



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, DC 20416

November 18, 2010

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**Re: Notice of Suspension**

You are hereby notified that the U.S. Small Business Administration (“SBA”) has suspended MultimaxArray Firstsource (“MAF”) (Duns: 614767403) from Federal Government contracting and from directly or indirectly receiving the benefits of Federal assistance programs. The suspension is initiated pursuant to the authority and the procedures of the Federal Acquisition Regulation (FAR) Subpart 9.4. A Copy of FAR 9.4, is enclosed for your information. This suspension applies to MAF only.

Section 9.407-2 of the FAR lists the causes for suspension. FAR 9.407-2(a) states that, “[t]he suspending official may suspend a contractor suspected, upon adequate evidence, of—(1) Commission of fraud or a criminal offense in connection with— (i) Obtaining; (ii) Attempting to obtain; or (iii) Performing a public contract or subcontract.” I have determined that that there is adequate evidence to suspend MAF pursuant to FAR 9.407-2(a). Further, pursuant to FAR 9.407-2(c), I am also suspending MAF based on adequate evidence indicating a lack of business integrity or business honesty that seriously or directly affects the present responsibility of a Government contractor. The Small Business Act (The Act) provides that whoever misrepresents their status in order to obtain a contract shall be subject to certain penalties. Specifically, 15 U.S.C. §§ 645 (d)(1) and (d)(2), provide in pertinent part, that:

(1) Whoever misrepresents the status of any concern or person as a “small business concern”, a “qualified HUBZone small business concern”, a “small business concern owned and controlled by socially and economically disadvantaged individuals”, or a “small business concern owned and controlled by women”, in order to obtain for oneself or another any... (A) prime contract to be awarded pursuant to section 638, 644, or 657a of this title [or] (B) a subcontract to be awarded pursuant to section 637(a)...(2) shall...(C) be subject to suspension and debarment as specified in subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) on the basis that such misrepresentation indicates a lack of business integrity that seriously and directly affects the present responsibility to perform any contract awarded by the Federal Government

or a subcontract under such a contract.

The Department of Homeland Security (DHS) issued Solicitation Number HSHQDC-05-R-00001, the FirstSource multiple award indefinite delivery/indefinite quantity (IDIQ) contract vehicle, as a 100% small business set-aside. MAF was awarded a master FirstSource contract, Contract Number: HSHQDC-07-D-00027. The size standard for the solicitation was 541519 footnote 18: 150 employees. DHS and SBA have looked into the conduct of MAF as a prime contractor on this contract and have found evidence which shows that MAF entered in a relationship with a subcontractor in order to defraud the Government. By the terms of its agreement with its subcontractor, including payment terms, the subcontractor agreed to do most if not all the work necessary to perform the contracts and the work necessary to receive and respond to any contract opportunities. Further evidence shows that the subcontractor in fact performed most if not all of the work required to be performed in connection with the subject contract opportunities. There is also evidence that MAF and its subcontractor attempted to conceal the nature of this relationship from the Government and their competitors, after concerns were raised about MAF and its subcontractor's conduct.

MAF's conduct in seeking task order contract awards under the FirstSource contract, and performing work under those task order contracts awards was in violation of 13 C.F.R. Parts 121, and 125. A size protest was filed against MAF for Contract No. HSHQDC-07-D-0027; Delivery Order No. HSSCCG-08-J-00312. The size protest alleged that MAF and its subcontractor should be treated as affiliates for determining MAF's size because MAF's subcontractor would be performing most if not all of the work on contract. MAF did not contest affiliation with its subcontractor and SBA found that the MAF was not a small business for this contract, and was therefore ineligible for award. SBA's Office of Inspector General is investigating the actions of MAF with regard to its conduct in obtaining and performing contracts set-aside for small businesses.

I have found that there is adequate evidence that establishes that MAF misrepresented its status in order to obtain or attempt to obtain contracts set-aside for small businesses and that MAF failed to perform those contracts in accordance with all applicable laws and regulations. I also find that there is adequate evidence that MAF committed fraud or a criminal offense in obtaining and attempting to obtain contracts, and in its performance of those contracts; and that there is adequate evidence of a lack of business integrity or business honesty that seriously or directly affects the present responsibility of MAF.

Suspension is a temporary measure imposed pending the completion of any investigation or legal proceedings as may ensue. The suspension is effective as of the date of this letter. This suspension is effective throughout the executive branch of the Federal Government and has the following consequences:

1. The company name, MultimaxArray FirstSource will be published in the Excluded Parties List System (EPLS), where it will be noted that the company has been suspended. The EPLS is available at <http://epls.gov>.

2. The company is excluded from receiving contracts, and agencies shall not solicit offers from, award contracts to, or consent to subcontracts with the company, unless the agency head determines that there is a compelling reason for such action.
3. The company is excluded from conducting business with the Government as agent or representative of other contractors.
4. The company is excluded from acting as an individual surety.
5. The company is excluded from participating in a Federal agency transaction that is a covered transaction, or act as a principal of a person participating in a covered transaction. The term "covered transaction" is defined in 2 C.F.R. § 180.200.

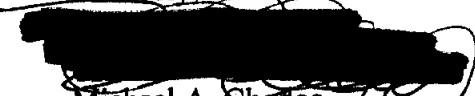
Within 30 days of receipt of this notice, you or a representative on your behalf may submit, either in person or in writing, or both, information and argument in opposition to the suspension. If you designate a representative to respond on your behalf, please notify me in writing of the identity of the representative. The designation should specifically state the names and addresses of all individuals or companies the designee has the authority to represent in this matter.

Your submission, if any, may include specific information that raises a genuine dispute over facts material to the suspension. If it is found that the information or argument submitted raises a genuine dispute over material facts, fact-finding may be conducted to determine the disputed facts.

This suspension has been initiated on the basis of the administrative record. A copy of the record, except for those materials protected from disclosure, will be furnished upon request. Any written information you submit will become a part of the administrative record. Information or argument presented orally will be considered part of the administrative record only to the extent such information and argument is submitted in written form.

Any communications regarding this matter should be directed to Christopher Clarke of my office at (202) 205-7307. Any written submission should be forwarded to him at U.S. Small Business Administration, 409 Third Street SW, Fifth Floor, Washington, DC 20416, with a copy by fax to (202) 481-1890.

Sincerely,

  
Michael A. Chodos  
SBA Suspension and Debarment Official

Enclosures