraq. Mr. Dubois was arrested at Dulles International Airport, Virginia, on 18 July 2008, while attempting to enter the United States. Mr. Shrewtha, Mr. Jeffrey, Mr. Maalouf, and Mr. Young are currently in Iraq at unknown locations. (Mr. Persico)

(7) False Statements, Major Fraud against the United States (ASC). On 29 September 2008, the Army SDO suspended AEY, Inc., Efraim Diveroli (Mr. Diveroli), David Packouz, Alexander Podrizki, Ralph Merrill, Ammoworks, Inc., and Manchester Property Corporation based on their 19 June 2008 criminal indictment in the U.S. District Court for the Southern District of Florida. All were indicted on one count of conspiracy, 35 counts of false statements, and 35 counts of major fraud against the United States. These indictments were based on the repackaging of ammunition, the fraudulent certificates of conformance that accompanied the deliveries of this ammunition, and the subsequent payments

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by the Government based on the delivery of non-conforming ammunition that formed the basis for the Army's earlier suspension actions. Previously, on 25 March 2008, AEY and Mr. Diveroli were suspended from contracting with the Government, in a fact-based action, based on allegations that AEY provided ammunition of direct, or indirect, origin from the People's Republic of China, as part of contract number W52P1J-07-D-0004, in violation of DFARS 252.225-7007. This indictment constitutes a new cause of action against Mr. Diveroli and AEY for the purposes of suspension. In addition to the parties named in the indictment, Manchester Property Corporation and Ammoworks, Inc., companies owned by Mr. Diveroli and engaged in the retail and internet sale of weapons, ammunition, and tactical equipment, were suspended as affiliates and imputees of Mr. Diveroli. (Mr. Persico)

(8) Conspiracy, Bribery (Bagram Airbase, Afghanistan). On 29 September 2008, the Army SDO suspended Christopher P. West, Major, ILNG; Assad John Ramin, a.k.a. "Assadullah Ramin" and "John Ramin;" Tahir Ramin; AZ Corp; AZ Kabul Corp; Noor Alam, a.k.a. "Noor Alam Noori;" Northern Reconstruction Organization; Shamal Pamir Building and Road Construction Company; Abdul Qudoos Bakhshi, a.k.a. "Haji Abdul Qudoos;" and Naweed Bakhshi Company based on a 21 August 2008 indictment filed in the U.S District Court for the Northern District of Illinois. This indictment alleged that MAJ West, Mr. T. Ramin, Mr. J. Ramin, Mr. Alam, Northern Reconstruction Organization, Mr. Bakhshi, and Naweed Bakhshi Company participated in a scheme to fraudulently award bunker, barrier, and asphalt paving contracts at Bagram Airfield, Afghanistan, during 2004 and 2005. MAJ West was indicted on three counts of conspiracy and three counts of bribery, while Mr. T. Ramin, Mr. J. Ramin, Mr. Alam, Northern Reconstruction Organization, Mr. Bakhshi, and Naweed Bakhshi Company were each indicted on one count of conspiracy and one count of bribery. As part of this scheme, MAJ West and his co-conspirators split payments of approximately \$180,000 in exchange for the award of contracts W913TY-05-D-0001,

W913TY-04-C-0210, and W913TY-05-D-0005. In addition, AZ Corp, AZ Kabul Corp, and Shamal Pamir Building and Road Construction Company, companies under the control of Mr. J. Ramin, Mr. T. Ramin, and Mr. Bakhshi, and engaged in contracting at Bagram Airbase, were suspended as affiliates and imputees. (Mr. Persico)

(9) Evading Monetary Reporting Requirements (USACE, Camp Casey, South Korea). On 30 September 2008, the Army SDO suspended Roland G. Curo (Mr. Curo) on the basis of the indictment filed against him, on 25 June 2008, in the U.S. District Court for the Central District of California. Mr. Curo was charged with two counts of knowingly structuring two currency deposits below \$10,000 to avoid the IRS reporting requirement. Between on or about 1986 until on or about September 2003, Mr. Curo was Chief, Supply Division, Far Eastern District, U.S. Army Corps of Engineers, Camp Casey, Republic of Korea. Mr. Curo was the Supply Management Officer for the Directorate of Public Works (DPW), and controlled warehouse operations, stock control, inventory, and requisitions. Mr. Curo also transported a \$30,000 cashier's check through the Incheon International Airport, Seoul, Republic of South Korea, to San Francisco, California, without making a monetary declaration to U.S. Customs. (Mr. Nelson)

Proposed Debarments

(1) Conspiracy, Bribery, Money Laundering (Joint Contracting Command-Iraq/Afghanistan). On 1 July 2008, the Army SDO proposed for debarment George H. Lee; Oai Lee; Justin W. Lee; Levonda J. Selph, Colonel, USA (Retired); Lee Dynamics International; Lee Defense Services Corporation; Starcon, Ltd. d/b/a Starcon Limited Company; and Stephen J. Guyon, based on the guilty plea of Colonel Selph on 10 June 2008, in the U.S. District Court for the District of Columbia, to conspiracy, bribery, and conspiring to launder money. The criminal information filed against Colonel Selph states that three contracts were fraudulently awarded to companies under the control of George H. Lee, including Lee Dynamics In-

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ternational. Based upon these contract numbers, the unnamed co-conspirators described in the criminal information were positively identified as George H. Lee and Lee Dynamics International. Therefore, there was a preponderance of evidence to propose George H. Lee, Oai Lee, and Justin W. Lee for debarment. Justin W. Lee is also alleged to have provided Major John Cockerham, a former contracting officer at Camp Arifjan, with a \$1 million payment at some point between 30 June 2004 and 21 December 2006. Additional information has been discovered showing that George H. Lee is the CEO of Starcon, Ltd., LLC, d/b/a Starcon Limited Company. This company and its managing member, Stephen Guyon, have been proposed for debarment as affiliates and imputees of George H. Lee. Previously, on 9 July 2007, George H. Lee, Oai Lee, Justin W. Lee, Lee Dynamics International, and Lee Defense Services Corporation were suspended from contracting with the Government based on allegations that they had conspired to defraud the United States by providing payments to Army Contracting personnel for the purpose of receiving contracts to operate warehouses for Coalition Forces in Iraq. (Mr. Persico)

