



United States Army Legal Services Agency

Procurement Fraud Branch Contract & Fiscal Law Division



Army Procurement Fraud Advisor's Newsletter

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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 THE CHIEF TRIAL ATTORNEY

New Procurement Fraud Reporting Requirements:

The role of the Army's Procurement Fraud Advisors (PFAs) and Procurement Fraud and Irregularities Coordinators (PFICs), as described in AR 27-40, consists of the reporting, monitoring and assisting in the resolution of fraud cases affecting Army procurements. Last summer, I asked the Contract and Fiscal Law Division's Procurement Fraud Branch (PFB), to review the functions and duties of PFAs and PFICs. The review of procedures used to report and monitor fraud cases showed that the current system

lacks regular accountability for case reporting due to its decentralized nature. The result has been that PFICs and PFB often find it difficult to monitor the status of cases as they progress from initial reporting to investigation and, if necessary, during action by the Department of Justice.

To retain the decentralized structure of the PFA system while improving reporting procedures, it was determined that at a minimum, initial reports were necessary from PFAs along with semi-annual reporting of the cases overseen by each PFA. These changes, many of which are already required by AR 27-40, will be used to improve PFB and PFIC support to PFAs and to provide a regular, standardized, means of sending information to the Army's leadership.

Following the completion of the review, I took the opportunity to discuss PFB's findings in the October 2006 Procurement Fraud Update. At the time, I stated that more detailed information would be forthcoming regarding the program and how we intended to implement the proposed changes. This information was provided to all PFICs in a memorandum by E-mail on 26 January 2007.

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In addition, there will be a conference call with all PFICs on Wednesday, 21 February 2007 from 1000 to 1200 to discuss these changes. Detailed instructions on how to access the conference call are also provided in the memorandum. I am looking forward to discussing the proposed changes with all Army PFICS, key leaders in our fraud program.

(COL Samuel J. Rob)

MESSAGE FROM THE ARMY SUSPENSION AND DEBARMENT OFFICIAL



Indefinite Debarments:

The FAR provides that a suspension shall be for a temporary period pending the completion of investigation and legal proceedings, and, in no event, extends beyond 18 months, unless legal proceedings have been initiated within that period (FAR 9.407-4). The FAR also provides that, generally, debarment should not exceed three years (FAR 9.406-4). On December 20, 2006, the United States Department of Agriculture (USDA) suspended and proposed AWB Limited, formerly the Australian Wheat Board, and its affiliates, for debarment from participating in contracting with the United States Government. The basis for the action is the allegation that the company engaged in bribery and kickbacks, resulting in payments to the Saddam Hussein's regime and it attempted to cover it up. AWB was notified that it would be considered for indefinite debarment. In light of the FAR provisions above, the USDA case raises the question whether indefinite debarments are authorized under the FAR. If not, then the USDA case raises the issue whether the FAR should be changed to provide for indefinite debarments, rather than for fixed term debarments. In this regard, it should be remembered that the FAR specifically mandates that debarments are non-punitive administrative remedies imposed to protect the Government from non-responsible contractors rather than for the purpose of punishment. When a contractor is debarred, the FAR does not require the contractor to prove it has rehabilitated itself. Once the company completes the term of debarment, the

company is removed from the list of debarred contractors. Theoretically, a company could continue to contract with the Government after completing a fixed term of debarment without taking action to correct the policies, procedures or corporate climate that may have led to the cause for the debarment.

This potential outcome is particularly troubling with regard to DOD contractors in light of the DFAR guidance (DFAR Subpart 203.70, Contractor Standards of Conduct) that Government contractors are expected to conduct themselves with the highest degree of integrity and honesty. And, in addition, Government contractors should have in place standards of conduct and internal control systems that promote such standards, facilitate timely discovery of improper conduct and ensure corrective measures are implemented. While these provisions are not clearly mandatory, it seems particularly appropriate that those contractors who have been debarred should be required to demonstrate compliance with these provisions. Whether or not the FAR needs to be changed to recognize the concept of an indefinite debarment, the FAR should be changed to adopt the DFAR Contractor Standards of Conduct provisions as well as establishing the mandatory requirement that debarred contractors must meet the DOD contractor standards of conduct provisions before they can be removed from debarred status. It is for this reason that we have placed upon Army debarred contractors the requirement to provide proof of present responsibility at least one year prior to the date they are to be removed from the debarment list. A change in the DFAR or FAR to require such a showing, as a condition precedent to removal from debarred status, would improve the effectiveness of debarment as a process designed to protect the Government. This change would ensure that the Government does business only with responsible contractors. Such a change should be implemented.

(Robert N. Kittel)

MESSAGE FROM THE CHIEF, PFB

UPDATE ON IRAQ RECONSTRUCTION PROCUREMENT FRAUD FIGHTING ORGANIZATIONS AND RESULTS:

In November 2005 the Army appointed three Procurement Fraud Advisors (JCC-I/A, MNSTC-I, and MNC-I) in Iraq. The US Army Corps of Engineers (USACE) appointed the District Counsel, Gulf Region Division (GRD) to be the USACE PFA. That list has since been expanded. A current list of PFA's in theatre follows:

- Joint Contracting Command Iraq/Afghanistan:
Lt Col Mike Benjamin, USA
 - **Provides legal support for all Reconstruction and Support Contracts in Iraq and Afghanistan**
- Multi-National Forces, Iraq: MAJ John Vansandt, USA
 - **Provides legal support for Commander's Emergency Reconstruction Program (CERP) Contracts in Iraq**
- Multi-National Security Transition Command, Iraq: Lt Col Vicki Doster, USAF
 - **Provides legal support for Iraqi Police and Army Training Program Contracts**
- Army Corps of Engineers, Gulf Regional Division: Jim Cullum, DA Civilian
 - **Provides legal support for Reconstruction Contracts in Iraq**
- ARCENT/3rd Army/CFLCC: MAJ Darryl Witherspoon, USA
 - **Provides legal support for logistics contracts in Kuwait**
- Area Support Group – Kuwait: Clea Efthimiadis, DA Civilian
 - **Provides legal support for logistics contracts in Kuwait**

The above PFAs are working with investigative organizations in theatre. In January 2006, CID established MPFU Offices in CENTCOM: Victory

Base Complex, Iraq (4 agents), International Zone, Iraq (2 agents), Camp Arifjan, Kuwait (2 agents), Bagram AB, Afghanistan (1 agent). An additional CID liaison has been established at the Joint Operations Center (1 agent). In November 2006 a Joint Task Force was established to coordinate investigations of SIGIR (Special Inspector General for Iraq Reconstruction) (SIGIR, established in 2004), DCIS, FBI, NCIS, AFOSI, and other investigative agencies operating in Iraq. The task force is headed by CID Special Agent Tom Barnes.

