



DEFENSE LOGISTICS AGENCY  
HEADQUARTERS  
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IN REPLY  
REFER TO DG

JUL 23 2003

MEMORANDUM CONCERNING THE PROPOSED DEBARMENT OF BJC SALES, INC.,  
SILVER SALES, INC., SILVER SAILS, INC., JUDIE SILVER AKA INGE SILVER,  
SUSAN BAKER, AND MAUREY SALES AKA ROBERT SILVER

The Defense Logistics Agency (DLA) this day has issued Notices of Proposed Debarment to BJC Sales, Inc., Silver Sales, Inc., Silver Sails, Inc., Judie Silver aka Inge Silver, Susan Baker, and Maurey Sales aka Robert Silver (Respondents). The proposed actions are taken pursuant to the debarment procedures contained in the Federal Acquisition Regulation (FAR) Subpart 9.4, and the Defense FAR Supplement (DFARS) Subpart 209.4, and pursuant to the authority of the Federal Property Management Regulations (FPMR), 41 CFR 101-45.6 as reflected in DoD 4160.21-M, Chapter XVII.

The DLA actions are based on information in a report from the Defense Supply Center Columbus (DSCC), a field activity of DLA located in Columbus, Ohio. Information contained in the report from DSCC indicates that Respondents lack the present responsibility to be Government contractors.

INFORMATION IN THE RECORD

A summary of the information upon which the proposed debarments are based appears below:

1. BJC Sales, Inc., Silver Sales, Inc., and Silver Sails, Inc., are affiliated companies incorporated in California. BJC Sales submitted quotations under two solicitations to DSCC Columbus.
2. During all or part of the time of the seriously improper conduct described below, Judie Silver aka Inge Silver was the president of the BJC Sales, Silver Sales, and Silver Sails, owning 100% of the capital stock.
3. Susan Baker works as a manager for BJC Sales and submitted documentation supporting a quotation to DSCC.
4. Maurey Sales aka Robert Silver works in sales and served as the point of contact for the altered Goodall quote and for efforts to obtain a pro forma invoice from Waco Filters.

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5. BJC Sales operates as a broker for replacement parts. That is, BJC Sales submits quotations to DSCC solicitations offering products manufactured by others. Under two solicitations issued by DSCC, BJC Sales submitted altered quotations from its alleged manufacturing sources. These quotations were requested by DSCC for BJC Sales to establish that, if awarded the resulting contracts, BJC Sales was capable of providing the required items. Without providing this evidence, BJC Sales would be ineligible for award.

6. The first known altered quote was submitted on May 7, 2003, under SP0750-03-Q-L849 (Administrative Record, hereinafter AR, Tab 6). The solicitation sought quotations on a quantity of ten hose assemblies, National Stock Number (NSN) 4720-01-194-5160, manufactured in accordance with specification MIL-DTL-2910C, which includes a first article test (FAT) requirement. BJC Sales submitted a quotation requesting waiver of the FAT requirement (AR, Tab 7). When requested to provide a basis for its waiver request, BJC Sales provided a copy of quotation number 1002RH dated May 7, 2003, from Goodall Rubber Company (Goodall), a waived FAT source (AR, Tab 8). After being advised that inspection was required at the manufacturing facility, BJC Sales withdrew its quote stating that Goodall had increased its price due to the Government's request for source inspection at Goodall (AR, Tab 9).

7. Goodall quotation number 1002RH was originally provided to BJC Sales in October 2002 for a different item under a different procurement. A copy of the original quote number 1002RH provided to BJC Sales was obtained from Goodall (AR, Tab 10). The 1002 reference indicates that Goodall prepared the quote in October 2002. A comparison of the two quotes shows that the document submitted by BJC Sales as traceability under SP0750-03-Q-L849 includes alterations in the customer name (eliminating a reference to Silver Sales), date, contact, phone and fax numbers, and stock number/description from what is shown in Goodall's actual quote 1002RH. (See AR, Tabs 9 and 10).

8. The second altered quote was submitted on June 2, 2003, under SP0700-03-T-PA44 (AR, Tab 11). The solicitation sought quotations on a quantity of 461 fuel filter elements, NSN 4330-01-491-4682 described by reference to Facet Filter (cage 87405) part number (p/n) CA38-3SB. In response to a request for traceability under this solicitation, BJC Sales offered the Facet item and provided a quote from an authorized Facet distributor, Waco Filters (AR, Tab 12). A review of the quote provided indicates it is an altered copy of a quotation provided by BJC Sales on May 15, 2003, as traceability under Purchase Order SP0740-03-M-4421 for the same item (AR, Tab 13). The quotes appear to be the same except that the quote provided by BJC Sales on June 2, 2003, did not include a quotation number, attention line or salutation (See AR, Tab 12, page 8 and Tab 13, page 2).

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9. SP0740-03-M-4421, signed by Judie Singer on behalf of BJC Sales, required delivery of 446 of Facet p/n CA38-3SB at a total contract value of \$40,140.00 (AR, Tab 14). At this time, it is unclear whether the specified Facet item was provided by BJC Sales. However, based upon concerns raised by Facet, BJC Sales was asked to provide documentation that it had delivered the specified filters. On May 15, as a result of this request, BJC Sales provided the original quotation from Waco (AR, Tab 13).