(2) Bribery, Money Laundering, Wire Fraud, Income Tax Fraud, Child Pornography (MEDCOM). On 8 July 2008, the Army SDO proposed for debarment Ignacio R. Torres; Francisco Q. Cruz, Sr.; William J. Strout, Sr.; William J. Strout, Jr.; Johnnie Flores; Andrew D. Waring II; Enterprise Consulting; PRO-ECA, Inc.; Torres Services Incorporated; TSI Telecommunications Services; Sphinx Consultant and Associates, SC&A, Inc.; and Government Resource Group, based on findings of guilty and determinations of sentences by the U.S. District Court for the District of Texas, San Antonio Division, regarding the fraudulent award of information technology infrastructure contracts at various U.S. Army Medical Command (MEDCOM) facilities. Specifically, Ignacio R. Torres and William J. Strout, Sr., former Government employees at MEDCOM responsible for the award of information technology contracts, engaged in a conspiracy to award

fraudulent contracts and provide procurement sensitive information to various companies under the control of Francisco Q. Cruz, Sr.; William J. Strout, Jr.; Johnnie Flores; and Andrew D. Waring II, in return for cash and in-kind payments. On 20 May 2008, the court entered judgments of guilty against Ignacio R. Torres; Francisco Q. Cruz, Sr.; William J. Strout, Sr.; Johnnie Flores; and Andrew D. Waring II, sentencing them to confinement periods between 60 and 84 months each. In a separate proceeding on 5 June 2008, William J. Strout, Jr., was separately sentenced to 66 months confinement due to charges of child pornography. All were required to contribute to a combined restitution of \$2,700,000, payable to MEDCOM via the Defense Finance and Accounting Service, and the forfeiture of several pieces of real property in the San Antonio, Texas, area to the Department of the Treasury. (Mr. Persico)

(3) Conspiracy, Bribery (Camp Arifjan, Kuwait). On 23 July 2008, the Army SDO proposed for debarment 23 companies and individuals in Kuwait, Saudi Arabia, and the United States, based on allegations that they participated in a scheme to fraudulently receive calls for the supply of bottled water to the Army, in exchange for cash payments to MAJ John L. Cockerham, Jr., and others, between 2004 and 2007. On 20 June 2008, CID provided PFB with copies of the ledgers seized during a search of MAJ Cockerham's residence on 21 December 2006. These documents describe a scheme by contractors to pay MAJ Cockerham, his spouse, and his sister \$15.4 million in exchange for the placement of 108 orders for bottled water, valued at approximately \$125 million. Based on this information, Allied Arms Company, Ltd.; Jireh Springs General Trading and Contracting Establishment; Jasmine International Trading and Services Company, W.L.L.; Zenith Enterprises, Ltd., d/b/a "Zenith for General Trading and Contracting" and "Zenith Enterprises, Ltd.;" Green Valley Company, Trans Orient General Trading; Shahir Fawzi, a.k.a. "Shaher Nabih Fawzi Audah;" Falah Al-Ajmi; K. V. Gopal; Vasantha Nair; and Diaa Ahmed Salem, a.k.a. "Diaa Ahmed Abdul

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Latif Salem” were all proposed for debarment, in accordance with FAR 9.406-2(c). Defense Consulting and Contracting Group, L.L.C.; Allied Arms Company, W.L.L.; Palm Springs General Trading and Contracting Establishment; Jireh Ventures USA; D and J Trading Company; First AIM Trading and Contracting; Future AIM United; Dewa Projects (Private) Ltd.; Al Ghanom and Nair General Trading Company; Dewa Trading Establishment; Dewa Europe; and Triad United Technologies, L.L.C. were proposed for debarment as affiliates and imputees. (Mr. Persico)

(4) Mail Fraud (U.S. Army Aviation and Missile Command, Redstone Arsenal, Alabama). On 18 August 2008, the Army SDO proposed for debarment Haresh Majmundar (Mr. Majmundar) and H.M. Systems, Inc. (HM). Mr. Majmundar and Mr. Hashmukhlal Patel (Mr. Patel), a former employee of BAE Aerospace, Inc. (BAE), created HM, and proceeded to defraud BAE and the Government as follows: without disclosing his relationship with HM to BAE, Mr. Patel secured contracts between HM and BAE for the production of engineering equipment. Mr. Majmundar and Mr. Patel worked together to ensure that HM obtained payment from BAE on fraudulent billing invoices that reflected the delivery of goods and services to BAE that were, in fact, never actually received. The charges for these goods were eventually passed to, and paid for by, the Government. An investigation ensued after BAE became aware of the above scheme, and voluntarily disclosed the same to the Government. That investigation ultimately led to Mr. Majmundar pleading guilty to eight counts of mail fraud, and one count of subscribing to a false tax return, in the U. S. District Court for the Central District of California, on 7 January 2005. Mr. Majmundar’s plea was accepted by the court, which sentenced him on 19 August 2008 to serve a 12-month prison term and pay a total amount of \$842,902 in restitution. HM had its corporate charter revoked on 1 June 2005 by the State of Nevada. (Mr. Csokmay)

(5) Theft of Government Property (FORSCOM, Fort Campbell, Kentucky). On 20 August 2008, the Army SDO proposed for debarment SGT Corey D. Sibley (SGT Sibley), USA, based on his entry of a guilty plea in the U.S. District Court for the Middle District of Tennessee to one count of theft of Government property on 7 April 2008. On multiple occasions between January 2004 and February 2005, SGT Sibley used the General Services Administration’s (GSA) “Advantage” internet site to order approximately \$24,000 of goods for his personal use. SGT Sibley would order these items electronically for delivery to his office, and then contact the GSA Customer Service Department to redirect the items ordered to his personal address. In addition, SGT Sibley stole numerous items from the supply room of his unit. On 7 April 2008, SGT Sibley was sentenced to two years probation, restitution of \$16,921 to 2/4 ADA, and a \$100 special assessment. (Mr. Persico)

(6) Theft of Government Property (FORSCOM, Fort Polk, Louisiana). On 20 August 2008, the Army SDO proposed for debarment PVT Clifford A. Jones (PVT Jones), USA, based on his entry of a guilty plea at a general court-martial to one charge and one specification of larceny of Government property on 29 March 2007. On multiple occasions, PVT Jones used a Government purchase card to purchase items on the internet for his personal use and for resale on the internet auction site eBay. On the same date as his guilty plea, PVT Jones was sentenced to 12 months confinement and reduction in rank from Sergeant (E-5) to Private (E-1). PVT Jones was dishonorably discharged from the Army on 21 January 2008. (Mr. Persico)

(7) Theft (99th Regional Readiness Command, Conneaut Lake, Pennsylvania). On 28 August 2008, the Army SDO proposed for debarment Jimi Edward Keener based on his plea of guilty to one count of theft by deception, based on his improper use of Voyager fuel credit cards between 4 November 2004 and 16 June 2007. Mr. Keener admitted to making 21 purchases, valued at \$6,457, of fuel and sundries for his

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personal use. On 24 July 2008, he was sentenced to 36 months probation, \$250 in court costs, and restitution of \$6,457 to the Defense Energy Support Center, Fort Belvoir, Virginia. (Mr. Persico)

