

Defense Procurement Fraud Debarment Program Guide

1. **PURPOSE** The purpose of this Guideline is to provide information to supplement the National Defense Authorization Act of 1993, the Defense Procurement Fraud Debarment Program.
2. **SCOPE** This Guideline is of interest to all persons involved in any aspect of the Defense Procurement Fraud Debarment Program.
3. **AUTHORITY** Section 831 of the National Defense Authorization Act of 1989 (Public Law 100-456) (Title 10, U.S.C. § 2408 (a)).
4. **POLICY** Administration and enforcement of the Act.
 - a. The administration and enforcement of the Defense Procurement Fraud Debarment Program provisions of P.L. 100-456, now codified at 10 U.S.C. § 2408(a), is subject to the general supervision and direction of the U.S. Attorney General, as assigned by the President. The Attorney General has assigned these duties to the Assistant Attorney General for the Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA) in a memorandum dated April 13, 1995. The Director of BJA has directed the Denial of Federal Benefits Clearinghouse of the Department of Justice to perform administrative requirements of the Defense Procurement Fraud Debarment Program, as outlined in the 1993 National Defense Authorization Act.
 - b. Copies of the statutory provision, guidelines, and forms prepared to implement the statute, and information concerning the foregoing, may be obtained upon request,

without charge, from the Defense Procurement Fraud Debarment Program, Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, 810 Seventh St., N.W., Washington, DC 20531, telephone (202)616-3507, Fax (202)616-0511.

- c. The Bureau of Justice Assistance is authorized to prescribe such forms and instructions in addition to, or in lieu of, those specified in this Guideline as may be necessary to carry out the purposes of this program.

5. **DEFINITIONS**

- a. As prescribed in DOD Subpart 252.203-7001 - Special prohibition on employment - April, 1993, the following definitions apply:
 1. Arising out of a contract with the DOD means any act in connection with attempting to obtain, obtaining, or performing a contract or first-tier subcontract of any agency, department, or component of the DOD.
 2. Conviction of fraud or any other felony means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plea of nolo contendere, for which sentence has been imposed.
 3. Date of conviction means the date judgment was entered against the individual.
- b. As prescribed in Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11) and (12)).
 1. Simplified acquisition threshold means \$100,000.
 2. Commercial item means any of the following:

- A. Any item, other than real property, that is of a type customarily used by the general public or by nongovernmental entities for purposes other than governmental purposes.
- B. Any item that evolved from an item described in subparagraph (A) through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under Federal Government solicitation.
- C. Any item that, but for modifications of a type customarily available in the commercial marketplace, or minor modifications made to meet Federal Government requirements, would satisfy the criteria in subparagraph (A) or (B).
- D. Any combination of items meeting the requirements of subparagraph (A), (B), (C), or (E) that are of a type customarily combined and sold in combination to the general public.
- E. Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in subparagraph (A), (B), (C), or (D).
- F. Services offered and sold competitively, in substantial quantities, in the commercial marketplace based on established catalog prices for specific tasks performed and under standard commercial terms and conditions.

- G. Any item, combination of items, or services referred to in subparagraphs (A) through (F) notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.
- H. A nondevelopmental item, if the procuring agency determines, in accordance with conditions set forth in the Federal Acquisition Regulation, that the item was developed exclusively at private expense and has been sold in substantial quantities, on a competitive basis, to multiple State and local governments.

6. **DEBARMENT**

- a. Any individual who is convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the Department of Defense (as such terms are defined by the DOD, pursuant to DFARS Part 217.500, Subpart 203.570-2) for purposes of this Program, shall be prohibited from serving -
 - 1. in a management or supervisory capacity on any defense contract, or any first-tier subcontract of a defense contract.
 - 2. on the board of directors of any defense contractor, or any subcontractor awarded a contract directly by a defense contractor.
 - 3. as a consultant, agent, or representative to any defense contractor, or any subcontractor awarded a contract directly by a defense contractor.
 - 4. in any capacity with the authority to influence, advise, or control the decisions of any DOD contractor or subcontractor with regard to any DOD contract or first-tier subcontract.

- b. DOD has sole responsibility for determining the period of prohibition described in paragraph (a) of this subsection. The prohibition period -
1. Shall not be less than 5 years from the date of conviction unless the agency head or a designee grants a waiver in the interest of national security.
 2. May be more than 5 years from the date of conviction if the agency head or a designee makes a written determination of the need for the longer period. The agency shall provide a copy of the determination to the Bureau of Justice Assistance, U.S. Department of Justice, 810 Seventh St., N.W., Washington, DC 20531.

