



DEFENSE LOGISTICS AGENCY
HEADQUARTERS
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FORT BELVOIR, VIRGINIA 22060-6221

IN REPLY
REFER TO DG

June 5, 2003

**MEMORANDUM OF DECISION ON THE SUSPENSION OF CROSBY & OVERTON, INC.,
MICHAEL SHLOUB, MARGUERITE M. DUNDEE, BONNIE DENT, AND LINDA
ALONZO**

Effective this date, Crosby & Overton, Inc., Michael Shlob, Marguerite M. Dundee, Bonnie Dent, and (Respondents) are suspended from Government contracting.

This action is based upon a report to the Defense Logistics Agency (DLA) from the Defense Energy Supply Center (DESC), a field activity of DLA located in Alexandria, Virginia. The information received from DESC indicates that Respondents lack the present responsibility to be Government contractors and provides a basis for their suspension.

INFORMATION IN THE RECORD

The administrative record shows that:

1. Crosby & Overton, Inc., is a California corporation providing refuse services that specializes in collection, treatment, short-term storage and disposal of oily water.
2. During all or part of the time of the seriously improper conduct described below, Michael Shlob was president and chief executive officer of Crosby & Overton.
3. During all or part of the time of the seriously improper conduct described below, Marguerite M. Dundee was the vice-president-secretary-treasurer of Crosby & Overton, owning 50% of capital stock.
4. During all or part of the time of the seriously improper conduct described below, Bonnie Dent was the vice-president of Crosby & Overton, owning 25% of capital stock.
5. During all or part of the time of the seriously improper conduct described below, Linda Alonzo was the secretary-controller of Crosby & Overton.
6. On January 16, 2003, a Criminal Information was filed in the United States District Court for the Central District of California against Crosby & Overton for knowingly making a false statement in a document used to ensure compliance with the federal Resource Conservation and Recovery Act in violation of 42 U.S.C. § 6928 (d) (3) (Making a False Statement in a Hazardous Waste Manifest). The alleged criminal conduct provides a cause for suspension pursuant to FAR 9.407-2(a)(1), (7), and (c).

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DISCUSSION

Crosby & Overton operated a hazardous waste transportation, treatment and storage facility. The company was licensed by the state of California to transport and transfer hazardous waste. It was permitted to store and treat aqueous waste containing hydrocarbons such as waste oil but was not authorized to recycle used oil. Between 1997 and December 2000, Crosby & Overton personnel engaged in a fraud scheme with Richard McAuley. Specifically, in July 1997, Richard McAuley contacted Crosby & Overton sales personnel and offered to pay Crosby & Overton nine to ten cents per gallon if Crosby & Overton would accept delivery of the waste fuels, test the fuels for "Chem Oil's" acceptance and allow the waste fuels that met Chem Oil's criteria to be sent directly to "Chem Oil" without further treatment, using bills of lading instead of hazardous waste manifests. A number of unnamed Crosby & Overton senior management personnel agreed to the scheme based on consultation with Crosby & Overton's Director of Environmental Compliance. The director was not identified in the plea agreement. If the fuel met Chem Oil's criteria of no more than three to five per cent of water per volume, Crosby & Overton agreed to complete a portion of the HAZMAT manifests to indicate that the tank load had been "tank treated" for recycling at Crosby & Overton. This would allow the company to transfer the load via bill of lading. However, the loads were never unloaded or treated by Crosby & Overton. The company intentionally forwarded the waste to recycling facilities on standard bills of lading without having treated the waste in any manner.

On November 19, 1999, Richard McAuley arranged to transfer 6,705 gallons of hazardous waste fuels from Ft. Irwin to Crosby & Overton's facility. An unnamed Crosby & Overton employee falsely wrote information on the HAZMAT manifest that the water had been treated when the employee knew it had not been treated. Between 1997 and December 2000, Crosby & Overton transported over 83 tanker truckloads of waste fuel from various military facilities in this fashion. Crosby & Overton invoiced Richard McAuley approximately \$45,170.31 for these sham recycling activities.

