



DEPARTMENT OF THE AIR FORCE

ARLINGTON, VA 22202-3258

Office of the Deputy General Counsel

VIA FEDERAL EXPRESS

SAF/GCR
1235 S. Clark Street
Suite 301
Arlington, VA 22202

SEP 19 2011

Librado S. Gonzalez
[REDACTED]

Re: Notice of Debarment

Mr. Gonzalez:

Effective this date, the Air Force has debarred you, Librado S. Gonzalez, from Government contracting and from directly or indirectly receiving the benefits of federal assistance programs. This action is initiated pursuant to Federal Acquisition Regulation (FAR) Subpart 9.4, Defense FAR Supplement 209.4 and Appendix H, and 2 C.F.R. Part 1125.

On July 11, 2011, the Air Force proposed you for debarment and afforded you the opportunity to submit information and argument in opposition to your proposed debarment. You were issued a Notice of Proposed Debarment and a Memorandum in Support of the Proposed Debarment. Your submission was reviewed and added to the Administrative Record in this matter.

I have carefully considered all information contained in the Administrative Record and determined that a preponderance of the evidence establishes the existence of a cause for debarment, and you have failed to demonstrate your present responsibility. I have concluded that debarment is in the public interest and necessary to protect the Government's interests. The basis for my decision is set forth in the attached Memorandum in Support of the Debarment.

The effects of debarment are set forth in the Notice of Proposed Debarment issued to you, as well as in FAR Subpart 9.4, Defense FAR Supplement 209.4 and Appendix H, and 2 C.F.R. Part 1125, which are provided on our website at: <http://www.safgc.hq.af.mil/organizations/gcr/index.asp>. The debarment is effective immediately and will continue for three years from the date you were proposed for debarment, July 11, 2011. Therefore, the debarment will terminate on July 10, 2014.

Sincerely,



STEVEN A. SHAW
Deputy General Counsel
(Contractor Responsibility)

Encl. 1
a/s



DEPARTMENT OF THE AIR FORCE

ARLINGTON, VA 22202-3258

Office Of The Deputy General Counsel

MEMORANDUM IN SUPPORT OF THE DEBARMENT OF:

LIBRADO S. GONZALEZ

Effective this date, the Air Force has debarred Librado S. Gonzalez (Mr. Gonzalez) from Government contracting and from directly or indirectly receiving the benefits of federal assistance programs. This action is initiated pursuant to Federal Acquisition Regulation (FAR) Subpart 9.4, Defense FAR Supplement 209.4 and Appendix H, and 2 C.F.R. Part 1125.

On July 11, 2011, the Air Force proposed the debarment of Mr. Gonzalez and afforded him the opportunity to submit information and argument in opposition. Based on my review and consideration of all the information contained in the Administrative Record, including Mr. Gonzalez's submission, I have determined that a preponderance of the evidence establishes the existence of a cause for debarment, and Mr. Gonzalez has failed to demonstrate his present responsibility. I have, therefore, concluded that debarment is in the public interest and necessary to protect the Government's interests.

INFORMATION IN THE ADMINISTRATIVE RECORD

The Administrative Record establishes by a preponderance of the evidence that at all times relevant hereto:

BACKGROUND:

1. Mr. Gonzalez sponsored an unaffiliated civilian¹ onto a military installation with specific knowledge of this Civilian Co-Conspirator's intent to steal Government property with the assistance of another individual² who is currently debarred. These thefts took place over the course of five years and caused more than \$575,000 in Government loss from March Air Reserve Base (MARB), CA. Items stolen included Night Vision Goggles (NVG), NVG test equipment, new interceptor vests, M-16 bolt carriers, and various pieces of equipment processed for the Defense Reutilization and Marketing Office (DRMO).
2. Until his misconduct was discovered, Mr. Gonzalez was a contractor serving as Warehouse Manager for the 452 Air Mobility Wing at MARB. Mr. Gonzalez was entrusted with the safekeeping of government property.
3. Prior to the thefts, the Civilian Co-Conspirator informed Mr. Gonzalez of the intention to steal Government property from MARB. Despite having knowledge of the Civilian Co-Conspirator's

¹ This unaffiliated civilian is not identified as performing services for the Government, or any relevant contractor (Civilian Co-Conspirator).

² This individual is a former contractor and co-worker of Mr. Gonzalez at March Air Reserve Base, CA (Debarred Co-Conspirator).

intention to steal Government property, Mr. Gonzalez proceeded with sponsoring him onto MARB and allowed him access to the supply quarters. Specifically, on several occasions, the Civilian Co-Conspirator contacted Mr. Gonzalez to gain access to MARB, with the intention of stealing high-value items (e.g., NVG). Mr. Gonzalez failed to report this information in any manner.

4. Mr. Gonzalez's failure to report his knowledge of impending or occurring criminal acts, willful dereliction of duties to safeguard Government property, and sponsoring of an unaffiliated civilian with the knowledge of his criminal intent, contributed to the theft of Government property spanning over five years with an estimated value of more than \$575,000.

5. Mr. Gonzalez was barred from MARB and any property under its jurisdiction indefinitely.

ANALYSIS

The central issue of concern to the Air Force is Mr. Gonzalez's sponsoring of the Civilian Co-Conspirator onto MARB, despite being informed of his specific intentions to steal government property. Although he does not contest this fact, Mr. Gonzalez offers several arguments which attempt to justify his actions or present the facts in a different light. These facts are captioned as a response to his barment from MARB, but for the purposes of this proceeding, the Air Force is treating the information as a submission in opposition to Mr. Gonzalez's proposed debarment. The submission has been carefully reviewed, and is summarized below.