7. **EXCLUSIONS FROM DEBARMENT**

- a. A contractor or subcontractor may submit written requests for waiver of prohibitions on behalf of an individual seeking employment, to the contracting officer of the Department of Defense. The contracting officer shall -
1. Review any request for waiver.
 2. Deny the request if the contracting officer decides the waiver is not required in the interest of national security; or
 3. Forward the request to the head of the agency or designee for approval if the contracting officer decides the waiver may be in the interest of national security.
- b. The head of the agency or designee shall report all waivers granted, and the reasons for granting the waiver, to the Under Secretary of Defense, who will forward the report to Congress as required by 10 U.S.C. 2408(a)(3).

8. **JUDICIAL ACTION** Defense related fraud and felony cases are tried in Federal court and prosecuted by a United States Attorney. The U.S. Attorney shall determine applicability of the Law.

9. **CRIMINAL PENALTY**

a. Any defense contractor or first-tier subcontractor shall be subject to a criminal penalty of not more than five hundred thousand dollars (\$500,000), if such contractor or subcontractor is convicted of knowingly:

1. Employing a person under prohibition
2. Allowing such a person to serve on the board of directors of such contractor or first-tier subcontractor.

b. In addition to the criminal penalties, the Government may consider other available remedies such as:

1. Suspension or debarment
2. Cancellation of the contract at no cost to the Government
3. Termination of the contract for default

10. **CLEARINGHOUSE** The Defense Procurement Fraud Debarment Program, Office of Justice Programs, Bureau of Justice Assistance will be the "information clearinghouse" for information provided by the United States Attorneys' Offices on individuals convicted of defense related fraud or felony. The Clearinghouse will collect data regarding those individuals who have been referred for debarment, and forward such data to the General Services Administration (GSA) for inclusion in the publication, "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs," more

commonly known as the "Debarment List." Each Federal agency should consult the Debarment List to ensure compliance with the provisions of the Law.

11. **SUBMISSION OF STATEMENTS** "Statements" include, but are not limited to copies of Judicial Orders, and Indictments. On a quarterly basis, United States Attorneys are required to submit, to the Clearinghouse, statements indicating those individuals from their district who meet the disqualification requirements of the Program. Statements may also be submitted to the Clearinghouse from all branches of the Department of Defense on an ongoing basis. See Appendix 1, Form AO245B-Judgment in a Criminal Case; Appendix 2, Indictment.
12. **CONTENTS OF STATEMENTS** All documents submitted to the Clearinghouse should set forth the name, date of birth, and Social Security Number of the offender, and any other identification available as specified by the Bureau of Justice Assistance.
 - a. **Judgment**: The Judgment, Form A0245B, should be a certified true copy, and signed by the sentencing judge.
 - b. **Indictment**: A copy of the Indictment should be signed by the United States Attorney or a representative of the United States Attorney's Office.
 - c. **Debarment Period**: Written determination of the need to decrease or extend the debarment period of five (5) years should be signed by the agency head or a designee of that office.
13. **DEFICIENT STATEMENT FILINGS** Documents submitted with incomplete data may be returned to the sender for additional data.
14. **SUPPLEMENTAL STATEMENT FILINGS** Documents submitted after the original filing should include all identification information included in the original

statement and should indicate that the statement is an update of a previously filed statement. Supplemental data may be provided as a narrative statement.

15. **FILING OF STATEMENTS** All statements, forms, exhibits, amendments, and other documents and papers filed under the statute or under this Guideline, should be submitted to the Defense Procurement Fraud Debarment Program, U.S. Department of Justice, Bureau of Justice Assistance, 810 Seventh St., N.W., Washington, DC 20531.
16. **ACKNOWLEDGMENT OF STATEMENTS** All statements will be acknowledged in writing by the Defense Procurement Fraud Debarment Program Clearinghouse.
17. **PRIVACY ACT MATTERS**
 - a. Consistent with the Privacy Act of 1974, as amended (5 U.S.C. 552a), and Department of Justice regulation 28 CFR 20.30, the DOJ will maintain records of all data received from United States Attorneys Offices and the Department of Defense, and forwarded to the General Services Administration (GSA) for inclusion in the "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs."
 - b. As required, the Clearinghouse will respond to inquiries from Federal agencies, DOD contractors and first-tier subcontractors, as required for determination of employment or contract eligibility purposes. The Clearinghouse does not disclose sensitive data to those making inquiry. It simply confirms or denies if there is a match between the individual of inquiry, and the one found on the Debarment List.
 - c. Information will be released in accordance with the Freedom of Information Act (5 U.S.C. §552), and the Privacy Act (5 U.S.C. §552a). Requests should be