(8) Conspiracy and Fraud (ASC). On 23 September 2008, the Army SDO proposed for debarment Mr. Robert J. Spadaro (Mr. Spadaro). Mr. Spadaro, Parmatic Filter Corporation's general manager, pled guilty to conspiracy to defraud the United States in connection with other company officials. The SDO previously suspended Mr. Spadaro on 24 April 2008, along with Parmatic Filter, and company officials John Parkinson, Brett Halpin, William Schwartz, and David Sward on 2 June 2006. The Army awarded Parmatic two contracts, valued in excess of \$6 million, to manufacture 9,600 gas-particulate filters. After DoD rejected the filters as defective, Mr. Spadaro and his co-conspirators submitted specifically-manufactured sample filters for testing, as purported randomly-selected production run filters. The conspirators also falsified Government documents pertaining to the sample filters to cover up and conceal the fact that the sample filters were hand-selected and specifically-manufactured. On 3 September 2008, the U.S. District Court for the District of New Jersey sentenced Mr. Spadaro to two years probation, four months home confinement, and \$381,780 criminal restitution. (Mr. Nelson)

(9) Conspiracy, Fraud, and False Statements (ASC). On 29 September 2008, the Army SDO proposed Parmatic Filter, Brett J. Halpin (Mr. Halpin), and William I. Sward (Mr. Sward) for debarment. A federal grand jury indicted the company, and co-conspirators John Parkinson (Mr. Parkinson), Mr. Halpin, Mr. Sward, and David Schwartz, Jr. (Mr. Schwartz), for conspiracy, major fraud, and false statements. The SDO originally suspended Parmatic and its officers on 2 June 2006, for fraudulently submitting NBC filters to DoD for testing. After DoD rejected Parmatic's filter based on sample filter testing failures, the co-conspirators submitted hand-selected and specifically-manufactured sample

filters to DoD. They directed the production of these special lots of custom-fabricated NBC filters designed for fraudulent submission to the Army for testing, as purported randomly-selected production run filters. They also falsified Government documents pertaining to the sample filters to cover up and conceal their fraud. On 13 June 2007, Mr. Sward pled guilty in the U.S. District Court for the District of New Jersey to conspiracy to defraud the United States, and withholding information on a crime. On 26 August 2008 and 9 September 2008, Mr. Sward was sentenced three years probation, six months home confinement, and a \$5,000 fine. On 9 July 2007, Mr. Halpin also pled guilty to conspiracy to defraud the United States, and on 3 September 2008, he was sentenced to three years probation, six months home confinement, \$133,920 criminal restitution, and a \$30,000 fine. On 25 March 2008, Mr. Parkinson, who is elderly, waived speedy trial and applied to enter a pre-trial diversion program. On 1 August 2007, Mr. Schwartz, Jr., pled guilty to conspiracy to defraud the United States and is awaiting sentencing. (Mr. Nelson)

(10) Kickbacks (ASC). On 29 September 2008, the Army SDO proposed for debarment Anthony J. Martin (Mr. Martin) from contracting with the Government. On 9 June 2008, Mr. Martin pled guilty to a criminal information filed against him in the U. S. District Court, Central District of Illinois. The criminal information charged him with entering into a kickback agreement, and incorporating the amount of the kickback into the price of a subcontract paid by the Government. Pursuant to his pleas, Mr. Martin was convicted and sentenced to serve a 12-month-and-one-day term of imprisonment, a two-year term of supervised release thereafter, and ordered to pay an assessment of \$100, and restitution to ASC. (Ms. McCaffrey)

(11) Wire Fraud (California National Guard, 223rd Finance Detachment). On 29 September 2008, the Army SDO proposed for debarment Jesse D. Lane, Jr. (Mr. Lane) on the basis of his plea of guilty to conspiracy and wire fraud of

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honest services in the U. S. District Court, Central District of California. Mr. Lane, a member of the California Army National Guard, was employed by the United States Payment and Fiscal Office (USPFO), a National Guard Center in California, which disburses pay of National Guard service members. Mr. Lane joined with other National Guard members to falsify and divert military pay (see item 12 below). Mr. Lane was sentenced to serve an 18-month term of imprisonment, three years of supervised release thereafter, ordered to pay a special assessment of \$200, and restitution in the amount of \$323,228 to the United States Payment and Fiscal Office. Mr. Lane's guilty plea was the result of the indictment filed against him on 6 March 2007, in the U. S. District Court, Central District of California, charging him with conspiracy to commit offense(s) against the United States, wire fraud of honest services, obstruction of justice, and aiding and abetting. (Ms. McCaffrey)

(12) Wire Fraud (California National Guard, 223rd Finance Detachment). On 30 September 2008, the Army SDO proposed for debarment Jennifer Anjakos (Ms. Anjakos), Carlos L. Chavez (Mr. Chavez), Derryl Hollier (Mr. Hollier), and Luis A. Lopez (Mr. Lopez). On 10 September 2007, the defendants were convicted in the U.S. District Court for the District of California, pursuant to their pleas, of conspiring to commit wire fraud against the Government. The defendants were members of the California Army National Guard, a component of the Department of Defense, assigned to the 223rd Finance Detachment (the 223rd), a pay processing unit based in Compton, California. They falsified and diverted military pay to their own accounts. Ms. Anjakos was sentenced to serve a three-year term on probation, which includes a six-month period in a home detention program, ordered to pay a special assessment of \$100, and make restitution in the amount of \$86,557. Mr. Chavez was sentenced to serve a three-year term of probation, ordered to pay an assessment of \$100, and make restitution in the amount of \$29,107, of which \$14,533 was payable immediately. Mr. Hollier was sentenced to serve a term of three

years on probation, six months of which must be served in the home detention program, ordered to pay an assessment of \$100, and make restitution in the amount of \$83,657. Mr. Lopez was sentenced to serve a three-year term on probation, ordered to pay an assessment of \$100, and pay restitution in the amount of \$66,865. (Ms. McCaffrey)

(13) Unlawful Gratuities, Money Laundering (CECOM, Tobyhanna Army Depot). On 30 September 2008, the Army SDO proposed for debarment Richard A. Feola (Mr. Feola); Michael P. Cleary (Mr. Cleary); Thruput, Ltd.; Sierra Computer Products, Ltd.; Newman Computer Products, Ltd.; and Graphix Factory, Ltd., based on Mr. Feola's 16 April 2008 guilty plea to one count each of unlawful gratuities and money laundering, in the U.S. District Court for the Middle District of Pennsylvania. Mr. Feola and Mr. Cleary had previously been indicted based on allegations that, on at least eight occasions between on or about 5 July 2000 and 11 August 2005, they engaged in a scheme to arrange for the purchase of Thruput computer equipment, valued at \$308,595, for use at Tobyhanna Army Depot in return for payments to Mr. Feola totaling \$83,332. Mr. Feola was sentenced on 3 July 2008 to serve a 38-month term of imprisonment, 3 years probation, ordered to pay a \$7500 fine, and a \$200 special assessment. No further criminal proceedings have been brought against Mr. Cleary or Thruput Ltd.; however, based on the admissions of Mr. Feola, both were proposed for debarment. Sierra Computer Products, Newman Computer Products, and Graphix Factory, Ltd. were proposed for debarment as affiliates of Mr. Cleary. (Mr. Persico)