PFB is also working directly with CID, SIGIR and DOJ to suspend or debar contractors in cases of fraud or corruption involving Iraq reconstruction or Army support contracts in Iraq. The majority of these cases are referred to PFB by the Army CID and MPFU Iraq Fraud Detachment and Iraq Joint Fraud Task Force. As of January 30, 2007, the Army SDO has suspended 16 individuals and companies based on allegations of fraud and misconduct connected to Iraq reconstruction and Army support contracts. In addition, 16 other individuals and companies have been proposed for debarment, nine of those are fact-based. Eight of those individuals and companies are now debarred. Four of those debarments are fact-based. One Compliance Agreement has been executed. Most of the companies and individuals who have been suspended or debarred are listed in Appendix M of SIGIR's 30 January 2007 Quarterly report to Congress and all have been included in past and present issues of the PFA Update.

(Christine S. McCommas)

TRAINING/OUTREACH

DoD Procurement Fraud Working Group

For the past two years, the DoD Working Group has sponsored a Procurement Fraud Training Seminar. This year, the seminar will be held on 27 February through 1 March 2007 at the Hilton Daytona Beach Oceanfront Resort. This seminar is an advanced-level course in the area of procurement fraud; those with experience in this area are highly encouraged to attend. Prospective attendees must register at <http://home.dema.mil/registration/PFWG07/generalinfo.cfm> in order to attend. In addition, all attendees

must download and print the presentations prior to attending, as handouts will not be available during the seminar. Each day there will be various breakout sessions, which are ideal for group discussions and problem solving. Topics such as: the Berry Amendment, Interagency Contracting; Sharing Information on Suspect Parts; and many others will be presented and discussed, with the goal of spotting the problematic issues, or arriving at practical solutions to the problems encountered in these fields. For more information, contact Gregory.campbell@hqda.army.mil

SUSPENSIONS & DEBARMENTS

Suspensions

(1) False Statement (SDDC). On 19 October 2006, the Army SDO suspended Ryan's World, Inc., its president, Mr. Michael Pasha, and its treasurer, Ms. Sandra Amason. Ryan's World, Inc. is a freight forwarder and is in the business of providing services related to the transportation of household goods owned by U.S. military and civilian DOD personnel. On 27 September 2006, Ryan's World entered into a plea agreement in the United States District Court for the Eastern District of Virginia whereby it waived indictment and agreed to plead guilty to the criminal information charging Ryan's World with making a material false statement in violation of 18 U.S.C. § 1001. On 29 September 2006, a criminal information was filed against Ryan's World. International Through Government Bill of Lading (ITGBL) traffic is military household goods traffic which moves between the U.S. and foreign countries. Under the ITGBL program, freight forwarders are U.S. companies that file "through rates" with the Surface Deployment and Distribution Command (SDDC) in order to be awarded household goods shipments. Under the ITGBL program, each freight forwarder that files a rate is required to identify with SDDC, the name of each entity with which it has a "common financial and/or administrative control" (CFAC) relationship. Under SDDC rules, freight forwarders that are "in CFAC" with each other may not file rates in the same channels and are not eligible to service ITGBL or Hawaii traffic in such channels. As a result of Ryan's World's alleged failure to declare CFAC with another carrier, DOD was denied its right to the honest administration of its

programs to procure services for the shipment of military household goods. (Mr. Kim)

(2) Bribery (USFK). On 28 October 2006, the USFK SDO suspended Sinil Company along with ten of its employees (Wan Keun Choi, Tai Yong Park, Jun Mo Yim, Sang Kwon Shim, Sang Ho Shim, Jin Keun Yoon, Hee Jeong Lee, Con Pom Kim, Kum Chon Choi, and Su Min Chae), and one Government employee, Son Han Kim. An ongoing investigation indicated that Mr. Kum Chon Choi, a branch manager at Sinil, allegedly bribed Mr. Son Han Kim, an engineering technician employed by the U.S. Army, to ensure that construction shortcomings and billing discrepancies were overlooked. As a result, the Army overpaid Sinil on numerous delivery orders in the amount of \$112,982.00. Mr. Son Han Kim allegedly used the money provided to him by Mr. Kum Chon Choi to bribe a construction inspector, Mr. Su Kon Yi, who regularly inspected Sinil sites. On another occasion, Mr. Su Min Chae, Sinil project manager, allegedly gave Mr. Su Kon Yi 300,000 Won. (LTC Dorn)

(3) Bribery (USFK). On 28 October USFK SDO suspended Daeho Corp. (Daeho) and four of its employees (Sung Sik Kim, Jin Chul Kim, Seok Kyun Kim, and Kui Hyon Yim). An ongoing investigation indicated Mr. Kui Hyon Yim, a field manager at Daeho, bribed Mr. Son Han Kim, an engineering technician employed by the Army, to ensure that construction shortcomings and billing discrepancies were overlooked. In a subsequent investigation, Mr. Su Kon Yi, a construction inspector, admitted to receiving bribes from Daeho. He allegedly received 1,000,000 Won each month from January 2004 through December 2004 from his supervisor, Mr. Son Han Kim. Mr. Su Kon Yi was told by Mr. Son Han Kim that the money was from Mr. Kui Hyon Yim of Daeho. (LTC Dorn)