Lack of Actual Knowledge

In response to the statement that Mr. Gonzalez informed Investigators that he was aware the Civilian Co-Conspirator and the Debarred Co-Conspirator were in business together, Mr. Gonzalez offers a general denial. In attempts to corroborate his denial, Mr. Gonzalez states:

"Which is true I SUSPECTED IT but DID NOT KNOW IT FOR CERTAIN," and furthers with, *"How can I know something and still suspect it at the same time?"*

Mr. Gonzalez fails to understand the underlying focus of this proceeding. Throughout his opposition, Mr. Gonzalez attempts to split hairs and parse language to show himself as an innocent bystander in this theft. But these arguments fall short of demonstrating present responsibility. They are either irrelevant or they generate further concern. Here, Mr. Gonzalez has denied a fact not central to the inquiry. Accordingly, the denial is afforded no weight.

Denies Involvement in Criminal Acts

Mr. Gonzalez admits to sponsoring the Civilian Co-Conspirator onto MARB, but denies involvement in the theft of government property, or any other criminal act. Presumably to bolster this lack of involvement in actual theft, Mr. Gonzalez states:

"We talked in a room in the warehouse about his private investigating business and that's all we did, he did not view any items or other material for theft."

Mr. Gonzalez's actual participation in the thefts is not central to this inquiry. His sponsoring of an individual who he knew planned to steal Government property is the focus. Accordingly, this denial of participation in actual theft is afforded no weight.

Timeline is Inconsistent with Report of Missing NVG

Rather than address the central focus of this inquiry – that Mr. Gonzalez sponsored the Civilian Co-Conspirator onto MARB despite knowledge of specific intent to steal Government property – Mr. Gonzalez addresses one particular instance of theft of NVG and denied his participation in it. Even if the Air Force accepts Mr. Gonzalez's arguments with respect to NVG in the light most favorable to him, the administrative record establishes by a preponderance of the evidence that the thefts from MARB contributed to a loss in government property with a value exceeding \$575,000, including various items beyond NVG, spanning over five years. Subtracting NVG from the misconduct does not lead to a finding of present responsibility.

Denies Actions as Being Inappropriate or Unethical

Mr. Gonzalez states:

"I may have discussed items with him but never did I give him anything and repeatedly told him that I wouldn't give him anything because I didn't want to end up like [Debarred Co-Conspirator]."

This statement by Mr. Gonzalez is very concerning to the Air Force. Mr. Gonzalez admitted to discussing items that the Civilian Co-Conspirator had intentions of stealing with full knowledge of this specific intent, yet Mr. Gonzalez failed to report this information in any manner. Mr. Gonzalez, as warehouse manager at MARB, is obligated to ensure the protection and accountability of government property and should have known the impropriety of his actions. Not only did Mr. Gonzalez fail to take appropriate action in reporting this matter, but he also fails to acknowledge his own ethical misconduct in light of the discovery. His reasons for not reporting this information are:

"there was nothing between our relationship that needed to be reported and anything between [Debarred Co-Conspirator] and [Civilian Co-Conspirator] law enforcement already knew about!"

This presents further concern because based on these statements, Mr. Gonzalez appears to see no fault in failing to report such misconduct, due to his claim that he did not actually participate in the thefts, and the perception that authorities should have already known about the misconduct. These arguments offer no redeeming value and are flawed in nature. What investigators knew at the time is irrelevant to Mr. Gonzalez's actions. Despite knowledge of specific intent to steal, and conduct that Mr. Gonzalez now says was severe enough for federal law enforcement to have been aware of, Mr. Gonzalez sponsored a thief onto base. He cannot now claim, in effect, that he has no responsibility for the outcome when he let the fox into the chicken coup.

Mitigating Factors or Remedial Measures

“[T]he contractor has the burden of demonstrating, to the satisfaction of the debarring official, its present responsibility and that debarment is not necessary” where a preponderance of the evidence establishes the existence of a cause for debarment. FAR 9.406-1. The focus of a present responsibility inquiry is to determine whether the contractor possesses the requisite business integrity and honesty necessary to be trusted to contract with the Government. The importance of business integrity and honesty cannot be overstated.

In assessing a contractor’s present responsibility, FAR Subpart 9.4 instructs agencies to consider the presence of any remedial measures or mitigating factors.

The existence of a cause for debarment, however, does not necessarily require that the contractor be debarred; the seriousness of the contractor’s acts or omissions and any remedial measures or mitigating factors should be considered in making any debarment decision.

FAR 9.406-1.

The only potentially mitigating factor Mr. Gonzalez presents is that, following the Debarred Co-Conspirator’s termination of employment from MARB, Mr. Gonzalez states he could account for 95 to 98 percent of the DRMO items under his supervision. The Air Force recognizes Mr. Gonzalez’s attempt to demonstrate his accountability regarding DRMO processes, however, this statement addresses concerns that are not central to this inquiry.

Ultimately, Mr. Gonzalez has not met his burden of demonstrating his present responsibility. Mr. Gonzalez fails to recognize his misconduct and offers up a slew of irrelevant rationales or rationales that raise additional concerns about his present responsibility. Given his responses, I am not convinced Mr. Gonzalez has the business integrity and ethical decision-making required to conduct business with the Government.

FINDINGS

The improper conduct of Mr. Gonzalez 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).

DECISION

Pursuant to the authority granted by FAR Subpart 9.4, Defense FAR Supplement Subpart 209.4 and Appendix H, and 2 C.F.R. Section 1125, and based on the evidence contained in the Administrative Record and the findings herein, Mr. Gonzalez is debarred for a period of three years from July 11, 2011, the date Mr. Gonzalez was proposed for debarment. Mr. Gonzalez's debarment shall terminate on July 10, 2014.



STEVEN A. SHAW
Deputy General Counsel
(Contractor Responsibility)