(14) Bribery (Aberdeen Proving Grounds, Maryland). On 30 September 2008, the Army SDO proposed for debarment R. Wayne Silbersack (Mr. Silbersack), Douglas Atwell (Mr. Atwell), and Gerard Yursis (Mr. Yursis). The basis for the proposed debarment of Mr. Silbersack was that, on 27 November 2006, Mr. Silbersack pled guilty, in the U. S. District Court for the District of Maryland, to bribery. On 29 November

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2006, Mr. Atwell entered into a guilty plea agreement to charges of bribery, in the U. S. District Court for the District of Maryland, and on 4 December 2006, Mr. Yursis entered into a guilty plea agreement to charges of bribery. Mr. Atwell and Mr. Yursis were civilian employees of the Army at the Aberdeen Test Center, Aberdeen Proving Grounds, Maryland. Mr. Yursis was a test director, and was authorized to purchase materials needed for the tests he administered. Mr. Atwell managed the tool crib in Building 338, and was an authorized Government purchase card holder who made the purchases requested by the test directors, including Mr. Yursis. From 2003 through 2004, Mr. Atwell purchased \$429,500 worth of goods from Mr. Silbersack, a salesman at Lawson Products, using an authorized Government purchase card. Mr. Atwell spent over \$400,000 more than any other card holder who purchased goods from Lawson Products during that time. About \$179,000 of Mr. Atwell's purchases were made with funds from Mr. Yursis' test budgets. Many of the orders placed by Mr. Atwell were for the purchase of goods for his own personal use, for Mr. Yursis, and for other Aberdeen Test Center employees. These goods were then delivered 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. Marked-up prices for the goods were approved by Mr. Atwell, so that Mr. Silbersack would profit from commissions earned on each transaction. Mr. Silbersack made profits of over \$78,000 from the commissions he earned from sales to Mr. Atwell during this period. (Ms. McCaffrey)

Debarments

(1) Conspiracy, Wire Fraud, Bribery, Money Laundering (INSCOM, Charlottesville, Virginia). On 10 September 2008, the Army SDO debarred Brent R. Wilkes (Mr. Wilkes) based on his 5 November 2007 conviction in the U. S. District Court for the District of Columbia on one count of conspiracy, ten counts of wire fraud, one count of bribery, and one count of money laundering. On 22 February 2008, Mr. Wilkes was sentenced

to serve 144 months confinement, a \$500,000 fine, criminal forfeitures of \$636,117, and a \$1300 special assessment. The conviction was based upon Mr. Wilkes participation in a scheme to fraudulently award contacts under his control with the assistance of former Congressman Randall Harold Cunningham and Mitchell John Wade. In addition, Mr. Wilkes' companies, ADCS, Inc.; Wilkes Corporation; AI Dust Properties, Inc.; WBR Equities, LLC.; Group W Advisors, Inc.; Group W Events; Group W Holdings, Inc.; Group W Media Productions, Inc., Group W Transp. Inc.; Group W Outfitters; ADCS International; ADCS, Inc.; PAC; Wilkes PAC; Archer Defense; Perfect Wave Technologies; MailSafe, Inc.; Pure Aqua Technologies; Mirror Labs Inc., and The Wilkes Foundation were debarred as affiliates and imputees of Mr. Wilkes. All parties were debarred for a period of 20 years, ending on 9 August 2027. (Mr. Persico)

(2) Conspiracy, Bribery, Money Laundering, Income Tax Fraud, Child Pornography (MEDCOM, Fort Sam Houston, Texas). On 10 September 2008, the Army SDO debarred Ignacio Rules Torres; Francisco Quinata Cruz; William John Strout, Jr.; William John Strout, Sr.; Johnnie Flores; and Andrew Delancey Waring II, relating to allegations that they engaged in a conspiracy to fraudulently award multiple Government contracts for computer cable upgrades at MEDCOM facilities to companies under their direct control. Charges against the conspirators include counts of the following offenses: conspiracy; bribery; income tax fraud; engaging in monetary transactions in criminally derived property; and possession of child pornography. All were sentenced to between 60 and 84 months confinement and a combined criminal restitution of \$2,700,000, payable to the Defense Finance and Accounting Service, on 20 May 2008 and 5 June 2008. In addition, their companies, Enterprise Consulting; Pro-ECA, Inc.; Torres Services, Incorporated; TSI Telecommunications Services; Sphinx Consultant and Associates; SC&A, Inc.; and Government Resource Group were also debarred as affiliates and imputees. All were de-

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barred for a period of ten years, ending on 5 June 2017. (Mr. Persico)

(3) Conspiracy and Bribery (Camp Arifjan, Kuwait). On 17 September 2008, the Army SDO debarred Zenith Enterprises Ltd.; Green Valley Company; Trans Orient General Trading; Falah Al-Ajmi; K. V. Gopal; Vasantha Nair; Future AIM United; First AIM Trading and Contracting; Al Ghannom and Nair General Trading Company; Triad United Technologies LLC; Dewa Projects (Private) Ltd; Dewa Europe; and Dewa Trading Establishment for a period of 10 years based on illegal payments made to MAJ John Cockerham. Specifically, Zenith Enterprises, Mr. Al-Ajmi, Mr. Gopal, and Mr. Vasantha Nair were accused of providing payments in exchange for the placement of calls against Blanket Purchase Agreements (BPAs) under control of MAJ Cockerham. As a result of these payments, orders for bottled water, valued at \$85,652,623, were placed against BPAs previously awarded to Zenith Enterprises Ltd., Trans Orient General Trading, Al Ghannom and Nair General Trading Company, and Triad United Technologies, LLC (acting on behalf of Dewa Projects (Private) Ltd.). In addition, payments were made by Green Valley Company to MAJ Cockerham, resulting in the award of one or more contracts for black and gray water removal at Camp Arifjan, Kuwait. Zenith Enterprises Ltd.; Green Valley Company; Trans Orient General Trading; Falah Al-Ajmi; K. V. Gopal; and Vasantha Nair were proposed for debarment based on these allegations on 23 July 2008. Future AIM United; First AIM Trading and Contracting; Al Ghannom and Nair General Trading Company; Triad United Technologies LLC; Dewa Projects (Private) Ltd; Dewa Europe; and Dewa Trading Establishment were proposed for debarment as affiliates on that same date. Following the conclusion of the 30-day period for responses to the proposed debarments, no replies had been received from Zenith Enterprises Ltd.; Green Valley Company; Trans Orient General Trading; Falah Al-Ajmi; K. V. Gopal; Vasantha Nair; Future AIM United; First AIM Trading and Contracting; Al Ghannom and Nair General Trading Company; Triad United Technologies,

LLC; Dewa Projects (Private), Ltd; Dewa Europe; or Dewa Trading Establishment. As a result, these companies and individuals were debarred for a period of 10 years each, concluding on 22 July 2018. As Green Valley Company was previously debarred from contracting with the Government, based on a previous allegation of false claims, ending on 1 December 2009, the 10-year period was applied consecutively to the present period of debarment, resulting in debarment through 1 December 2019. (Mr. Persico)