(4) Bribery (USFK). On 12 November 2006, the USFK SDO suspended Mr. Chang Sik Yi. The Seoul Central District Prosecutors Office, Foreign Affairs Division, investigation established that Mr. Chang Sik Yi, a United States Army Contracting Command—Korea (USACCK) contracting officer, allegedly passed procurement sensitive information to Mr. Hyun Chul Kim, who, in turn, released the information to Messrs. Bok Su Ui and Jae Han Pak of Daham Ecat Company (Daham). Daham allegedly used the information to prepare its bid on a USFK security contract. Mr. Chang Sik Yi further assisted Daham by

recommending the contractor to the Source Selection Authority for USFK and the Chief of Services Branch, USACCK. Mr. Chang Sik Yi allegedly received from Daham thirteen 10 million Won checks. (LTC Dorn)

(5) Bribery (MEDCOM). On 27 November 2006, the Army SDO suspended Messrs. Kevin R. Roach, Louis Pisani Jr., Leon L. Krachyna, Jr., and Platinum Contractors, Inc., (d/b/a Father and Sons Platinum Contractors, Inc. and Father and Sons Home Improvement), and Home Sweet Home Moving and Storage (d/b/a All in the Family Moving and Storage, Inc.) as a result of indictments against Messrs. Roach and Pisani in the United States District Court for the District of Maryland, Greenbelt Division. These allegations state that Mr. Roach used his position as a contract specialist at Walter Reed Army Medical Center, Washington, DC, to award MEDCOM contracts to Platinum Contractors, Inc., and Home Sweet Home Moving and Storage, Inc., in exchange for monetary and in-kind payments from Messrs. Pisani and Mr. Krachyna, in violation of 18 U.S.C. § 201, Bribery, 18 U.S.C. § 1505, Obstruction of Agency Proceedings, 18 U.S.C. § 2, Aiding and Abetting and 18 U.S.C. § 371, Conspiracy. Mr. Krachyna was listed in the indictment as an uncharged co-conspirator of Messrs. Roach and Pisani. (Mr. Persico)

(6) Tax Evasion (LCMC). On 20 December 2006, the Army SDO suspended Messrs. William E. Baum, Gerardo M. Sanz, and Gary N. Romstedt. BRTRC Technology Research Corporation (BRTRC) provides program management and technical services to DoD. Mr. Sanz was the president and CEO, and Messrs. Baum and Romstedt were vice presidents, of BRTRC. The wives of Messrs. Sanz, Baum, and Romstedt owned two vacation properties which were leased by BRTRC. These properties, however, were not utilized for business purposes by BRTRC, but were used by the three men and their families as vacation homes. The three men caused BRTRC to file false corporate tax returns in which the vacation properties were treated as deductible business expenses. Messrs. Sanz and Baum also agreed to pass a portion of the vacation property cost to the Government by falsely certifying to the Government that a percentage of its lease payments on the properties were allowable costs billable to the Government. On 21 November 2006, Messrs. Sanz, Baum, and Romstedt were each charged in the United States District Court for the Eastern District of Virginia with one count of conspiracy to defraud the United States. (Mr. Zamboni)

Termination of Suspension

False Statement (SDDC). On 31 October 2006, the Army SDO held a present responsibility hearing at the request of Ryan's World, Inc. (Ryan's World). Representatives of Ryan's World, its president, Mr. Michael Pasha, and its treasurer, Ms. Sandra Ameson, appeared before the SDO to present evidence in mitigation to the circumstances that gave rise to their suspension on 19 October 2006. A criminal information was filed against Ryan's World in the United States District Court for the Eastern District of Virginia on 29 September 2006 for violating of 18 U.S.C. § 1001 (false statement). Ryan's World presented evidence of its remediation action, plan for educating its staff on ethics, and a written commitment from Mr. Pasha to actively set the business strategies and philosophies for Ryan's World to ensure that it operates under ethical principles. The SDO determined Ryan's World, Mr. Pasha, and Ms. Ameson, to be presently responsible and terminated their suspensions on 2 November 2006. (Mr. Kim)

Proposed Debarments

(1) Bribery (USAREUR). On 11 October 2006, USAREUR SDO proposed Messrs. Hans Speicher and Michael Speicher, and Firm Speicher, Garten-Creativ, Holzfachzentrum Gschwander GmbH, and Möbel-Kirsch GmbH for debarment. Mr. Steven Potoski was a former contracting officer with Armed Force recreation Center-Europe (AFRC-E). He provided contracting support for the building of the Edelweiss Lodge and Resort (ELR). Mr. Potoski entered into a conspiracy with various contractors to defraud the United States Government. Gschwander, Garten-Creativ, and Firm Speicher provided goods and services to Mr. Potoski for his private residence and billed the Government. Möbel-Kirsch provided Mr. Potoski with furnishings for his private residence. Messrs. Hans and Michael Speicher are owners of Firm Speicher. (CPT Bergen)

(2) Bribery (USAREUR). On 11 October 2006, the USAREUR SDO proposed for debarment Messrs. Anton Schneider and Werner Kirsch. Mr. Anton Schneider was the manager of Garten-Creativ at the time of Mr. Potoski's misconduct. Mr. Schneider prepared an invoice for SKE GmbH to pay for the work performed at Mr. Potoski's residence. Mr. Kirsch

is the managing director for Möbel-Kirsch at the time of the conspiracy with Mr. Potoski. (CPT Bergen)

(3) Improper Use of Government Equipment (USFK). On 23 October 2006, the USFK SDO proposed for debarment Yibon Construction Co. (Yibon), five of its employees (Chun Chae Yi, Tae Kun So, Chung Hui Yi, Kye Nam Yi, Kyong Won Pak), and one Government employee, Mr. Chae Sil Yi. CID investigation revealed that in 2004, Yibon borrowed necessary cable supplies from the Army (the 501st Signal Company) in an effort to complete its work under an Army contract. Although Yibon was required to provide its own construction supplies, Yibon agreed to re-supply the Army when the borrowed items became commercially available. These supplies, however, were never replaced by Yibon. Instead, Mr. Kyong Won Pak paid Mr. Chae Sil Yi, an employee of the 501st Signal Company, 300,000 Won as a "token of appreciation." (LTC Dorn)

