



DEPARTMENT OF THE ARMY
WASHINGTON DC 20310

July 10, 2007

DETERMINATION AND FINDINGS

I am executing this determination and findings pursuant to my authority under Title 10, United States Code, Section 2393(b), Federal Acquisition Regulation (FAR) section 9.405(a), and paragraph 5g, Headquarters, Department of the Army General Order Number 3 (July 9, 2002). As set forth below, I have determined that there is a compelling reason to allow Pinnacle Armor, Inc., Murray Neal, and Paul Chopra to submit and have considered for award their proposal for body armor under Solicitation W91CRB-07-R-0041, notwithstanding that they have been proposed for debarment by the Department of the Air Force.

FINDINGS

1. Pinnacle Armor, Inc. (Pinnacle), Murray Neal, and Paul Chopra were proposed for debarment by the Department of the Air Force on June 21, 2007, pursuant to FAR 9.406-2(b)(1). According to information provided by the Air Force, the bases for this action were as follows: 1) Vests that Pinnacle delivered to the Air Force allegedly were not Level 3 compliant as required by the Air Force contract and delivery orders. 2) Pinnacle is alleged to have made false representations to the Air Force as to the capability of the vests prior to the execution of the contract. 3) The labels included with the vests provided by Pinnacle to the Air Force allegedly falsely stated that the vests had been certified as Level 3 by the National Law Enforcement and Corrections Technology Center of the National Institute of Justice. 4) Pinnacle allegedly made false and other lulling statements to the Air Force following discovery of the noncompliance in order to induce the Air Force to defer seeking other sources of body armor. 5) Pinnacle allegedly failed to disclose to the Air Force, Pinnacle's knowledge of quality defects in the vests it later delivered to the Air Force.

2. The foregoing allegations are serious, and, if true, would call into question the present responsibility of Pinnacle and Messrs. Neal and Chopra for federal contracting purposes. The Air Force will review the three parties' response to the proposed debarment and anticipates deciding upon final action within several weeks.

3. FAR 9.405(a) provides that "(C)ontractors debarred, suspended, or proposed for debarment are excluded from receiving contracts, and agencies shall not solicit offers from, award contracts to, or consent to subcontracts with these contractors, unless the agency head determines that there is a compelling reason for such action."

4. Pursuant to paragraph 5g, Headquarters, Department of the Army General Order Number 3 (July 9, 2002), the Assistant Secretary of the Army (Acquisition, Logistics and Technology) (ASA(ALT)) exercises the authorities of the agency head in connection

with procurement matters. This general order authorizes the ASA(ALT) to make the FAR 9.405(a) determination.

5. Individual body armor is a critical component of soldier protection. It is used extensively by United States military personnel in ongoing combat operations in Iraq and Afghanistan. The Department of the Army is responsible for equipping its soldiers and other supported United States military personnel with the best available body armor. It can best discharge this responsibility by considering the proposals and product test submissions of all interested sources.

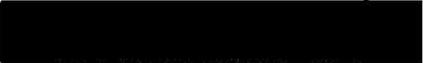
6. Solicitation W91CRB-07-R-0041 was issued by the Army's Research, Development & Engineering Command Acquisition Center on May 25, 2007. Proposals currently are due on July 27, 2007. The contracting activity anticipates awarding multiple, five-year indefinite delivery/indefinite quantity contracts for this requirement. The Army will test product samples in conjunction with this procurement.

7. Pinnacle manufactures the "Dragon Skin" body armor, and it has asserted that its product is superior to the individual body armor currently in use. It is my understanding that Pinnacle would like submit an offer under the above solicitation.

DETERMINATION

Based upon the foregoing findings, I determine that a compelling reason exists to permit Pinnacle to allow Pinnacle Armor, Inc., Murray Neal, and Paul Chopra to submit and have considered for award their proposal for body armor under Solicitation W91CRB-07-R-0041, notwithstanding that they have been proposed for debarment by the Department of the Air Force. Notwithstanding this determination, the contracting officer responsible for this procurement shall make no contract award to Pinnacle without my specific authorization.

Nothing in this determination shall be construed to authorize the release of classified information to Pinnacle, unless such release is in accordance with all Department of Defense and Department of Army security requirements.


Claude M. Bolton, Jr.
Assistant Secretary of the Army
(Acquisition, Logistics and Technology)