(4) Mail Fraud (Fort Carson, Colorado). On 18 September 2008, the Army SDO debarred Brandon Swenson (Mr. Swenson). Mr. Swenson previously served as a unit supply specialist on active duty in the Army. Several months after leaving the Army, Mr. Swenson used pass codes that he created on active duty to order items from the GSA Schedule. He set up accounts in the name of Jack Roach, and had the items he ordered delivered to his personal residence. Mr. Swenson admitted ordering items valued at more than \$60,000. He was indicted on six counts of mail fraud in the U.S. District Court, District of Colorado. He pled guilty on 5 December 2007 to one count of mail fraud. The other counts were dismissed. He was sentenced to six months home detention, three years probation, \$5,000 in restitution, and an assessment of \$100. Mr. Swenson was debarred from contracting until 17 September 2009. (MAJ McDonald)

(5) Conspiracy to Defraud the U.S. (Department of Defense). On 22 September 2008, the Army SDO debarred William Baum (Mr. Baum). Mr. Baum is the former Vice-President and minority owner of BRTRC Technology Research Corporation (BRTRC). BRTRC provides program management and technical services to the Government, predominantly the Department of Defense. Beginning in July 1997, BRTRC leased two vacation properties. However, BRTRC did not use the vacation properties for any business purpose. Rather, both properties were predominantly used as vacation spots for the parties' families. Company executives agreed to record the cost of the properties on

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BRTRC's accounting books as a legitimate business expense, and caused BRTRC to file false corporate tax returns in which the properties were treated as deductible business expenses. They also filed false individual tax returns which omitted the value of the vacation properties. On 21 November 2006, company executives, including Mr. Baum, were charged with one count of conspiracy to defraud the U.S. They each pled guilty and were sentenced on 26 January 2007. Mr. Baum was sentenced to one year in prison, two years supervised release, and fines. Other executives have been proposed for debarment, and consideration of those decisions is pending. Mr. Baum was debarred from contracting until 20 December 2009. (MAJ McDonald)

(6) Conspiracy to Commit Bribery/False Claims (USACE-Mississippi). On 22 September 2008, the Army SDO debarred Mitchell Kendrix (Mr. Kendrix), Paul Nelson (Mr. Nelson), Lamar Wade Covington (Mr. Covington), and Covington Logging and Tree Services (CLTS). The parties were involved in post-Hurricane Katrina debris removal. Mr. Kendrix was a Quality Assurance Representative (QAR) for USACE. He was responsible for documenting load size on load tickets submitted to USACE by contractors for payment. Mr. Kendrix falsified load tickets in exchange for money. He engaged in this activity with Mr. Nelson, who worked for CLTS. Mr. Nelson admitted that he told his employer, Mr. Covington, sole proprietor of CLTS, about the false load ticket scheme. Mr. Covington acknowledged that he was aware that Mr. Nelson was engaging in this scheme with Mr. Kendrix, and that he submitted the false load tickets to the Government for payment. On 5 December 2005, Mr. Kendrix and Mr. Nelson were charged with conspiracy to commit bribery. On 21 March 2006, they both pled guilty and were each sentenced on 28 June 2006 to serve a 12-month term of imprisonment, two years supervised release, a \$5000 fine, and a \$100 special assessment. On 23 March 2007, a complaint was filed against CLTS, charging it with making false claims against the U.S. Mr. Covington, sole owner and proprietor of CLTS, appeared on its

behalf. On 26 June 2007, CLTS pled guilty and received a \$4000 fine, a \$400 special assessment, and one year probation for the corporation. The parties are debarred from contracting until 25 June 2011. (MAJ McDonald)

(7) False Statements and Kickbacks (ASC, Rock Island Arsenal). On 29 September 2008, the Army SDO debarred Kevin Andre Smoot (Mr. Smoot). Mr. Smoot was an employee of Eagle Global Logistics (EGL), a subcontractor to KBR, who provided false information about war risk surcharges to investigators. On 18 December 2007, Mr. Smoot was sentenced to serve 14 months imprisonment, and two years of supervised release thereafter, fined \$6,000, ordered to pay an assessment of \$200, and to make criminal restitution in the amount of \$17,964 to HQ U.S. Army Sustainment Command, Rock Island Arsenal. On 23 July 2007, Mr. Smoot waived indictment and pled guilty to a criminal information filed against him in the U.S. District Court, Central District of Illinois, charging him with making a false statement and violating the Anti-Kickback Act. (Ms. McCaffrey)

(8) Mail Fraud (SMDC, Huntsville, Alabama). On 29 September 2008, the Army SDO debarred Nikol Francis Kokochak (Ms. Kokochak) and William Dennis Miller, Jr. (Mr. Miller), from contracting with the Government. Ms. Kokochak was employed by Radiance Technologies (Radiance) and Mr. Miller lived with Ms. Kokochak. Each was debarred until 29 September 2010. The basis of the debarments was their pleas of guilty to, and convictions for, committing wire fraud in connection with performance of SMDC contracts. Ms. Kokochak was sentenced in the U. S. District Court, Northern District of Alabama, to serve three months of home detention and three years of supervised probation thereafter. Mr. Miller was sentenced to serve six months of home detention and three years of supervised probation thereafter. Prior to sentencing, Ms. Kokochak and Mr. Miller paid Radiance restitution in the amount of \$243,122, and Radiance has since reimbursed the Government \$243,122 by way of its cost reimbursable contracts. (Ms. McCaffrey)

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(9) Larceny (FORSCOM, Fort Polk, Louisiana). On 30 September 2008, the Army SDO debarred PVT Clifford A. Jones (PVT Jones) based on his 29 March 2007 court-martial conviction at Fort Polk, Louisiana. PVT Jones entered a plea of guilty to one charge and one specification, in violation of Article 121 (larceny of government property), Uniform Code of Military Justice. As part of his plea, PVT Jones admitted to using a Government-issued credit card to purchase items on the internet for his personal use and for resale on the internet auction site eBay. That same day, PVT Jones was sentenced to serve 12 months confinement, and reduction in rank from Sergeant (E-5) to Private (E-1). After serving his term of confinement, PVT Jones was dishonorably discharged from the Army on 21 January 2008. PVT Jones was debarred for a period of three years, ending on 19 August 2011. (Mr. Persico)

(10) Theft of Government Property (FORSCOM, Fort Campbell, Kentucky). On 30 September 2008, the Army SDO debarred SGT Corey D. Sibley (SGT Sibley), USA, from contracting with the Government as a result of his 7 April 2008 entry of a plea of guilty in the U. S. District Court for the Middle District of Tennessee, to one count of theft of Government property. SGT Sibley's guilty plea was based on his use of the General Services Administration "Advantage" internet site to order goods for his unit at Fort Campbell, Kentucky, and then divert delivery to his personal address. On that same date, he was sentenced to two years probation, restitution of \$16,921, and a \$100 special assessment. SGT Sibley was debarred for a period of three years, ending on 19 August 2011. (Mr. Persico)