(4) Theft of Government Property (DCMA). On 16 November 2006, the Army SDO proposed for debarment Mr. Thomas Nelson Barnes, III. On 16 March 2004, DynCorp International (DI) entered into a \$7.7 million contract with the DCMA. The primary objective of the contract was the establishment and implementation of a theater-wide personnel identification badging program for Operation Iraqi Freedom coalition forces and support personnel. The intent of the program was to control access to the International Zone (IZ) in Baghdad, Iraq. Mr. Barnes was a DI employee as a badge team leader. Mr. Barnes, acting without authorization from DI or U.S. Armed Forces, knowingly and unlawfully misappropriated access badges and converted them to the use of unauthorized persons. On 11 May 2006, Mr. Barnes pleaded guilty to one count of 18 U.S.C. § 641 (theft of Government property). Mr. Barnes was sentenced to thirty-day confinement, one year supervised release, thirty-days in the Home Confinement Program with electronic monitoring, and \$25.00 in special assessment. (Mr. Kim)

(5) False Claim (SDDC). On 20 November 2006 the Army SDO proposed EP Productions, Inc., a media consulting firm in Atlanta, GA, and its president, Ms. Elizabeth Porter, for debarment. The basis for this action is allegations that Ms. Porter, on behalf of EP Productions, materially misrepresented the terms of a contract to host the 2004 Military Transportation Command's (SDDC) Military Transportation

Symposium and submitted false claims to the Government for reimbursement of expenses incurred during performance. (MAJ Moritz/Mr. Persico)

(6) Wire Fraud (CECOM). On 27 November 2006, the Army SDO proposed for debarment Mr. Archibald A. Curran, Jr. Mr. Curran was a logistics management specialist at United States Army Communications and Electronics Command (CECOM), Fort Monmouth, New Jersey. From 2000 to 2005, Mr. Curran forged invoices which falsely purported to represent legitimate travel expenses, and forged signatures of various supervisors to falsely create the appearance the travel vouchers had received supervisory approval. On 11 April 2006, Mr. Curran pled guilty and was subsequently convicted in the United States District Court of New Jersey to one count of wire fraud. He was sentenced to 20 months imprisonment, three years supervised release, and approximately \$151,000 restitution payable to CECOM. (Mr. Zamboni)

(7) Gratuity (USAREUR/AFRC). On 1 December 2006, the Army SDO proposed Mr. Ellis Aron Abramson for debarment. Mr. Abramson is the president of Bramson House, Inc. On 12 April 2006, Mr. Abramson pled guilty to one count of paying a gratuity to a public official and one count of traveling in interstate commerce in aid of an unlawful activity. He was sentenced to serve six months imprisonment, three years supervised release, ordered to pay a special assessment of \$200, a fine of \$50,000, and a restitution of \$23,000. (Ms. McCaffrey)

(8) Fraud (USAITA). On 1 December 2006, the Army SDO proposed Mr. Robert E. Johnson for debarment. Mr. Johnson was employed by the Department of the Army as the Chief, Quality Assurance, Contracting Officer's Technical Representative (COTR), and assigned to the Information Technology Agency in Rosslyn, Virginia. Mr. Johnson used his official position to unlawfully obtain more than \$150,000 when he directed prime contractors to subcontract with two companies in which he secretly held a financial interest. On 29 September 2006, Mr. Johnson was sentenced in the United States District Court, Eastern District of Virginia, after pleading guilty to a one-count criminal information charging him with depriving another of honest services. He was sentenced to 24-months imprisonment, three years supervised release, ordered to pay \$100 special assessment, and

restitution in the amount of \$150,049.42 payable to the United States Treasury. (Ms. McCaffrey)

(9) False Claim (Kuwait). On 1 December 2006, the Army SDO proposed for debarment Palm Springs General Trading and Contracting Establishment, and Green Valley Company. Between on or about 18 October 2004 and on or about 1 June 2006, Green Valley, a Kuwaiti company, provided water delivery and grey/black water removal to the Army at Camp Arifjan. Palm Springs was a partner of Green Valley in the implementation of this contract between on or about 1 November 2005 through on or about 28 February 2006. During this period, Palm Springs engaged in a scheme to submit false claims by loading and unloading waste water trucks in a manner that inflated the amount of waste water removed. Green Valley materially benefited from, and acquiesced to, Palm Springs' practice of inflating the amount of waste water removal. (Mr. Persico)

(10) Counterfeiting (Fort Campbell). On 8 December 2006, the Army SDO proposed for debarment Ms. Christine Chen Wee Ho and China Star Buffet. Ms. Ho operated China Star Buffet at Fort Campbell, Kentucky. The kitchen workers at the restaurant were undocumented and were not approved to work in the United States. Ms. Ho illegally purchased eight sets of counterfeit Alien Registration cards and Social Security cards for her undocumented workers. Ms. Ho also fraudulently used "Eagle Cards" to illegally obtain access to her undocumented workers onto Fort Campbell. Fort Campbell issues Eagle Cards to facilitate post access for contractors who regularly enter the installation. Ms. Ho obtained Eagle Cards belonging to legitimate individuals and used them for her undocumented workers. Ms. Ho pled guilty in the United States District Court for the Western District of Kentucky to knowingly possessing counterfeit Alien Registration Receipt Cards, Social Security Cards, and knowingly possessing and using identification of another person during the commission of the offenses of possession of counterfeit Alien Registration Cards and Social Security Cards. On 13 April 2006, she was sentenced to 29-months imprisonment and two years probation. (Mr. Zamboni)

(11) Conspiracy (USAREUR). On 11 December 2006, the USAREUR SDO proposed for debarment Dragon Group International (DGI), Mr. Paul Leaker, and Ms. Daliborka Ristevska. Ms. Ristevska and Mr. Leaker, co-owners of DGI, conspired to violate the

Joint Ethics Regulations and 18 U.S.C. § 208 (Acts Affecting a Personal Financial Interest). Mr. Leaker and Ms. Ristevska conspired with two DoD employees to form DGI for the purpose of winning the 2005 Balkan Range Support Contract. The DoD employees provided substantial assistance in creating DGI and provided privileged procurement information to DGI. (CPT Bergen)

(12) Gratuity (USACE). On 19 December 2006, the Army SDO proposed Mr. Russell Hoffmann for debarment. Mr. Hoffmann, as Vice President of Surdex Corporation, provided Mr. William Schwening, who at that time was an employee of United States Army Corps of Engineers (USACE), with gifts in exchange for official acts that Mr. Schwening performed in his capacity as an employee of USACE. On 18 July 2006, Mr. Hoffmann was found guilty of giving a gratuity to a public official. On 20 October 2006, he was sentenced to serve a three year term of probation, ordered to pay an assessment of \$100 and a fine in the amount of \$5,000. (Ms. McCaffrey)

