



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

AUG 08 2011

Mr. Robert C. Marthouse, III
[REDACTED]

Re: Notice of Debarment

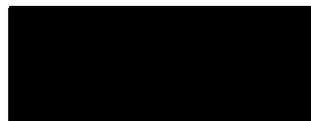
Mr. Marthouse,

On March 18, 2011, the Air Force proposed that you, Robert C. Marthouse, III, be debarred from Government contracting and from directly or indirectly receiving the benefits of federal assistance programs. You were provided with a Notice of Proposed Debarment (Notice) and a Memorandum in Support of the Proposed Debarment. The Notice afforded you the opportunity to submit information and argument in opposition to the proposed debarment. Your submissions were added to the Administrative Record in this matter.

Based upon the information in the Administrative Record, I have determined 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 issued to you, as well as Federal Acquisition Regulation (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, March 18, 2011. Therefore, the debarment will terminate on March 17, 2014.

Sincerely,

A solid black rectangular redaction box covering the signature of Steven A. Shaw.

STEVEN A. SHAW
Deputy General Counsel
(Contractor Responsibility)

Encl. a/s

Cc:

A solid black rectangular redaction box covering the list of recipients for the email.



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MEMORANDUM IN SUPPORT OF THE DEBARMENT OF:

ROBERT C. MARTHOUSE, III

Effective this date, the Air Force has debarred Robert C. Marthouse, III (Mr. Marthouse) 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.

On March 18, 2011, the Air Force proposed Mr. Marthouse for debarment and afforded him the opportunity to submit information and argument in opposition to his proposed debarment. Mr. Marthouse was issued a Notice of Proposed Debarment and a Memorandum in Support of the Proposed Debarment. I have carefully considered all information contained in the Administrative Record, including Mr. Marthouse's submissions, and determined that a preponderance of the evidence establishes the existence of a cause for debarment, and Mr. Marthouse 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 RECORD

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

1. Mr. Marthouse was employed with Company L.¹
2. After conducting an internal investigation, Company L determined that Mr. Marthouse submitted falsified business expenses and received reimbursement for such expenses. Specifically, in furtherance of his improper conduct, Mr. Marthouse created fictitious receipts to document non-existent and non-reimbursable expenses.
3. Mr. Marthouse did not cooperate with Company L during its investigation of this matter and resigned on June 24, 2010, in advance of his scheduled meeting with Company L investigators.

¹ The title Company L is used to refer to an entity that is not a party to this action.

ANALYSIS

FAR 9.406-1 provides: It is the debarring official's responsibility to determine whether debarment is in the Government's interest. The debarring official may, in the public interest, debar a contractor for any of the causes in 9.406-2, using the procedures in 9.406-3. Where the proposed debarment is not based upon a conviction or civil judgment, the cause for debarment must be established by a preponderance of the evidence. FAR 9.406-3.

The central issue of concern to the Air Force is Mr. Marthouse's submission of falsified business expenses to his employer wherein he sought reimbursement. Mr. Marthouse's submission dated April 26, 2011, provides a general denial of the allegations and offers no information or argument in support. Mr. Marthouse acknowledged that "while it is possible that some of my expense claims may lack supporting documentation, any undocumented expense claims are the result of inadvertence or negligence on my part, and not the result of any intentional misconduct or dishonesty." Mr. Marthouse's submission went no further in explaining his "inadvertence or negligence" claim other than to state that he "cannot address specific expenses at this point in time" until he receives the administrative record underlying the matter.

On April 27, 2011, the Air Force provided Mr. Marthouse with the Administrative Record per his request and granted him an additional 30 days to make a supplemental submission. On May 23, 2011, Mr. Marthouse requested an extension of time to make a supplemental submission, which was granted by the Air Force. On June 28, 2011, two days before his supplemental submission was due, Mr. Marthouse informed the Air Force that he would not be supplementing his initial response and would rest on his original submission dated April 26, 2011.

On June 30, 2011, the Air Force responded to Mr. Marthouse's correspondence dated June 28, 2011, and informed him that "by relying solely upon a general denial and offering no specific response to the serious allegations against Mr. Marthouse, he has not raised a genuine dispute of material fact. Nor has he adequately addressed the Air Force's concerns or demonstrated his present responsibility and that debarment is unnecessary." Mr. Marthouse has not responded to the Air Force's correspondence dated June 30, 2011.

Based on the administrative record in this matter, the Air Force finds that a preponderance of the evidence demonstrates the existence of a cause for debarment.

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 only potentially mitigating factor Mr. Marthouse has offered is that any such undocumented expense claims that he submitted are the result of “inadvertence or negligence” on his part and were unintentional. This unsupported statement, alone, does not adequately mitigate Mr. Marthouse’s improper conduct, nor does it demonstrate his present responsibility and that debarment is unnecessary. Further, Mr. Marthouse’s resignation from Company L just prior to his scheduled meeting with Company L investigators and his unwillingness to submit to an interview undermines his current position.

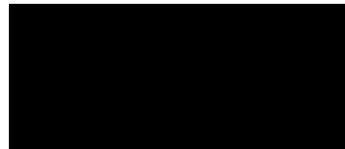
FINDINGS

The debarment of Mr. Marthouse is in the public interest and necessary to protect the Government’s interests. The Administrative Record establishes, by a preponderance of the evidence, that Mr. Marthouse engaged in improper conduct, and that he is not presently responsible.

The improper conduct of Mr. Marthouse is of so serious or compelling a nature that it affects his present responsibility to be a Government contractor or subcontractor and provides a separate independent 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, based on the evidence contained in the Administrative Record and the findings herein, Mr. Marthouse is debarred for a period of three years from March 18, 2011, the date of his proposed debarment. Mr. Marthouse’s debarment shall terminate on March 17, 2014.



STEVEN A. SHAW
Deputy General Counsel
(Contractor Responsibility)