(11) False Statements (TRADOC). On 30 September 2008, the Army SDO debarred Patricia A. Barrett (Ms. Barrett) and Linda L. Abrams (Ms. Abrams) on the basis of the misconduct underlying the indictments filed against each in the U. S. District Court, Middle District of Georgia, for conspiracy to defraud the Govern-

ment and making a false statement. They were employed by Fort Valley State University as program managers and administrators, and mischarged the Army on a TRADOC contract for the training of ROTC cadets. They were debarred until 11 October 2010. On 19 December 2006, both entered a pretrial diversion program and the indictments were dismissed, without prejudice. Thereafter, in the U.S. District Court, Middle District of Georgia, on 19 December 2006, a Stipulation and Consent Judgment was signed by each, and filed with the Court pursuant to the pre-trial diversion agreement. On 12 March 2007, Writs of Execution were filed against Ms. Abrams and Ms. Barrett pursuant to the Consent Judgments. The criminal misconduct underlying the pretrial diversion agreements and the consent judgments bind Ms. Barrett and Ms. Abrams to make a joint payment in the form of criminal restitution in the amount of \$69,510, in favor of the Government. (Ms. McCaffrey)

(12) Mail Fraud (U.S. Army Aviation and Missile Command, Redstone Arsenal, Alabama). On 30 September 2008, the Army SDO debarred Hashmukhalal Patel (Mr. Patel) from contracting with the Government. BAE was a subcontractor on Boeing's contract with the Army to build the Comanche Helicopter (the Contract). Mr. Patel, while employed by BAE, received personal consideration from HM Systems, Inc. (HM), for purchasing material from HM to be used for the Contract. Some of these materials were substandard and others were never actually received by BAE. The charges for these materials were passed to the Government through Boeing. An investigation ensued after BAE voluntarily disclosed Mr. Patel's aforementioned actions to the Government. That investigation ultimately led to Mr. Patel pleading guilty to seven counts of mail fraud, and one count of subscribing to a false tax return, in the U.S. District Court for the Central District of California, on 23 January 2006. Mr. Patel was sentenced on 12 February 2008 to serve a 41-month term of imprisonment that began on 1 April 2008. Mr. Patel was also ordered to pay \$842,902 in restitution to BAE,

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and \$652,513 to the Government. (Mr. Csokmay)

Settlement Agreement

Federal Grant Fraud (Yale University). On 19 August 2008, the Army PFB concurred with the DoJ settlement with Yale University regarding allegations of fraud involving grants for research from approximately 30 Government agencies between 1 January 2000 and 31 December 2006. After a two-year investigation, involving the review of approximately \$3 billion in research grants, Yale University agreed to pay \$7,600,000 to the U.S. Treasury in damages and penalties under the False Claims Act. It also agreed to enter into negotiations with the Department of Health and Human Services (HHS), the lead agency in this matter, for the payment of between \$548,000 and \$822,000 based on mischarges and misallocation of funds associated with grants made to the Yale Animal Research Center. HHS will also enter into an administrative compliance agreement with Yale University as part of the settlement agreement. (Mr. Persico)

Compliance Visit

ITT Corporation. On 19 August 2008, the Army SDO and Mr. Persico conducted a site visit to the ITT Defense Group's Night Vision Division, Roanoke, Virginia, as part of the Administrative Compliance Agreement (ACA) between the Army and ITT Corporation. ITT's management provided an update regarding the application of the ACA's compliance program requirements at the company's night vision manufacturing and research facility, and provided an opportunity for the SDO to meet with and talk to employees firsthand. In addition, ITT provided information regarding how it was meeting the requirements of paragraph 22.d of the Deferred Prosecution Agreement between the company and the Department of Justice, requiring the expenditure of \$50 million for innovative technology to improve night vision products supplied to the Government. An extensive tour of the manufac-

turing facility, including the night vision goggle manufacturing process, was also provided by ITT. The SDO was accompanied by the ACA's Independent Monitor, Mr. John Pachter, who conducted individual interviews of employees to assess ITT's application of the ACA. (Mr. Kittel and Mr. Persico)

Show Cause Letters/Requests for Information

(1) Mischarging (SMDC). On 16 June 2008, Army PFB sent Advanced Technology Materials, Inc. (ATMI), a show cause letter asking it to address the issue of its present responsibility. An investigation conducted by DCAA indicated that ATMI overbilled the Government on a certain contract it had with the Army. Pursuant to said contract, ATMI's billings were to be based on actual hours of direct effort worked, at an hourly rate of \$62, and 16,093 direct hours had to be worked in order for ATMI to bill for the full contract value of one million dollars. DCAA's investigation determined that ATMI billed the Government for the one million dollars, but only documented 10,167 hours of direct effort. ATMI went on to settle the matter with DOJ for \$185,000 in March of 2008. ATMI initially took the position that language in its settlement with DoJ precluded the Army from pursuing any administrative actions in this matter. In a second letter to ATMI, PFB countered that the Army was not a party to the settlement agreement, and that DoJ does not have any authority to unilaterally waive an executive agency's right to pursue administrative actions in fraud cases. PFB asked for additional information from ATMI. ATMI submitted an affidavit and engaged in telephone conferences with PFB, all of which indicated that ATMI had relied, in good faith, on bad accounting advice from a Government auditor. No further action will be taken. (Mr. Csokmay).

(2) Theft (Fort Drum). On 8 July 2008, the Army SDO sent a show cause letter to Peter P. Pratt (Mr. Pratt), an archeologist who subcontracted with a private university doing work for the Army. Allegedly, Mr. Pratt, while excavating

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Native American cultural sites at Fort Drum, New York, between 1968 and 1987, withheld items of religious and cultural significance for his personal use. The basis for the show cause letter is an allegation that Mr. Pratt failed to account for these items despite numerous requests from the Army and his former employer, the State University of New York at Oswego, between 1987 and September 2007. Mr. Pratt's response is under review. (Mr. Persico and Mr. Malacz)

(3) Product Substitution (Pine Bluff Arsenal).

On 16 July 2008, the Army PFB sent IAM Systems, Inc. (IAM), a show cause letter. A CID investigation indicated that IAM provided nonconforming parts while carrying out its obligations in an Army contract. Specifically, IAM provided certain aluminum sleeves to the Government that failed to comply with contract specifications as to hardness, electrical conductivity, and radial dimensions, while falsely certifying that these specifications were, in fact, met. These sleeves were designed to support the parachutes of mortar illumination rounds, and their divergence from contract specifications may well have an adverse affect on the mission readiness of U.S. military forces. Further, IAM has had some difficulty in complying with certain delivery date terms of the subject contract. In light of the above, PFB sent a show cause letter to IAM. The command subsequently indicated that it resolved the matter with the company contractually. (Mr. Csokmay).