(13) Contract Performance (OSC). On 21 December 2006, the Army SDO proposed for debarment Mr. Lawrence K. Chiu, president of DNL Construction Company, Inc. (DNL), Ms. Doreen Chiu, the sister of Mr. Chiu and the president of ATG Catalytic, LLC (ATG), DNL, and ATG. DNL is a specialty trade contractor specializing in removal of hazardous substance/materials. It contracted with the Operations Support Command (OSC), Rock Island Arsenal, Rock Island, Illinois. In 2001, DNL was contracted to remove and transport low level radio active waste from Tinker Air Force Base, Oklahoma, to the Richland Consolidation Center (RCC), Richland, Washington. DNL subcontracted all parts of the contract to ATG for completion. DNL, via ATG, transported the waste to the RCC but did not dispose of it in accordance with the contract. On 10 May 2001, DNL submitted invoice number 1221 to OSC for payment in the amount of \$101,259.64 for the removal and disposal of radioactive waste, located at Tinker Air Force Base; DNL was subsequently paid. OSC later discovered that DNL did not complete the above work and attempts by OSC contracting office to contact DNL regarding completion of the obligation were met with negative results. As a result of DNL's failure to comply with the obligations under the contract, another contractor was hired to complete the task for additional \$66,865.00. (Mr. Kim)

(14) Purchase Card Fraud (USFK). On 27 December 2006, the USFK SDO proposed for debarment Hyun Myung System Co., two of its employees (Hyun Seok Seo and Mun Seob Hwang), Hyun Chin Service Co. and three of its employees (Pyong Chun Loh, Hea Kyung Loh, and Kyong Pom Loh). CID investigation determined that both companies accepted payment by Government Purchase Card (GPC) for fraudulent purchases of 37 transformers in 2002. None of these transformers were ever delivered to the Army. (LTC Dorn)

Termination of Proposed Debarment

(1) False Claim (Hawaii). On 8 December 2006, the Army SDO terminated the proposed debarment of Mr. Patrick Shin, Ocean House Joint Venture, Inc., HDCC/Nan JV, Swinerton/Nan JV, and Nan/Jones. Mr. Shin is the president and owns 100% of the capital stock of Ocean House Joint Venture, the president of HDCC/Nan JV, the owner of Nan/Jones, and a general partner of Swinerton/Nan JV. On 9 April 2004, in the United States District Court-Hawaii, a one-count information charging Mr. Shin with violating 18 U.S.C. § 1001 was filed. On 21 April 2004, Mr. Shin pled guilty to the charge was later convicted. On 6 May 2006, the Army SDO suspended Mr. Shin and his companies. On 9 March 2006, Mr. Shin was sentenced to 12 days intermittent confinement, special assessment of \$100, and a \$100,000 fine. On 7 April 2006, Mr. Shin *et al.* were proposed for debarment. On 16 May 2006, Mr. Shin submitted a response to the proposed debarment and on 8 November 2006, the Army SDO held a present responsibility hearing for Mr. Shin. Based on the response from Mr. Shin and his demonstration of his present responsibility, the Army SDO terminated the proposed debarment. (Mr. Kim)

(2) False Claim (Hawaii). On 27 December 2006, the Army SDO terminated the proposed debarment of JHL Construction, Inc., a.k.a. JHL, Douglas-JHL JV, and Navajo-JHL JV. Mr. Patrick Shin is the president of Nan, Inc. Between August and September 2003, Mr. Shin acted as an authorized agent for JHL with the permission and approval of the president of JHL, Mr. James Lee. On 9 April 2004, in the United States District Court-Hawaii, a one-count information was filed charging Mr. Shin and JHL with making a false statement to the Government. On 21 April 2004, Mr. Shin and JHL pled guilty to the charge and were later convicted. On 6 May 2004, Messrs. Shin and Lee,

Nan, and JHL were suspended from future contracting. On 19 May 2004, Nan entered into a three-year Administrative Compliance Agreement. On 4 November 2005, the Army SDO terminated the suspension of Mr. Lee after considering his submission to the suspension and conducting an in-person hearing. On 9 March 2006, JHL received two years probation, \$400 special assessment, and a \$3,000 fine. On 7 April 2006, Mr. Shin and JHL *et al.* were proposed for debarment. Mr. Shin submitted a response to the proposed debarment and on 8 December 2006, his proposed debarment was terminated. Although Mr. Lee has not submitted materials in response to the proposed debarment on behalf of his companies, Mr. Lee and his businesses no longer qualify to participate in the SBA 8(a) program. He was terminated from participating in the program when his company was indicted. JHL *et al.* are no longer conducting business with the Government and have been on the EPLS list since May 2004. (Mr. Kim)

Debarments

(1) False Claim (USAREUR). On 11 October 2006, the USAREUR SDO decided to debar the following firms and individuals: (1) Mr. Hans Speicher; (2) Mr. Michael Speicher; (3) Schlosserei & Metallbau Speicher; (4) Garten-Creativ; (5) Holzfachzentrum Gschwander; and (6) Möbel-Kirsch. These firms and individuals conspired with Mr. Steven Potoski and SKE to defraud the Government. Mr. Steven Potoski was a former contracting officer with the Armed Forces Recreation Center-Europe (AFRC-E). He provided contractual support for the building of the Edelweiss Lodge and Resort (ELR). Schlosserei & Metallbau Speicher, through Messrs. Michael and Hans Speicher, built and painted a fence at Mr. Potoski's residence and then charged the cost of the work to SKE, who, in turn, charged the US Government. Möbel-Kirsch GmbH provided dining room furniture to Mr. Potoski, and then charged the cost of the furniture to SKE, who, in turn, charged the US Government. Holzfachzentrum Gschwander GmbH provided wood flooring to Mr. Potoski's son's apartment, and then charged the cost of the flooring to SKE, who, in turn, charged the US Government. Garten-Creativ built a terrace at Mr. Potoski's home, and then charged the cost of the work to SKE, who, in turn, charged the US Government. These firms and individuals have been debarred until 6 August 2009. (CPT Bergen)