10. On June 9, after a separate request to provide a purchase order or invoice to its supplier for the specified Facet parts, BJC Sales submitted an invoice indicating it had supplied filters received from Zemarc Corporation<sup>1</sup> (AR, Tab 15). It must be noted that BJC Sales' submission of both the quote from Waco and the invoice from Zemarc occurred **after** the supplies had been delivered.

11. Waco has advised that it submitted several quotes to BJC Sales but has not received any orders from them. Waco did receive a purchase order for one Facet p/n CA38-3SB from "Bob" at Silver Sales. In addition, BJC Sales requested a "pro forma invoice" from Waco (AR, Tab 16).

12. Tim Pritchard, the Zemarc sales agent identified on the invoice, was contacted to determine the validity of the invoice provided by BJC Sales (AR, Tab 17). Mr. Pritchard indicated that he would have to check Zemarc's records in order to respond. Mr. Pritchard has not further responded to the inquiry. Subsequently, a person named Joe who indicated that he worked for both Waco and Zemarc responded telephonically to the inquiry stating that the invoice was accurate (AR, Tab 17)

BASIS FOR THE PROPOSED DEBARMENT

Based on the summary of facts above, it appears that:

1. The information in the administrative record indicates that BJC Sales has engaged in improper conduct so serious and compelling a nature that it affects its present responsibility as a Government contractor or subcontractor. Its improper conduct indicates a lack of business integrity or business honesty warranting debarment, pursuant to FAR 9.406-2(a)(5) and (c).

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<sup>1</sup> Zemarc is not a Facet dealer but it is affiliated with, and located at the same address as, Fluid Energy Controls, which is a Facet dealer.

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2. Under FAR 9.406-1(b), debarment may be extended to affiliates of a contractor. FAR 9.403 ("Affiliates.") states that, "Business concerns, organizations, or individuals are affiliates of each other if, directly or indirectly, (a) either one controls or has the power to control the other or, (b) a third party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or a business entity organized following the debarment, suspension, or proposed debarment of a contractor which has the same or similar management, ownership or principal employees as the contractor that was debarred, suspended, or proposed for debarment."

a. Judie Silver aka Inge Silver and BJC Sales are affiliates, as defined in FAR 9.403 ("affiliates"), because, directly or indirectly, Ms. Silver controls or can control BJC Sales. The affiliation of Ms. Silver and BJC Sales provides a cause for her debarment, pursuant to FAR 9.406-2 (c).

b. Susan Baker and BJC Sales are affiliates, as defined in FAR 9.403 ("affiliates"), because, directly or indirectly, Ms. Baker controls or can control BJC Sales. The affiliation of Ms. Baker and BJC Sales provides a cause for her debarment, pursuant to FAR 9.406-2 (c).

c. Maurey Sales aka Robert Silver and BJC Sales are affiliates, as defined in FAR 9.403 ("affiliates"), because, directly or indirectly, Mr. Sales controls or can control BJC Sales. The affiliation of Mr. Sales and BJC Sales provides a cause for his debarment, pursuant to FAR 9.406-2 (c).

d. BJC Sales and Silver Sales and Silver Sails are affiliates, as defined in FAR 9.403 ("affiliates"), because, directly or indirectly, the ownership of BJC Sales controls or can control Silver Sales and Silver Sails. The affiliation of BJC Sales and Silver Sales and Silver Sails provides a cause for their debarment, pursuant to FAR 9.406-2 (c).

3. Pursuant to FAR 9.406-5(b), the fraudulent, criminal, or other seriously improper conduct of a contractor may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the contractor who participated in, knew of, or had reason to know of the contractor's conduct.

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a. The seriously improper conduct of BJC Sales may be imputed to Ms. Silver because as an officer, director, shareholder, partner, employee, or other individual associated with BJC Sales, Ms. Silver participated in, knew of, or had reason to know of the seriously improper conduct of BJC Sales. The imputation of the seriously improper conduct of BJC Sales to Ms. Silver provides a separate and independent cause for her debarment, pursuant to FAR 9.406-2(c).

b. The seriously improper conduct of BJC Sales may be imputed to Ms. Baker because as an officer, director, shareholder, partner, employee, or other individual associated with BJC Sales, Ms. Baker participated in, knew of, or had reason to know of the seriously improper conduct of BJC Sales. The imputation of the seriously improper conduct of BJC Sales to Ms. Baker provides a separate and independent cause for her debarment, pursuant to FAR 9.406-2(c).

c. The seriously improper conduct of BJC Sales may be imputed to Mr. Sales because as an officer, director, shareholder, partner, employee, or other individual associated with BJC Sales, Mr. Sales participated in, knew of, or had reason to know of the seriously improper conduct of BJC Sales. The imputation of the seriously improper conduct of BJC Sales to Mr. Sales provides a separate and independent cause for his debarment, pursuant to FAR 9.406-2(c).



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