(4) Gratuities (Camp Arifjan). On 18 July 2008, the Army PFB sent Elizabeth B. Difuntorum (Ms. Difuntorum), an Army contracting officer, a show cause letter based on allegations that, during August of 2007, she accepted gratuities from contractors while assigned to the Directorate of Contracting, Camp Arifjan, Kuwait. Ms. Difuntorum has requested an extension in which to respond. (Mr. Persico and Mr. Malacz)

(5) Product Substitution (TACOM). On 18 June 2008, PFB sent a show cause letter to Gear Wizzard, Inc. (GWI). Investigations conducted by CID and DCIS indicated that GWI knowingly provided nonconforming parts to the

Government on two U.S. Army TACOM contracts that required original equipment/parts of a specific manufacture. The investigations ultimately led to a settlement agreement between GWI and DoJ whereby GWI tendered the sum of \$222,046 to preclude any formal litigation. In its timely response, GWI provided adequate evidence of its current responsibility. The crux of its problem was its reliance on a vendor that supplied some nonconforming parts. GWI no longer uses this vendor, and has continued to satisfactorily perform on other Army contracts. GWI fully cooperated in this matter, responded to all official inquiries, and made restitution to the Government without the necessity of a law suit. A decision was accordingly made not to pursue debarment. (Mr. Csokmay).

(6) Conspiracy, Bribery (Camp Arifjan). On 23 July 2008, the Army SDO sent 31 individuals in Kuwait, Saudi Arabia, and the United States show cause letters requesting information regarding their present responsibility as Government contractors and their relationships to companies and individuals named in the documents recovered from the residence of MAJ John Cockerham (MAJ Cockerham), a former Army contracting officer. These documents describe a scheme by contractors to pay MAJ Cockerham, his spouse, and his sister \$15.4 million in exchange for the placement of 108 orders for bottled water, valued at approximately \$125 million. The parties sent show cause letters as part of this request were: Abdullah Mohammad Al Yousef; Ed Salous; Saad Bilal; Abdullah Ashkanani; Naser Abdullah Al Sanousi; Jamal Al Dahma, a.k.a. "Gamal Al Dahma;" Mona Al Dahma, a.k.a. "Muna A. Al Dahma," and "Mona A. Al Dahmah;" Saad B. Hamoud; Saud Al Tawash; Saly Nazeah; Sara Ahmed; Mohamed Yousef Bu Gabber; K. Venugopalan Nair; Dr. C.G. Suresh; Saad Al Muhanna; Abdullah S. Mhana; Gazba M. Bushiya; Krishna B. Nayer; Kristofer J. Slater; Saad M. Al Mhana; Noura M. Al Ghannam; Jasen M. Al Ghannam; Vinu Nair; Vinod Kumar; Lola Nair; Charles J. Bowie; Sandra P. Bowie; Ghazi Daghim Al Otabi; Joseph E. Nakozi; Mohammad Howijji; Soni Bourji; and

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Ghassan Hakim. Responses are under review. (Mr. Persico)

(7) Failure to Pay Subcontractors (AAFES). On 7 August 2008, PFB sent C.D. Hayes, Inc. (CDHI), and its president/owner, Carl David Hayes, a show cause letter. On 3 December 1997, AAFES awarded a contract to CDHI for \$5,769,405 for the expansion of the Post Exchange Shopping Center, Fort Eustis, Virginia. CDHI requested and received progress payments from AAFES, but failed to pay its subcontractors or complete performance of the contract. AAFES' attempts to secure CDHI performance under the contract proved futile. Ultimately, Travelers Insurance Company completed the contract at a cost of \$1 million dollars. CDHI's delay was estimated to have caused AAFES to lose \$4 million dollars in sales, and \$400,000 in profit to the MWR Fund. CDHI sued the Government for \$1.6 million dollars, for moneys allegedly owed it. Portions of CDHI's claims were dismissed in 2006, and, in early 2008, CDHI entered a voluntary dismissal of the remaining claims. On 7 August 2008, PFB sent CDHI a show cause letter based on allegations it defrauded its subcontractors. The company's response is under review. (Mr. Nelson).

(8) Kickbacks (USACE, New Orleans). On 5 September 2008, Army PFB sent a show cause letter sent to Kevin Jackson (Mr. Jackson). Mr. Jackson was an employee of ECC Operating Services, LLC, which was the prime contractor on a \$500 million contract. The contract was awarded by the New Orleans District of the U.S. Army Corps of Engineers, and, pursuant to its terms, ECC provided demolition services related to Hurricane Katrina recovery efforts. Mr. Jackson was an ECC supervisor responsible for overseeing and allocating the efforts of various subcontractor demolition crews. In December 2006, Mr. Jackson allegedly approached the supervisor of a demolition crew from York Construction, which was one of ECC's subcontractors, and solicited from him compensation in the form of a "kickback" in exchange for future demolition work. Specifically, Mr. Jackson

showed the York supervisor a large envelope containing \$100 bills, indicating that Mr. Jackson's receipt of such bills would secure a favorable allocation of future job assignments. The York supervisor reported Jackson's solicitations, prompting ECC to conduct an internal investigation, following which Mr. Jackson's employment with ECC was terminated. Mr. Jackson could not be located. This case has been closed. (Mr. Csokmay)

(9) False Statements (SMDC). On 11 September 2008, PFB issued a show cause letter to Altair Center, LLC. DCIS and CID initiated an investigation into Altair Center, LLC (Altair), and Dr. Sergei Krivoshlykov (Dr. Krivoshlykov) following a referral from the Department of Health and Human Services (HHS), Office of Inspector General (OIG), which provided a copy of a letter written by Dr. Igor Letvitsky (Dr. Letvitsky), a former Altair employee. Dr. Letvitsky alleged that Altair's owner and president, Dr. Krivoshlykov, violated several regulations that pertained to the Small Business Innovation Research (SBIR) program. At the time, Altair had several (SBIR) contracts with the National Aeronautics and Space Administration (NASA), Department of Energy (DoE), and DoD. The DCIS and CID investigation found Dr. Krivoshlykov falsely certified that as principal investigator and chief scientist, he would devote over 51% of his time to the SBIR research programs under contract. The investigation also found that Altair routinely misbilled employee research time to various projects, as well as falsely billed the Government for work Altair's employees did not perform. Altair allowed performance of awarded SBIR contracts to be conducted outside the United States by Russian nationals, without the approval of the Government and contrary to regulations and contract specifications. Furthermore, Altair's SBIR proposals falsely specified the use of several consultants and universities to complete contract work, for which the Government paid without receiving the actual benefit of such services. Dr. Krivoshlykov also lied to law enforcement agents when initially confronted about these allegations. The Government's main wit-

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ness, Dr. Letvitsky, died during the investigation. The remaining critical witnesses are Russian nationals residing in Russia. The Army sent Altair and Dr. Krivoshlykov a show cause notice, providing the company and its president an opportunity to respond to the allegations. The company response is under review. (Mr. Nelson).

