



DEPARTMENT OF THE AIR FORCE  
WASHINGTON, DC

MAR 27 2008

Office Of The General Counsel

MEMORANDUM IN SUPPORT OF PROPOSED DEBARMENTS OF:

LITHIUM POWER TECHNOLOGIES, INC.  
MOHAMMED ZAFAR A. MUNSHI

Effective this date, the Air Force has proposed the debarment of Lithium Power Technologies, Inc. (LPT), and its president, Mohammed Zafar A. Munshi (Munshi), from Government contracting and from directly or indirectly receiving the benefits of federal assistance programs. This action is initiated pursuant to the Federal Acquisition Regulation (FAR) Subpart 9.4.

INFORMATION IN THE RECORD

Information in the record establishes by a preponderance of the evidence that at all times relevant hereto:

1. LPT came into being in 1998 as the successor to a series of companies run by Munshi.
2. Munshi is LPT's majority shareholder, president, chief executive officer, and chairman of the board.
3. LPT was founded to conduct research and development on advanced lithium primary and secondary batteries and various capacitor technologies, including aluminum electrolytic, plastic film, electrochemical and high energy density ceramic capacitors.
4. From 1998 through the end of 2005, LPT obtained over \$5.8 million dollars from research contracts obtained under the federal Small Business Innovation Research (SBIR) Program.
5. A number of SBIR contracts and one non-SBIR contract awarded to LPT became the subject of a *qui tam* suit, filed on 18 November 2002, under seal, in the United States District Court for the Southern District of Texas, Houston Division, Case No. 4:02-cv-04329. The suit named LPT and Munshi as the defendants.
6. In October 2005, the United States Attorney's Office elected to intervene in Case No. 4:02-cv-04329 for those claims related to duplicative research and work, and fraudulent billing related to the duplicative research and work in five of the contracts included in the original complaint. On 10 October 2005, the seal was lifted. Thereafter, the case was captioned, *U.S. ex rel. Longhi v. Lithium Power Technologies, Inc. et al.*, Case No. 4:02-cv-04329.
7. The United States complaint included claims related to the following contracts:
  - a. Army Phase I SBIR Contract No. F08630-98-C-0066
  - b. Army Phase II SBIR Contract No. DASG60-00-C-0018

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|-----------------------|------------------------------------|
| c. Air Force Phase I  | SBIR Contract No. F33615-00-C-2048 |
| d. Air Force Phase II | SBIR Contract No. F33615-01-C-2122 |
| e. NASA (non-SBIR)    | Contract No. NAS3-01189            |

8. With regard to these contracts, the United States' Complaint alleged violations of the False Claims Act at 31 U.S.C. §§ 3729(a)(1) and (2), payment by mistake of fact, unjust enrichment, and common law fraud.

9. The allegations set forth in the complaint were based, in part, on repeated efforts by LPT to secure government funding under the SBIR program by knowingly misrepresenting material facts. For example, LPT misrepresented its history and status on the Army Phase I proposal. On the Army Phase I proposal, LPT also misrepresented the physical facilities that it had available to perform the contract. On various proposals LPT misrepresented the arrangements between itself and Polyhedron Laboratories, and the arrangements it had with the University of Houston. On Air Force Phase I and II, LPT misrepresented the amount of related work it had performed on prior contracts.

10. The parties filed cross-motions for partial summary judgment on 4 of the 5 contracts, namely, the SBIR contracts—Army contracts Phase I and II, and Air Force contracts Phase I and II.

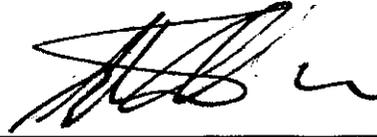
11. In an opinion dated 27 September 2007, the District Court granted the Government's motion, and denied defendants' motion. *United States ex rel. Longhi v. Lithium Power Techs., Inc.*, 513 F. Supp. 2d 866; 2007 U.S. Dist. LEXIS 72045 (S.D. Tex. Sep. 27, 2007). The court held, "[D]efendants made false claims in violation of sections 3729(a)(1) and (2) on the contracts designated as Army Phase I, Air Force Phase I, and Air Force Phase II." *Id.* at \*62.

12. On 3 January 2008, the court rendered its decision on the parties' cross-motions for damages and entered judgment, finding for the Government as follows: "The total damages are \$4,972,365.00 in actual damages for money paid out by reason of the false claim, plus \$43,000.00 in civil forfeitures for a total of \$5,015,365.00 plus post judgment interest of 3.28%." *United States ex rel. Longhi v. Lithium Power Techs., Inc.*, 2008 U.S. Dist. LEXIS 454, at \*37 (S.D. Tex. Jan. 3, 2008).

#### BASES FOR THE PROPOSED DEBARMENT

1. Munshi's improper conduct is of so serious or compelling a nature that it affects his present responsibility to be a Government contractor or subcontractor and provides a basis for his debarment pursuant to FAR 9.406-2(c).
2. The civil judgment against Munshi and LPT provides a basis for their debarments pursuant to FAR 9.406-2(a)(1) and (5).
3. Pursuant to FAR 9.406-5(a) the seriously improper conduct of Munshi is imputed to LPT, because his seriously improper conduct occurred in connection with the performance of his duties for or on behalf of LPT. The imputation of Munshi's conduct provides a separate basis for the debarment of LPT.

4. Pursuant to FAR 9.406-1(b), debarments may be extended to the affiliates of a contractor. Munshi and LPT are affiliates as defined in FAR 9.403 (affiliates), because directly or indirectly, Munshi has the power to control LPT. The affiliation of Munshi and LPT provides a separate basis for their debarments.



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STEVEN A. SHAW  
Deputy General Counsel  
Contractor Responsibility