submitted to the Freedom of Information Act, U.S. Department of Justice, Bureau of Justice Assistance, 810 Seventh St., N.W., Washington, DC 20531.

18. *PROCESSING OF STATEMENTS - GSA* To add an exclusionary action to the Debarment List, a letter enumerating the exclusion actions will be forwarded by the Clearinghouse to GSA. The cover letter will include the following data:
- a. Name and complete address of the offenders in alphabetical order.
 - b. Cause for the action, citing the appropriate Cause and Treatment codes. The Cause and Treatment codes, including definitions, that are included in the Debarment List are contained in Appendix 3.
 - c. The beginning and ending dates for period of debarment.
 - d. To suspend the debarment period, a letter requesting removal of the offender from the Debarment List will be forwarded to the GSA by the Clearinghouse. The GSA is not otherwise authorized to remove a name from the Debarment List without written notification from the Clearinghouse.
 - e. Prior to submitting any data to the GSA, the Clearinghouse will determine if the GSA's publication of any of the data elements pertaining to an offender is consistent with the Privacy Act of 1974, P.L. 93-579, as amended, 5 U.S.C. 552a et seq. If there are data elements that cannot be published, such data will be deleted.
 - f. To insure the accuracy of entries on the Debarment List, the Clearinghouse will review and verify the entry(ies) in each edition of the monthly publication. If an entry is found to be incorrect, the GSA will be notified in writing.

19. **RELEASE OF INFORMATION CONCERNING STATEMENTS AND INQUIRIES**

CONCERNING APPLICATION OF THE ACT

All inquiries concerning

application of the law to any person, should be addressed to The U.S. Department of Justice, Defense Procurement Fraud Debarment Program, Office of Justice Programs, Bureau of Justice Assistance, 810 Seventh St., N.W., Washington, DC 20531.

Information will only be released in accordance with the Privacy Act, the Freedom of Information Act (5 U.S.C. 552), and the DOJ regulation 28 CFR 20.30.

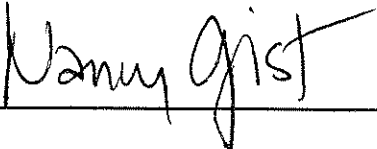
20. **APPEAL OF DEBARMENT**

Any individual identified for debarment under this Program, who believes that the debarment is based on false identification, or that the basis for the debarment is no longer valid, may appeal the debarment to the division of the Department of Defense responsible for debarment, consistent with any procedures established by that agency or by the Defense Procurement Fraud Debarment Program. In such event, the Clearinghouse will make available to the denying agency documentation relating to the basis for debarment.

21. **FOR FURTHER INFORMATION**

Contact Robert T. Watkins, Director, Defense Procurement Fraud Debarment Program, 202-616-3507, [This is not a toll-free number,] or on the web at www.ojp.usdoj.gov/BJA [Click on BJA Administered Non-Grant Programs]

DATED: June 19, 2000



Nancy Gist, Director

Bureau of Justice Assistance

Judgment in a Criminal Case

UNITED STATES DISTRICT COURT

District of _____

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: _____

THE DEFENDANT:

Defendant's Attorney _____

- pleaded guilty to count(s) _____
- pleaded nolo contendere to count(s) _____ which was accepted by the court.
- was found guilty on count(s) _____ after a plea of not guilty.

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
----------------------------	--------------------------	-------------------------------	------------------------

The defendant is sentenced as provided in pages 2 through _____ of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____
- Count(s) _____ (is)(are) dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth.: _____

Defendant's USM No.: _____

Defendant's Residence Address: _____

Defendant's Mailing Address: _____

Date of Imposition of Judgment _____

Signature of Judicial Officer _____

Name and Title of Judicial Officer _____

Date _____

DEFENDANT:
CASE NUMBER:

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of _____.

The court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m./p.m. on _____.

