DEFENSE CONTRACT MANAGEMENT AGENCY

DCMA

ACQUISITION INSIGHT GLOBAL ENGAGEMENT

Performance-Based Debarments

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S&D Officials

- Historically have waited for Indictments or Convictions
- Changing Attitudes

Air Force "Fraud Facts" – Spring 2012

"We also want to learn about significant performance failures that did not result in termination for one reason or another. . . (The DoDIG has) found that contracting officers are not referring poor performers and, thus, concluded that poor performers may still be receiving contracts. The importance of your referrals cannot be overstated. We're not here to second guess your decisions but rather are here to protect the government's interests and, to do so, need this information, so that we can consider whether debarment is appropriate. We encourage all contracting personnel and their program counsel to . . . make sure they are referring us all poor performers.

Misconduct Light

- A DCMA QAR suspected, and we confirmed, that a key representative for Johnson Machine Works, Inc., might have been debarred by DLA and was apparently attempting to circumvent debarment through use of a new "front company. We issued a certified letter to Johnson requesting it verify the individual's employment, his ownership or corporate position and the extent of his authority. When no response was received we recommended DLA initiate debarment action against Johnson. DLA issued a proposed debarment notice and the company manager agreed (!).
- Lockheed Martin notified the DoD IG that Brad Edwards, a Director Level Contract Negotiator engaged in proposal preparation, had mischarged expense reports totaling over 42K and had been terminated for misconduct. We contended that given his disregard for proper use of DoD monies, his education, level within the company and familiarity with government contracts, his present responsibility was suspect and debarment was warranted, noting that he had not accepted responsibility for his actions. Debarment was proposed for a 6 month period, terminated after Edwards made restitution, accepted responsibility and enrolled in a college-level ethics course. (Memo in support of debarment attached)
- Lockheed Martin notified the DoD IG that Tommy Williams had mischarged hours (internet usage) totaling over $111K. Williams, a 22-year employee, was fired and debarred for 3 years. (Memo attached)
- Lockheed Martin notified the DoD IG that Glenn Crawford had mischarged labor hours by charging for unauthorized internet usage to include viewing pornography. Crawford, a 25-year employee was fired and debarred for 3 years. (Memo attached)

4

Generic Examples

- Contractor bypasses source inspection requirements in the contracts by inputting destination into WAWF and getting paid with no source inspection even though clearly called out in the contracts.
- Contractor is the awardee on numerous small dollar value contracts from DLA, often bidding low, only to come back requesting price increases, waivers for material change from specifications and when such is not forthcoming, requesting cancellation, or simply not performing. This practice prohibits legitimate offers and reduces the chance of successful completion and delivery for the items required. It also results in a loss of DCMA time and resources for quality assurance and contract/modification review. There's also disruption to the supply system by quoting and receiving awards and then not delivering, and damage suffered by military customers who do not receive the parts on time.

5

Emerson Co.

- Emerson is a company that repeatedly accepts awards and fails to deliver. Of 335 line items awarded during a reporting period to Emerson, 96 had been cancelled due to Emerson not performing. Of those performed, 81 were delinquent, a 52% cancellation/delinquency rate.
- Emerson quotes on a wide range of products including mattresses, plastic sheets, heraldry medals, knee pads, linens, sandbags, and fuel cans.
- DLA asked DCMA to perform a capability study. Emerson refused to participate. The survey gave Emerson a HIGH risk rating and identified the company as not technically capable to perform. Despite frequent representations as a manufacturer, no capability could be found. This was the third DCMA survey to rate Emerson as a HIGH risk.
- Emerson also had repeatedly declined to participate in SBA Certificate of Competency reviews but still participated in small business set-aside procurements (Emerson referred to the process as an example of waste and abuse).
- Example: Emerson submitted a quote for a critical component for a critical naval aviation program. The contract also included a priced contract line item for a certificate of quality compliance. Emerson stated it was a manufacturer and met ISO 9001:2000 quality standards. DCMA QA found neither to be the case and recommended cancellation.
- Damages are reprocurement and investigative costs and the labor expenses of contracting officers, technical advisors, and QA specialists. There's also disruption to the supply system by quoting and receiving awards and then not delivering, and the not readily determinable damages suffered by military customers who did not receive the parts on time.
- Emerson challenged DLA's proposed debarment unsuccessfully and was debarred on 9/26/11. (See attached Decision Memos)