(10) Product Substitution (TACOM). On 28 September 2008, the Army PFB sent Chris A. McCollum (Mr. McCollum), President of Automotive Racking Systems, Inc., a show cause letter due to a finding of "deception" resulting from a polygraph test by DCIS. This examination was conducted after Special Agent Linda Koltuniak and Assistant United States Attorney Daniel Mekaruk interviewed Mr. McCollum several times regarding his involvement with David Lukasik, former President of Environmental Technologies Group, Inc. (ETG), in a scheme to defraud the Government during the time Mr. McCollum was an employee of ETG. The scheme involved the shipment of non-conforming cargo containers. During these interviews, Mr. McCollum provided misleading information which conflicted with statements made by former ETG employees who were in a position to observe the daily operations of ETG. (Ms. McCaffrey)

(11) Kickbacks (ASC). On 30 September 2008, the Army SDO sent First Kuwaiti Trading Company (FKTC), a KBR subcontractor, a second letter requesting information concerning the allegations that its managing partner paid Anthony J. Martin (Mr. Martin), former employee of KBR, a kickback for the award of a Government subcontract. Enclosed with the letter was Mr. Martin's sworn in-court testimony in which he stated that Mr. Wadih Al-Abisi, managing partner of FKTC, paid him \$10,000 in exchange for the award of a Government subcontract. The company's response is under review. (Ms. McCaffrey)

Administrative Hearings

(1) Anti-trust Violations (SDDC). On 14 July 2008, Lift Forwarders, Inc. (Lift) made an oral presentation to the Army SDO in response to a PFB request for information. The company's

president attended the presentation in addition to Lift's attorney. On 17 October 2007, Lift pled guilty to one count of conspiracy to restrain trade in the U. S. District Court, Eastern District of Virginia. The District Court sentenced Lift to pay a \$140,000 fine. Lift admitted to a bid-rigging scheme in concert with an unaffiliated co-conspirator in the shipment of military household goods between the United States mainland and Hawaii. The SDO determined that Lift needed to further revise its ethics code, and ensure it was applicable company-wide, to include Lile International, Lift's parent company. With assistance from PFB, Lift significantly revised its ethics program in the areas of employee training, reporting, and standards of conduct training. The SDO determined no further action against the company is warranted at this time, with the understanding that Lift is implementing its revised ethics code immediately. (Mr. Nelson)

(2) Product Substitution (DSCP). On 24 September 2008, Sioux Manufacturing Corporation (SMC) made an oral presentation to the SDO and PFB. SMC was represented by its CEO, Quality Assurance Manager, outside counsel, and local counsel. On 12 May 2008, PFB sent a show cause letter to SMC inquiring about its 8 November 2007 settlement agreement with DoJ based on a *qui tam* lawsuit in which SMC paid \$1.935 million to settle a case involving the production of PASGT helmets. Investigative reports indicated that until April 2006, SMC may never have complied with the existing military specification of 35 x 35 yarns per square inch thread count standard weave density in its construction of complete PASGT helmets, or its manufacture of Kevlar helmet cloth. SMC's alleged deficient weaving practices potentially affected an estimated two million PASGT helmets. The problem in the manufacturing process stemmed from deficiencies in the quality assurance process. Because of the substantial changes SMC made to its ethics program, employee training, and quality assurance processes, to redress the circumstances leading to the *qui tam* lawsuit, the SDO determined no further action against the company was warranted at this time. (Mr. Nelson).

PARTING SHOTS: SOLDIER DETERMINATION AND SOLDIERS GOING HOME



All photos appeared on www.army.mil.

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D. C. 20503

OFFICE OF FEDERAL
PROCUREMENT POLICY

November 14, 2008

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS
SENIOR PROCUREMENT EXECUTIVES

FROM: Lesley A. Field
Deputy Administrator

SUBJECT: Preventing Fraud in Federal Contracting

The government remains committed to detecting and deterring fraud in federal contracting. As this is a shared responsibility, I ask that you advise your agencies of the affirmative steps being taken to combat and prevent this unacceptable activity, and reiterate the steps your agency is taking to deter fraudulent contracting actions in your agencies.

The Federal Acquisition Regulation (FAR) was recently changed to require contractors to disclose violations of criminal law and the False Claims Act in connection with award and performance of government contracts and subcontracts. Contractors are subject to debarment and suspension from government contracting for knowingly failing to disclose such violations and overpayments on government contracts in a timely manner. Contractors are also required to establish internal control systems to facilitate timely disclosure of improper conduct and fully cooperate with government agencies responsible for audit, investigation, and corrective actions. This FAR change, which is effective on December 12, 2008, was published in the Federal Register on November 12, 2008 (73 FR 67064).

This FAR change is in addition to another recent FAR amendment that requires government contractors to have a written code of business ethics and an ethics compliance training program for contractor employees, and to post "fraud hotline" posters at contractor worksites, which encourage contractor employees to report fraudulent activity in connection with performance and award of government contracts.

In October 2006, the Office of the Deputy Attorney General announced the formation of the National Procurement Fraud Task Force (the Task Force) to promote the early detection, prevention, and prosecution of procurement fraud associated with increased contracting activity for national security and other government programs. More than 350 civil and criminal procurement fraud cases were filed since the Task Force began its efforts. The Task Force, which is chaired by the Assistant Attorney General of the Criminal Division, coordinates its efforts with the U.S. Attorneys' Offices, the Justice

Department's Civil, Antitrust, Environmental and Natural Resources, National Security, and Tax Divisions, other law enforcement agencies, and the office of Management and Budget. One of the key objectives of the Task Force is to increase coordination and strengthen partnerships among all Inspectors General (IGs), law enforcement, and the Department of Justice to fight and eliminate procurement fraud. The Task Force works with contracting and audit offices and the private sector to more effectively detect and report fraud.

Additionally, the Task Force has a Web site that provides significant resources regarding fraud training, reporting, and other information that agencies will find helpful as they guard against unethical behavior by their contractors and employees. Please ensure that all of your acquisition professionals have access to this information on <http://www.usdoj.gov/criminal/npftf/>.

All agencies must take immediate actions before the effective date of the FAR change to inform their acquisition workforce of the FAR changes described above, the resources provided by the National Procurement Fraud Task Force, and their workforce's responsibilities to deter procurement fraud. Actions might include issuing agency guidance, memoranda, or other communications.

Agencies that are required to have Chief Acquisition Officers pursuant to the Services Acquisition Reform Act (P.L. 108-136) shall report to the Office of Federal Procurement Policy the steps taken to disseminate this information and to disseminate agency specific policies or requirements related to deterring procurement fraud. Please send this information to Mike Gerich, at mgerich@omb.eop.gov, no later than December 10, 2008.

Thank you for your attention to this serious matter.