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____.

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

DEFENDANT:
CASE NUMBER:

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of _____.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

The defendant shall not possess a firearm as defined in 18 U.S.C. § 921. (Check, if applicable.)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT:
CASE NUMBER:

PROBATION

The defendant is hereby placed on probation for a term of _____.

The defendant shall not commit another federal, state or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

The defendant shall not possess a firearm as defined in 18 U.S.C. § 921. (Check, if applicable.)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT:
CASE NUMBER:

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

<u>Totals:</u>	\$	<u>Assessment</u>	\$	<u>Fine</u>	\$	<u>Restitution</u>
----------------	----	-------------------	----	-------------	----	--------------------

If applicable, restitution amount ordered pursuant to plea agreement \$ _____

FINE

The above fine includes costs of incarceration and/or supervision in the amount of \$ _____.

The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

- The court has determined that the defendant does not have the ability to pay interest and it is ordered that:
- The interest requirement is waived.
 - The interest requirement is modified as follows:

RESTITUTION

The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case will be entered after such a determination.

The defendant shall make restitution to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

<u>Name of Payee</u>	<u>* Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
----------------------	-----------------------------------	--	--

Totals: \$ _____ \$ _____

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

DEFENDANT:
CASE NUMBER:

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

- A In full immediately; or
- B \$ _____ immediately, balance due (in accordance with C, D, or E); or
- C not later than _____; or
- D in installments to commence _____ days after the date of this judgment. In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. probation officer shall pursue collection of the amount due, and shall request the court to establish a payment schedule if appropriate; or
- E in _____ (e.g., equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ year(s) to commence _____ days after the date of this judgment.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

Special instructions regarding the payment of criminal monetary penalties:

- The defendant shall pay the cost of prosecution.
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program are to be made as directed by the court, the probation officer, or the United States attorney.

DEFENDANT:
CASE NUMBER:

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

OR

The court adopts the factual finding and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court :

Total Offense Level: _____

Criminal History Category: _____

Imprisonment Range: _____ to _____ months

Supervised Release Range: _____ to _____ years

Fine Range: \$ _____ to \$ _____

Fine waived or below the guideline range because of inability to pay.

Total Amount of Restitution: \$ _____

Restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims, pursuant to 18 U.S.C. § 3663(d).

For offenses committed on or after September 13, 1994 but before April 23, 1996 that require the total amount of loss to be stated, pursuant to Chapters 109A, 110, 110A, and 113A of Title 18, restitution is not ordered because the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of a restitution order in the foreseeable future under any reasonable schedule of payments.

Partial restitution is ordered for the following reason(s):

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.

OR

The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reasons:

OR

The sentence departs from the guideline range:

upon motion of the government, as a result of defendant's substantial assistance.

for the following specific reason(s):

DEFENDANT:
CASE NUMBER:

DENIAL OF FEDERAL BENEFITS
(For Offenses Committed On or After November 18, 1988)

FOR DRUG TRAFFICKERS PURSUANT TO 21 U.S.C. § 862

IT IS ORDERED that the defendant shall be:

ineligible for all federal benefits for a period of _____.

ineligible for the following federal benefits for a period of _____.

(specify benefit(s)) _____

OR

Having determined that this is the defendant's third or subsequent conviction for distribution of controlled substances, IT IS ORDERED that the defendant shall be permanently ineligible for all federal benefits.

FOR DRUG POSSESSORS PURSUANT TO 21 U.S.C. § 862(b)

IT IS ORDERED that the defendant shall:

be ineligible for all federal benefits for a period of _____.

be ineligible for the following federal benefits for a period of _____.

(specify benefit(s)) _____

successfully complete a drug testing and treatment program.

perform community service, as specified in the probation and supervised release portion of this judgment.

Having determined that this is the defendant's second or subsequent conviction for possession of a controlled substance, IT IS FURTHER ORDERED that the defendant shall complete any drug treatment program and community service specified in this judgment as a requirement for the reinstatement of eligibility for federal benefits.