6

Granco Industries

- Granco Industries was awarded 131 purchases orders by DLA that DCMA administered. Of those, 104 were cancelled (79%), 24 were delivered late (18%) with an average of 142 days late and three contracts (2%) were delivered on time. Also, other non-DCMA administered contracts awarded to GRANCO and its affiliates were cancelled due to the contractor's inability to perform. Additionally, based upon a General Services Administration investigation, three GRANCO NSN stock items in GSA depots failed independent testing due to the use of nonconforming steel. At a minimum, the Government has been damaged in the amount of $657,024, which is the sum of the NSNs that failed GSA testing. There is also the administrative cost of reprocuring all the cancelled orders, investigating these matters, which includes the labor expenses for contracting officers, technical advisors, and quality assurance specialists. Finally, there are the not readily determinable damages suffered by military customers who did not receive parts on time or received nonconforming parts.
- Of the 48 contracts managed by DCMA, there was one contract with on time delivery, eight contracts with delinquent delivery averaging 150 days late and thirty nine terminated contracts for a failure rate for 81 percent. These represent the contracts in which Granco was the prime contractor. For DCMA administered contracts where Granco was the subcontractor and listed as the place of performance, there were 84 DCMA managed contract awards between 1 Jan 2009 and Sep 2010. Only two contracts were delivered on time, sixteen were delinquent delivery, (averaging well over 120 days late) and sixty five were terminated.
- A GSA investigation found three Granco NSN stock items (round removal tool, combinations flare nut and box wrench set, and the wrench socket) in the GSA depots failed testing due to the use of nonconforming steel.
- Granco contended that most of the late deliveries, cancellations and terminations between 2006 and present, were caused by financial circumstances, legal circumstances and events beyond its control and that "quite certainly", they never intended to defraud the Government, or intentionally fail to perform contracted work.
- Granco and its affiliates were debarred for three years. (See attached Memo of Decision & DCMA article)

7

Electronic Combat Test & Evaluation

- ECTEC entered into a FFP contract with the Army's Mission Support Contracting Activity to provide supplies/services in conjunction with Radio Frequency Monitoring and Data Analysis Systems. The contract provided for four complete systems, consisting of a First Article and 3 production units.
- A contract modification extended the delivery date but the contractor subsequently informed the PCO that he did not have the financial resources to complete the contract even though he had already billed & received $1,245,751 of the $1,311,712 contract price in the form of progress payments. None of contracted items were ever completed or delivered.
- ECTEC did not respond to an Army Show Cause Notice and the contract was terminated for default. DCMA issued a demand letter for the amount paid and submitted a debarment recommendation to the Army (See attached).

8

Alanna's Engineering

- DCMA QAR found co-mingled non-conforming and conforming material. Upon investigation, the company was unable to show traceability or proper certifications for materials.
- The QA then reviewed Alanna's calibration records and found that the company had been inspecting hardware with un-calibrated tools for almost two years. Testing records had hand written measurements and referenced incorrect serial numbers for tools that Alanna calibrated.
- Alanna was nonresponsive to corrective action requests so DCMA advised customers that as efforts to mitigate unacceptable risk had proven to be in vain, contracts should be terminated or modified to I&A destination.
- Debarment recommendation submitted to DLA. Alanna's and principals were proposed for debarment on 9/26/12 based on Alanna's repeated inability to perform on DLA Purchase Orders. (See attached Memo in support of debarment)

9

The Story of "X"

- "X" owned 3 small businesses located in the same facility in NJ supplying critical application items and critical safety items such as bomb rack adapters, missile cradle slings, guided missile launchers and various electrical parts for incorporation into DoD weapons systems and military aircraft. A significant portion of the work consisted of small dollar purchase orders for critical application items, many with first article testing requirements. The companies all operated under the same quality manual and utilized the same personnel.
- The companies had a lengthy history of failing to correct deficiencies in performance. Upon tightening down on inspections, DCMA issued 54 Corrective Action Requests in a 1 year period, including submitting material for final inspection without performing required testing despite QAR notification that the testing was required, and failing to use approved welding procedures.
- "X" and the companies were debarred until 2023. "X's" persistent and willful failure to perform in accordance with contract requirements resulted in an unprecedented waste of DCMA personnel time and DCMA resources (DCMA had determined that two QARs were necessary because of "X's" frequent gripes about the QARs technical qualifications and expertise and for reinforcement purposes due to "X's" habitual verbal abuse of the QARs). (See attached Proposed Debarment Memo)

10

TTF

- TTF was previously debarred based upon DCMA recommendations associated with a criminal matter. Following exhaustion of the prior debarment, the company has had a long history of inability to perform contracts however the contracts have been routinely terminated for convenience of the Government (or no cost terminations) due to buying activity reluctance to terminate the contracts for default. As a result of the Government's handling of these contracts, DCMA did not recommend debarment.
- Subsequently, TTF delivered nonconforming/defect wiring harnesses to be utilized on KC 135 aircraft and DCMA recommended debarment. The company and others were debarred on 5/8/12, 5 months PRIOR to the filing of a civil FCA case. (See attached Memo in support of debarment)

11

Best Foam / Keystone Advisors

- Best Foam Fabricators, controlled by the Hasty family, was involuntarily dissolved in 2009. Certain assets of Best Foam were sold to X and then resold back to the Hastys. The remaining Best Foam assets were sold another company, also controlled by the Hastys. A newly formed company, Keystone Advisors of Illinois, controlled by the Hastys, then improperly assumed Best Foam's CAGE Code and attempted to change the name on existing contracts. The debarment was based upon the Hastys' continued misrepresentation as to the nature and status of their company in order to maintain their relationship with the Government after the sale and dissolution of Best Foam Fabricators. The Respondents challenged the action contending that the sale was neither contrived nor carried out to avoid creditors and not motivated by a desire to deceive the Government. (See attached Memo of Decision).

12