

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Washington, D.C.

In the Matter of:	*	
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RONALD M. MCCOY,	*	DOCKET NO. 07-3426-DB
	*	
	*	
Respondent.	*	
	*	

DEBARRING OFFICIAL'S DETERMINATION

Introduction

By Notice dated May 22, 2007("Notice"), the Department of Housing and Urban Development ("HUD") notified Respondent RONALD M. MCCOY that HUD was proposing his debarment from future participation in procurement and nonprocurement transactions as a participant or principal with HUD and throughout the Executive Branch of the Federal Government for a period of three years from the date of the final determination of the proposed action. HUD advised Respondent in the May 22, 2007, Notice that the proposed debarment action was in accordance with the procedures set forth in 24 CFR part 24.¹ Further, the Notice informed Respondent that the proposed debarment was based upon his criminal conviction in the Court of Common Pleas of Philadelphia County, Pennsylvania.

Respondent's conviction followed his guilty plea to three charges of 1) theft by deception, 2) criminal conspiracy, and 3) bid rigging in violation of 18 PA C.S.A. 3922, 903, and 62 PA C.S.A.4503, respectively. The allegations surrounding Respondent's criminal offenses are detailed in the criminal complaint issued in this matter. In summary, the complaint alleges that Respondent, at various times during 1997 and 1998 and in concert with different people, attempted to obtain or unlawfully obtained approximately \$100,000.00 in services, merchandise, or benefits in his capacity as a contractor with the Philadelphia Housing Development Corporation (PHDC), by making false representations, by influencing PHDC officials with bribes, and by rigging a bidding process with fraudulent bids.

For his conviction on the three felony offenses, Respondent was sentenced to 1 to 5 years in prison on each of the three offenses with the sentences to be served concurrently.

A telephonic hearing on Respondent's proposed debarment was held in Washington, D.C. on January 9, 2008, before the Debarring Official's Designee, Mortimer F. Coward.

¹ The regulations formerly found at 24 CFR part 24 now are codified at 2 CFR part 180. See 72 FR 73484, December 27, 2007.

Respondent was present by phone at the hearing, appearing *pro se*. Brendan Power, Esq. appeared on behalf of HUD.

Summary

I have decided, pursuant to 2 CFR part 180,² to debar Respondent from future participation in procurement and nonprocurement transactions, as a participant, principal, or contractor with HUD and throughout the Executive Branch of the Federal Government, for a period of three years from the date of his proposed debarment, March 22, 2007. My decision is based on the administrative record in this matter, which includes the following information:

- (1) The Notice of Proposed Debarment dated March 22, 2007.
- (2) A letter from Respondent dated May 17, 2007, received in the Departmental Enforcement Center on May 25, 2007.
- (3) A handwritten note from Respondent on a copy of a May 10, 2007, letter from the Debarring Official advising Respondent that his proposed debarment had become final because of his alleged failure to respond to the March 22, 2007, notice proposing his debarment.
- (4) A criminal complaint filed in Philadelphia County, Pennsylvania on June 30, 2003, accusing Respondent of committing various criminal offenses.
- (5) Copies of docket sheets from the Court of Common Pleas of Philadelphia County recording various proceedings related to Respondent's criminal trial, including his sentencing.
- (6) The Government's Brief in Support of Three Year Debarment of Respondent filed December 4, 2007.
- (7) The tape recording of the January 9, 2008, telephonic hearing.

HUD's Arguments

HUD argues that Respondent is a "participant" who engaged in a "covered transaction" as those terms are defined in 24 CFR part 24.³ Respondent was the owner of a construction company that contracted to perform repair and rehabilitation work for PHDC, a recipient of HUD grant funds. Further, as someone who reasonably may be expected in the future to be a participant in a covered transaction, Respondent is subject to HUD's debarment regulations. The Government notes that although HUD may not have been affected directly by Respondent's conduct in this matter, "the debarment regulations nonetheless apply" to the Respondent "as he fits within the definitions regarding the application of debarment proceedings." The government asserts that Respondent's guilty plea and conviction of the criminal offenses noted above provide cause for debarment under 24 CFR 24.800(a)(1), (2), and (3) and 24 CFR 24.850(b).⁴ The government also argues that Respondent's conviction shows that he is not presently responsible and that his debarment for a three-year period from further participation in federal programs is warranted.

² See fn. 1, *supra*.

³ *Id.*

⁴ 24 CFR 24.800 (a)(1), (2), and (3) and 24 CFR 24.850(b) now are recodified at 2 CFR 180.800 (a)(1), (2), and (3) and 2 CFR 180.850(b), respectively.