Between February 4, 1998, and December 17, 1999, Crosby & Overton engaged in a similar scheme with Richard McAuley that involved commingled petroleum products that were generated at the GATX Corporation products terminal. Crosby & Overton received 246 tanker truckloads and invoiced Richard McAuley \$89,829,34 for these sham recycling activities. Crosby & Overton intentionally forwarded the waste to recycling facilities on standard bills of lading without having treated the waste in any manner.

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FINDINGS

Based on the information in the record, I find that there is adequate evidence that:

1. On January 16, 2003, a Criminal Information was filed in the United States District Court for the Central District of California against Crosby & Overton for violation of 42 U.S.C. § 6928 (d) (3). The alleged criminal conduct provides a cause for suspension pursuant to FAR 9.407-2(a)(1), (7), and (c).

2. Pursuant to FAR 9.407-5 [9.406-5(a)], 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.

a. The seriously improper conduct of Crosby & Overton may be imputed to Michael Shloub because as a director, president, and shareholder of Crosby & Overton, Mr. Shloub participated in, knew of, or had reason to know of Crosby & Overton's conduct. The imputation of Crosby & Overton's conduct to Mr. Shloub provides a cause for his suspension, pursuant to FAR 9.407-2(c).

b. The seriously improper conduct of Crosby & Overton may be imputed to Marguerite Dundee because as a director, president, and shareholder of Crosby & Overton, Ms. Dundee participated in, knew of, or had reason to know of Crosby & Overton's conduct. The imputation of Crosby & Overton's conduct to Ms. Dundee provides a cause for her suspension, pursuant to FAR 9.407-2(c).

c. The seriously improper conduct of Crosby & Overton may be imputed to Bonnie Dent because as a director, president, and shareholder of Crosby & Overton, Ms. Dent participated in, knew of, or had reason to know of Crosby & Overton's conduct. The imputation of Crosby & Overton's conduct to Ms. Dent provides a cause for her suspension, pursuant to FAR 9.407-2(c).

d. The seriously improper conduct of Crosby & Overton may be imputed to Linda Alonzo because as a director, president, and shareholder of Crosby & Overton, Ms. Alonzo participated in, knew of, or had reason to know of Crosby & Overton's conduct. The imputation of Crosby & Overton's conduct to Ms. Alonzo provides a cause for her suspension, pursuant to FAR 9.407-2(c).

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3. Pursuant to FAR 9.407-1(c), suspension 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. Crosby & Overton and Michael Shloub are affiliates, as defined in FAR 9.403 ("affiliates"). The affiliation of Crosby & Overton with Mr. Shloub provides a separate and independent cause for his suspension, pursuant to FAR 9.407-2(c).

b. Crosby & Overton and Marguerite Dundee are affiliates, as defined in FAR 9.403 ("affiliates"). The affiliation of Crosby & Overton with Ms. Dundee provides a separate and independent cause for her suspension, pursuant to FAR 9.407-2(c).

c. Crosby & Overton and Bonnie Dent are affiliates, as defined in FAR 9.403 ("affiliates"). The affiliation of Crosby & Overton with Ms. Dent provides a separate and independent cause for her suspension, pursuant to FAR 9.407-2(c).

d. Crosby & Overton and Linda Alonzo are affiliates, as defined in FAR 9.403 ("affiliates"). The affiliation of Crosby & Overton with Ms. Alonzo provides a separate and independent cause for her suspension, pursuant to FAR 9.407-2(c).

4. The causes specified above directly affect the present responsibility of Crosby & Overton, Michael Shloub, Marguerite M. Dundee, Bonnie Dent, and Linda Alonzo to be Government contractors and reflect negatively on the propriety of further Government business dealings with them. On the basis of the administrative record before me, I have determined that protection of the Government's business interests requires their suspension pending completion of criminal proceedings.

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DECISION

Pursuant to the authority granted by Federal Acquisition Regulation (FAR) Subpart 9.4, the Defense FAR Supplement (DFARS) Subpart 209.4, and DoD 4160.21-M, Chapter XVII, and based upon the findings herein and the evidence contained in the administrative record, Respondents are hereby suspended effective this date. The suspension is temporary pending the completion of criminal proceedings.



M. SUSAN CHADICK
Special Assistant for
Contracting Integrity