Pursuant to 21 U.S.C. § 862(d), this denial of federal benefits does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility. The clerk of court is responsible for sending a copy of this page and the first page of this judgment to :

**Appendix 2
Indictment**

UNITED STATES DISTRICT COURT
DISTRICT OF

UNITED STATES OF AMERICA : Hon.
V. : Criminal No.
DEFENDANT(S) :

INDICTMENT

INTRODUCTION

At all times relevant to this Indictment:

COUNT 1

DATED:

Respectfully submitted,

Name
United States Attorney
District

Name
Defendant

Name
Counsel to the Defendant

Appendix 3

Cause and Treatment Codes

Parties Excluded from Federal Procurement Programs

Code FF

CAUSE

Conviction of fraud or any other felony, on or after September 29, 1988, arising out of a contract with the Department of Defense as required by the 1993 National Defense Authorization Act, 10 U.S.C. §2408.

TREATMENT

Listed individuals are prohibited from serving in a management or supervisory capacity on any DoD contract or first-tier subcontract; serving on the board of directors, or as a consultant, agent or representative for any DoD contractor or first tier subcontractor; or serving in any other capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

NOTE

Contractors and first-tier subcontractors should contact the Denial of Federal Benefits Clearinghouse, U.S. Department of Justice liaison under the heading "For Additional Information" in the front of this issue regarding information on whether a particular person has been convicted of fraud or any other felony arising out of a contract with the Department of Defense.

Parties Excluded from Federal Non-Procurement Programs

Code WW

CAUSE

Conviction of fraud or any other felony, on or after September 29, 1988, arising out of a contract with the Department of Defense as required by the 1993 National Defense Authorization Act, 10 U.S.C. §2408.

TREATMENT

Listed individuals are prohibited from serving in a management or supervisory capacity on any DoD contract or first-tier subcontract; serving on the board of directors, or as a consultant, agent or representative for any DoD contractor or first tier subcontractor; or serving in any other capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

NOTE

Contractors and first-tier subcontractors should contact the Denial of Federal Benefits Clearinghouse, U.S. Department of Justice liaison under the heading "For Additional Information" in the front of this issue regarding information on whether a particular person has been convicted of fraud or any other felony arising out of a contract with the Department of Defense.

Types of Federal benefits which may be denied

Procurement Programs Which May Be Denied Under Section 5301. All Contracts or Purchase Orders issued by Federal agencies or by others using monies appropriated by the Federal government. This will include all Federally awarded acquisition and personal property sales.

Non-Procurement Programs Which May Be Denied Under Section 5301. All taxpayer-supported economic benefits, defined by statute as ~~the issuance of any grant, contract, loan, professional license, or commercial license~~ provided by an agency of the United States or by appropriated funds of the United States.

The following list is an excerpt from the Catalog of Domestic Federal Assistance, and contains the types and brief definition of Federal benefits which may be denied an individual under the Title 21, U.S.C. §862.

1. PROJECT GRANTS - The funding, for fixed or known periods, of specific projects or the delivery specific services or products without liability for damages for failure to perform. Project grants include fellowships, scholarships, research grants, training grants, traineeships, experimental and demonstration grants, evaluation grants, planning grants, technical assistance grants, survey grants, construction grants, and unsolicited contractual agreements.
1. DIRECT PAYMENTS FOR SPECIFIED USE - Financial assistance from the Federal government provided directly to individuals, private firms, and other private institutions to encourage or subsidize a particular activity by conditioning the receipt of the assistance on a particular performance by the recipient. This does not include solicited contracts for the procurement of goods and services for the Federal Government.
3. DIRECT PAYMENTS WITH UNRESTRICTED USE - Financial assistance from the Federal government provided directly to beneficiaries who satisfy Federal Eligibility requirements with no restrictions being imposed on the recipient as to how the money is spent. Included are payments under retirement, pension, and compensation programs.
4. DIRECT LOANS - Financial assistance provided through the lending of Federal monies for a specific period of time, with a reasonable expectation of repayment. Such loans may or many not require the payment of interest.
5. GUARANTEED/INSURED LOANS - Programs in which the Federal government makes an arrangement to indemnify a lender against part or all of any defaults by those responsible for repayment of loans.
6. SALE, EXCHANGE, OR DONATION OF PROPERTY AND GOODS - Programs which provide for the sale, exchange, or donation of Federal real property, personal property, commodities, and other goods including land, buildings, equipment food and drugs. This does not include the loan of, use of, or access to Federal facilities or property.
7. USE OF PROPERTY, FACILITIES, AND EQUIPMENT - Programs which provide for the loan of, use of, or access to Federal facilities or property wherein the federally-owned facilities or property do not remain in the possession of the recipient of the assistance.

