**DEPARTMENT OF THE AIR FORCE**
ARLINGTON, VA 22202-3258

Office of the Deputy General Counsel

JUN 15 2012

MEMORANDUM IN SUPPORT OF THE DEBARMENT OF:

MATTHEW EHLEN

Effective this date, the Air Force has debarred Matthew Ehlen (Ehlen) 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 February 10, 2012, the Air Force proposed Ehlen for debarment and afforded him the opportunity to submit information and argument in opposition to his proposed debarment. I have carefully considered all information contained in the Administrative Record and determined that a preponderance of the evidence establishes the existence of causes for debarment, and Ehlen 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

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

1. A contractor employing Ehlen provided evidence establishing that Ehlen improperly charged 411 hours to a government contract over the course of 43 weeks, which equates to approximately 9.5 hours per week or 24 percent of his work week.

2. Ehlen was originally suspended for five days without pay and subsequently terminated as a result of this mischarging.

## ANALYSIS

Ehlen is a contractor under FAR 9.403's definition of a contractor as "any individual...[who] conducts business, or reasonably may be expected to conduct business, with the Government as an agent or representative of another contractor." An employee falls under the category of "agent or representative." Thus Ehlen, as an employee of a government contractor, is a contractor and is therefore subject to administrative proceedings under FAR Subpart 9.4.

Ehlen has made two submissions in opposition to his proposed debarment. In those submissions, he admits the misconduct and takes responsibility for his actions. Ehlen also represents, and the Air Force has no reason to doubt the accuracy of the representation, that he cooperated fully with his employer's investigation. Through counsel, Ehlen also expressed a willingness to take ethics training courses in the future. This is a laudable step in the right

direction. However, ethics training has yet to occur, and is unlikely to address the nature of Ehlen's conduct – frequent late arrivals and extended lunches as well as use of Government time to plan an event for a political organization and charging the Government for this time.

Although Ehlen has demonstrated some of the remedial factors set forth in FAR Subpart 9.406-1, his submissions fall short of demonstrating his present responsibility that would make debarment unnecessary to protect the Government's business interests. Ehlen's submissions fail to recognize the seriousness of the matter. Ehlen submitted false timecards to his employer, which were intended to go to the Government and thereby defrauded his employer. When his submissions are taken together, it is clear that Ehlen has failed to demonstrate his present responsibility such that debarment is not necessary to protect the Government's business interests.[1]

## FINDINGS

The improper conduct of Ehlen 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 2 C.F.R., Section 1125, and based on the evidence contained in the administrative record and findings herein, Matthew Ehlen is debarred for a period of one year from February 10, 2012, the date on which he was proposed for debarment. Although debarments generally last three years under FAR 9.406-4(a)(1), because of his acceptance of responsibility and his initial steps toward demonstrating his present responsibility, a full three year term is not necessary to protect the Government in this case. The debarment shall terminate on February 9, 2013.

STEVEN A. SHAW
Deputy General Counsel
(Contractor Responsibility)

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[1] While Ehlen's counsel correctly states the Air Force has no role in his employer's internal human resources decisions, the Air Force most certainly has an interest in what the Government is charged for and by extension the present responsibility of individuals working as contractors as defined in FAR 9.403.