Respondent's Arguments

Respondent first argued that he was not interested in appealing his proposed debarment. Respondent volunteered that “if you break the law,” you have to be prepared to face the consequences. Respondent argued, however, that his proposed debarment by HUD would suggest that there is “no such thing as rehabilitation” in HUD’s view although society considers him now rehabilitated. According to Respondent, HUD’s proposed debarment ignores the criminal punishment to which he has been subjected and is tantamount to “cruel and unusual punishment.” Respondent also argued that he would suffer “double jeopardy” to the extent he is being “penalized” again for the same charges for which he has already served time. Respondent asserted that he did not do any “HUD jobs” and received “no HUD money.” Respondent offered as mitigating factors his payment of \$134, 000.00 in restitution and the fact that PHDC owed him over \$395,000.00 but he received only \$45,000.00 “after they were finished” with him. Respondent also testified that he is suffering from cancer and was receiving chemotherapy treatment.

Findings of Fact

1. Respondent received payment from an entity, PHDC, which received funding from HUD.
2. Respondent pleaded guilty and was convicted of three criminal offenses involving bid rigging, theft, and conspiracy under Pennsylvania law.
3. Respondent served a prison sentence for the crimes to which he pleaded guilty.
4. Respondent paid \$134,000.00 in restitution to the PHDC.
5. Respondent acknowledges his wrongdoing and accepts the fact of his punishment therefor.
6. Respondent’s wrongdoing was committed over a 2-year period in 1997 and 1998.
7. Respondent’s hearing on the appeal of his proposed debarment was delayed because of administrative difficulties in serving him the necessary papers to initiate the debarment process.

Conclusions

Based on the above Findings of Fact, I have made the following conclusions:

1. Respondent was a participant in a covered transaction as defined in 2 CFR 180.200.⁵
2. Respondent’s criminal conviction serves as the basis for his debarment.
3. Pursuant to 2 CFR 180.800 (formerly published at 24 CFR 24.800), a conviction for theft or bid rigging, *inter alia*, is a cause for debarment.
4. Respondent’s remorse for his wrongdoing, his payment of restitution, and his medical condition are factors considered in determining the appropriate period of debarment imposed.
5. Respondent’s wrongdoing was committed almost ten years ago. There has been no allegation of further wrongdoing since that time.

⁵ The regulations at 2 CFR part 180 were formerly codified at 24 CFR part 24.

6. The punishment which Respondent received for his criminal wrongdoing does not immunize him from action by HUD under the debarment regulations. *See* 2 CFR part 180.
7. Respondent's actions that led to his criminal conviction raised grave doubts with respect to his business integrity and personal honesty.
8. HUD has a responsibility to protect the public interest and take appropriate measures against participants whose actions may affect the integrity of its programs.
9. HUD cannot effectively discharge its responsibility and duty to the public if participants in its programs or programs that it funds fail to act with honesty and integrity.

DETERMINATION

Based on the foregoing, including the Findings of Fact, Conclusions, and the administrative record, I have determined to debar Respondent in accordance with 2 CFR 180 870(b)(2)(i), (2)(ii), (2)(iii), and (2)(iv) (formerly found at 24 CFR 24.870(b)(2)(i), (2)(ii), (2)(iii), and (2)(iv))⁶ for a period of three years from March 22, 2007, the date of his proposed debarment. Respondent's "debarment is effective for covered transactions and contracts that are subject to the Federal Acquisition Regulation (48 CFR chapter 1), throughout the executive branch of the Federal Government unless an agency head or an authorized designee grants an exception." *See* 2 CFR 180.870(b)(2)(iv).

Dated: _____

25 February 2008

Henry S. Czauski

Henry S. Czauski
Debarring Official

⁶ As explained above, see fn. 1, the regulations at 24 CFR part 24 have been relocated and now are codified at 2 CFR part 180, effective January 28, 2008. *See* 72 FR 73484, December 27, 2007. This debarment action was initiated and the hearing held before the effective date of the recodification of HUD's debarment regulations at 2 CFR part 180. Accordingly, for the convenience of and as an aid to the reader, this Determination makes reference here to 24 CFR 24.870(b)(2)(i), (2)(ii), (2)(iii), and (2)(iv).

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of February 2008, a true copy of the DEBARRING OFFICIAL'S DETERMINATION was served in the manner indicated.

Tammie M. Parshall

Tammie M. Parshall
Debarment Docket Clerk

HAND-CARRIED

Mortimer F. Coward, Esq.
Debarring Official's Designee

Maura Malone, Esq.
Brendan Power, Esq.
Government Counsel

FIRST CLASS MAIL

Ronald M. McCoy