(2) Gratuity (USAOSC/AFRC). On 19 October 2006, the Army SDO debarred Mr. Alvan Vance McQueen, II (Mr. McQueen). Mr. McQueen was the President and principal owner of Flat Rock Furniture, Inc (Flat Rock). After Flat Rock was awarded an Army contract for the purchase of guest room furniture for the Edelweiss Lodge and Resort (ELR) by the Director of Contracting, Mr. Steven G. Potoski, it was agreed by both to fraudulently inflate the amount of certain line items in the contract by \$80,000, submit the inflated contract line items to Mr. Potoski for approval and then split the difference between the actual amounts and the fraudulently inflated amounts of the line items. On 12 April 2006, Mr. McQueen pled guilty to one-count of paying a gratuity to a public official, and one-count of traveling in interstate commerce in aid of a racketeering enterprise. On 20 April 2006, he was sentenced to serve twelve months and one day of imprisonment, one year of supervised release, and ordered to pay a fine of \$23,500 and restitution in the amount of \$80,000 to the U.S. Army Morale & Recreation Fund. Mr. McQueen is debarred until 18 October 2009. (Ms. McCaffrey)

(3) False Claim (USFK). On 23 October 2006, the USFK SDO debarred Mr. Myong Su Kang of Dura Corp. for one year until 23 September 2007. CID investigation established that Mr. Kang submitted approximately 40 certified invoices requesting payment for work that was never performed, or work that was clearly deficient, in connection with building renovation projects at Camp Humphreys. CID estimated the loss to the Government at \$521,756.58. (LTC Dorn)

(4) Fraud (Iraq). On 9 November 2006, the Army SDO debarred Mr. Christopher Joseph Cahill for debarment. Mr. Cahill pled guilty in the United States District Court, Central District of Illinois, to one count of major fraud against the United States. Mr. Cahill was employed by Eagle Global Logistics (EGL) as the Regional Vice President for the Middle East and India. In his capacity as Vice President of this region, he committed fraud when he added a war risk surcharge of \$0.50 for each kilogram of freight transported to Baghdad. EGL's invoices with the unauthorized surcharge were submitted to Kellogg Brown and Root Services, Inc., which, in turn, passed the cost to the Government for payment. Mr. Cahill is debarred until 1 December 2010. (Ms. McCaffrey)

(5) Bribery (USFK). On 12 November 2006, the USFK SDO extended the debarment of Daham Ecat Co. (Daham) and its president, Mr. Jae Han Park, for an additional four years to terminate on 23 December 2014. Daham was previously debarred for six years for providing false English test scores. In addition, two employees (Bok Su Ui and Hyun Chul Kim) were debarred for eight years and another employee (Ki Sung Yang) for three years. The Seoul Central District Prosecutors Office, Foreign Affairs Division, investigation revealed that Mr. Chang Sik Yi, a United States Army Contracting Command-Korea (USACCK) contracting officer, illegally passed procurement sensitive information to Mr. Hyun Chul Kim, who, in turn, passed the information to Messrs. Bok Su Ui and Jae Han Pak of Daham. Mr. Ki Sung Yang, Daham accountant, assisted the conspiracy by falsifying company records. Mr. Chang Sik Yi received from Daham thirteen 10 million Won checks. (LTC Dorn)

(6) False Claim (Puerto Rico). On 16 November 2006, the Army SDO debarred Salinas Tropical Catering & Food Service, Inc., a food services and catering provider at Camp Santiago, Puerto Rico and its President, Carlos J. Zavala. The debarment action relates to improper billing practices and submission of at least one substantiated false claim to the Government for labor charges between on or about 24 February 2003 and on or about 22 August 2003. Mr. Zavala and Salinas were originally proposed for debarment on 9 May 2006 based upon FAR 9.406-2(c), 9.406-5(a), and 9.406-5(b). The period of debarment for both parties will run for a period of approximately 3 years, concluding on 8 May 2009. (Mr. Persico)

(7) Gratuities (USAREUR). On 27 November 2006, the USAREUR SDO debarred Messrs. Anton Schneider and Werner Kirsch. Mr. Schneider is one of the managing directors of Garten-Creativ, and Mr. Kirsch was the managing director of Möebel Kirsch. Messrs. Schneider and Kirsch entered into a conspiracy with Mr. Steven Potoski, a contracting officer with Armed Forces recreation Center-Europe who provided contractual support for the building of the Edelweiss Lodge and Resort. Both firms provided gratuities to Mr. Potoski then charged the cost of the gratuities to SKE, a prime contractor, which then charged the Government for work at the Edelweiss Lodge and Resort that the firms never performed. Messrs. Schneider and Kirsch are debarred until 10 October 2009. Garten-Creativ and Möebel Kirsch were debarred on 11 October 2006 until 6 August 2009. (CPT Bergen)

(8) Bribery (MOTSU). On 21 December 2006, the Army SDO debarred Mr. Bassam M. Mansour, formerly employed by DOD as Chief of Public Works Division and Engineering Advisor to the Commander at the Military Ocean Terminal at Sunny Point (MOTSU), Southport, North Carolina. MOTSU is an ocean-shipping terminal which is responsible for shipping much of the military armament which leaves the East coast of the United States. On 21 July 2004, Mr. Mansour was indicted in the United States District Court, Eastern District of North Carolina-Southern Division, for conspiracy and bribery. On 14 June 2005, Mr. Mansour pleaded guilty to both counts of the indictment. On 14 June 2005, Mr. Mansour was sentenced to 46-months incarceration, three years supervised release, an assessment of \$200, and a restitution of \$23,425. The projected release date is 19 December 2008. Mr. Mansour's debarment is effective through 20 December 2011. (Mr. Kim)

(9) Bribery (Iraq). On December 27, 2006, the Army SDO debarred Danube General Contracting (Danube), a construction and engineering company operating in Baghdad, and Mr. Alwan Faiq, an Iraqi national residing in Baghdad. Between 12 January and 19 February 2006, Mr. Faiq approached an employee of the U.S. Army Corps of Engineers, Gulf Regional Division, Central District, IZ. Baghdad, on four separate occasions with offers of payment in exchange for assistance regarding a contract held by Danube and for information to assist in securing future construction contracts with the Army. The amounts offered were for four percent of Danube's current contract, later specified as \$36,000.00. One of these attempts was recorded and, when confronted, Mr. Faiq subsequently admitted that he did make the offers. During all the events described, Mr. Faiq was acting in his capacity as an employee of Danube. Mr. Faiq was debarred for a period of three years, until 19 June 2009. Danube was debarred for a period of 1 year, until 19 June 2007. (Mr. Persico)

OTHER ACTIONS

Administrative Hearings

(1) False Statement (SDDC). On 31 October 2006, the Army SDO held a present responsibility

hearing at the request of Ryan's World, Inc. (Ryan's World). The SDO determined Ryan's World, Mr. Pasha, and Ms. Ameson, presently responsible and terminated their suspension on 2 November 2006. See paragraph 1.b. above. (Mr. Kim)

(2) False Claim (Hawaii). On 8 November 2006, the Army SDO held a present responsibility hearing for Mr. Patrick Shin. Based on the response from Mr. Shin and his demonstration of his present responsibility, the Army SDO terminated the proposed debarment on 8 December 2006. See paragraph 1.d.(1) above. (Mr. Kim)

(3) False Claim (CECOM). On 15 November, the Army SDO held a present responsibility hearing for Mr. James E. Stranberg Jr. A subsequent meeting was requested by the management of ACE & Company, and its subsidiary, Stran Technologies, Mr. Stranberg's companies, on 20 December 2006 to discuss the adverse impact of Mr. Stranberg's debarment on the financial health of their organizations. Based on the information presented in these hearings, the Army entered into an Appendix to the Administrative Compliance Agreement with ACE & Company on 5 January 2007 (Mr. Persico).

Compliance Agreements

Anti-Trust (SDDC). On 2 November 2006, the Army entered into an Administrative Compliance Agreement with Executive Relocation International, resulting from the company's 20 March 2006 entry of a plea of guilty to a charge of conspiracy to retain trade, in violation of 15 U.S.C. § 1. As part of this agreement, the company agreed to provide ethics and government contract training to its employees and those of two subsidiary moving and storage companies it operates in Woodbridge, Virginia. In addition, an Ombudsperson was put in place to oversee training issues and to operate an employee hotline independent of company management. (Mr. Persico)

Civil Settlements

KBR Civil Settlement: In December 2006, KBR paid \$8 million to settle False Claims Act allegation involving Balkans contracts. Kellogg Brown and Root (KBR), a subsidiary of the Halliburton Company, based in Houston, Texas, has agreed to pay the United States \$8 million to settle allegations of double-billing, inflated pricing, and receipt of non-

conforming products raised under the False Claims Act. An investigation revealed procurement irregularities involving purchase orders awarded to 10 different KBR subcontractors and vendors used to support KBR's logistics contract with the Army, in support of military operations in the Balkans during 1999 and 2000. Some of the funds paid by KBR were credited on existing open contracts. Given the age of the contracts, however, much of the funds were credited to the Treasury Department, as in accordance with the Miscellaneous Receipts Statute. During the process of resolving the Balkans investigation, KBR provided the Army with information and materials related to its present responsibility as a contractor. When KBR finally reached a settlement agreement with the United States, regarding its work for the military in the Balkans theatre, it received written confirmation of the Army's intent not to take any suspension and debarment action as a result of the facts and circumstances underlying the agreement. In return, KBR agreed to keep the Army informed of matters affecting its present responsibility as a contractor within its area of operation. (Ms. McCaffrey)

FRAUD COUNSEL CORNER

Contractors Beware!

The Military Extraterritorial Jurisdiction Act (MEJA) of 2000, as amended in 2004, created a new federal crime and extended the criminal jurisdiction of U.S. Courts beyond the borders of the United States. Crimes considered felonies under Federal law, but committed outside of the United States by American civilians, by such people as contractors and persons accompanying the armed forces, are now punishable under MEJA. Offenders who, in the past, may only have been administratively disciplined and/or barred from military installations, will no longer be shielded from Federal prosecution for overseas criminal misconduct. In addition to "conventional" Federal criminal prosecution, Section 552 of the most recent National Defense Authorization Act makes the Uniform Code of Military Justice (UCMJ) applicable to civilians during contingency operations, such as those currently underway in Afghanistan and Iraq. Prior to this change, UCMJ applicability to persons serving with or accompanying an armed force in the field was limited to "in time of war." (Ms. McCaffrey)

CONTACT INFORMATION

PFB will continue to send the PFA Update electronically to all MACOM PFICs (or equivalent) for their further dissemination to their Command Counsel, Chief Counsel, Staff Judge Advocates, and PFAs. PFICs may contact Mr. Greg Campbell, at DSN 426-1556 or (703) 696-1556, with questions regarding distribution.

As mentioned above, the PFA Updates are also on the JAGCNET at:

<http://www.jagcnet.army.mil/ARMYFRAUD>

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QUOTE OF THE QUARTER

*The Best Soldiers Show No Rashness
The Best Fighters Display No Anger
The Best Conqueror Seeks No Revenge*

—Taoism

DID YOU KNOW?

Apache Longbow (AH-64D)

In previous issues, this newsletter showcased the Army Black Hawk (UH-60A) and the Kiowa Warrior OH-58D. Although both are very impressive machines with their own strengths, the Apache Longbow is the Army's primary ATTACK helicopter. The AH-64 Apache is the Army's heavy division/corps attack helicopter. Entering Army service in 1984, the Apache has proven itself all over the world, from Panama, Bosnia, Kuwait, and now, in Iraq.



(An AH-64D Apache helicopter sits on the flight line for a refuel during exercise RSOI/Foal Eagle 2006 at Sokcho Air Base in Sokcho, South Korea, March 29, 2006. Official Photo by: SGT Albert Eaddy, 55th Combat Camera, Sokcho Air Base, Sokcho, South Korea)

The AH-64 fleet consists of two aircraft models, the AH-64A and the newer Longbow Apache, AH-64D. The AH-64A is currently being predominantly utilized by the USAR and the ARNG and the AH-64D by the Active Army. AH-64A model full-scale production began in 1983 and now over 800 aircraft have been delivered to the U.S. Army and other NATO Allies. The U.S. Army currently is upgrading/refitting its

entire AH-64A Apache fleet to the AH-64D configuration.

The AH-64D Longbow Apache is an upgraded version of the AH-64A Apache attack helicopter. The primary modifications to the Apache are the addition of a millimeter-wave Fire Control Radar (FCR) target acquisition system, the fire-and-forget Longbow Hellfire air-to-ground missile, updated engines, and a fully-integrated cockpit. In addition, the aircraft receives improved survivability, communications, and navigation capabilities. Most existing capabilities of the AH-64A Apache are retained.

Mission

The Apache conducts rear, close, and shaping missions including deep precision strikes. It is a quick-reacting, airborne weapon system that can fight close and deep to destroy, disrupt, or delay enemy forces. The Apache is designed to fight and survive during the day, night, and in adverse weather conditions throughout the world. Currently, the Apache is enduring harsh desert conditions in Iraq. The principal mission of the Apache is the destruction of high-value targets with Hellfire missiles. It is also capable of employing a 30MM M230 chain gun and Hydra 70 (2.75 inch) rockets that are lethal against a wide variety of targets. The Apache has a full range of aircraft survivability equipment and has the ability to withstand hits from rounds up to 23MM in critical areas. It also provides armed reconnaissance when required in day, night, obscured battlefield, and adverse weather conditions.



(An AH-64D Longbow Apache helicopter from Task Force No Mercy, 1st Battalion, 101st Combat Aviation Brigade provide air support during an aerial traffic control point mission near Tall Afar, Iraq, July 2, 2006. Official Photo by: STAFF SGT. JACOB N. BAILEY, 1ST COMBAT CAMERA SQUADRON , TALL AFAR, TALL AFAR , Iraq)

Description and Specifications

The AH-64 Apache is a twin-engine, four bladed, multi-mission attack helicopter. With a tandem-seated crew consisting of the pilot, located in the rear cockpit position and the co-pilot gunner, located in the front position, the Apache is self-deployable and delivers a lethal array of battlefield armaments. The Apache features a Target Acquisition Designation Sight (TADS) and a Pilot Night Vision Sensor (PNVS) which enables the crew to navigate and conduct precision attacks in day, night and adverse weather conditions.

The Apache can carry up to 16 Hellfire laser designated missiles. With a range of over 8000 meters, the Hellfire is used primarily for the destruction of tanks, armored vehicles and other hard material targets. The Apache can also deliver 76, 2.75" folding fin aerial rockets for use against enemy personnel, light armor vehicles and other soft-skinned targets. Rounding out the Apache's deadly arsenal of weapons are 1,200 rounds of ammunition for its 30MM Automatic Gun.

The Apache is powered by two General Electric gas turbine engines rated at 1890 shaft horsepower each. It can be configured with an external 230-gallon fuel tank to extend its range on attack missions, or it can be configured with up to four 230-gallon fuel tanks for ferrying/self-deployment missions. The combat radius of the AH-64 is approximately 150 kilometers. The combat radius with one external 230-gallon fuel tank installed is approximately 300 kilometers. The AH-64 is air transportable in the C-5, C-141 and C-17.

An on-board video recorder has the capability of recording up to 72 minutes of either the pilot or co-pilot gunner selected video. It is a valuable tool for damage assessment and reconnaissance. The Apache's navigation equipment consists of a doppler navigation system, and most aircraft are equipped with a GPS receiver.

The Apache has state of the art optics that provide the capability to select from three different target acquisition sensors. These sensors are

- Day TV. Views images during day and low light levels, black and white.
- TADS FLIR. Views thermal images, real world and magnified, during day, night and adverse weather.
- DVO. Views real world, full color, and magnified images during daylight and dusk conditions.

Over-water operations severely degrade navigation systems not upgraded with embedded GPS. Although fully capable of operating in marginal weather, attack helicopter capabilities are seriously degraded in conditions below a 500-foot ceiling and visibility less than 3 km. Because of the Hellfire missile's trajectory, ceilings below 500 feet require the attack aircraft to get too close to the intended target to avoid missile loss.

Mission Speed: 167 mph

Combat Range: 300 Miles

Combat Endurance: 2.5 hours

Length: 49 ft 5 in

Mission Weight: 16,600 lbs

Armament: M230 33mm Gun
70mm (2.75 inch) Hydra-70 Folding-Fin

Aerial Rockets
AGM-114 Hellfire anti-tank missiles
AGM-122 Sidarm anti-radar missile
AIM-9 Sidewinder Air-to-Air missiles

Manufacturer

Airframe - Boeing (Mesa, AZ); Fire Control Radar - Northrup Grummen (Linthicum, MD); Lockheed Martin (Owego, NY); MTADS/PNVIS - Lockheed Martin (Orlando, FL); Boeing (Mesa, AZ)



(An AH-64 Apache helicopter from the 101st Aviation Brigade warms engines before departing for an air assault operation with U.S. Army Soldiers from 3rd Battalion, 320th Field Artillery Regiment and 3rd Battalion, 187th Infantry Regiment, both components of the 101st Airborne Division, at Forward Operating Base Remagen in Tikrit, Iraq, May 9, 2006. Official Photo by: SPC. TEDDY WADE, 55TH COMBAT CAMERA, FOB REMAGEN, BAGHDAD , Iraq)

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PARTING SHOT



Iraqi troops train with the help of MiTTs (Military Transition Teams)

***Photo by Sgt. Jon Cupp
December 27, 2006***

An Iraqi Army instructor prepares his trainees, all Iraqi Army soldiers from the 3rd Battalion, 2nd Brigade, 9th Iraqi Army Division (Mechanized), to storm a building "mock-up" during training at Camp Taji, Iraq. This photo appeared on www.army.mil.

Background Photo:

By Air Force Staff Sgt. Jacob N. Bailey
December 20, 2006

Paratroopers from the 82nd Airborne Division board a C-130 aircraft for a jump over Fort Bragg, N.C., Dec. 16. With them are German and Australian jumpmasters. This photo appeared on www.army.mil