

Keith M. Gregory - Doing Business With the Government

If a company that does business with the government is accused of committing fraud or selling suspect counterfeit or counterfeit goods, it will likely face a suspension or debarment, thereby preventing it from continuing to do business with the government. If the government seeks this kind of penalty against the company, the company's very survival will be at issue. In order to defend itself in this kind of suspension or debarment proceeding, the company is required to establish to the governmental officer sitting as the judge in that matter that it is a presently responsible contractor. The government has established a number of regulations called DFARs, and one of those DFARs, DFAR #9406, lists a number of factors that the governmental officer is required to consider when deciding to grant a debarment or suspension against the company.

These factors include the effective standards of conduct that the company has developed, the internal control systems the company has in place, training programs the company has established in order to ensure that its employees understand all of its policies and procedures, the remedial measures implemented by the company to correct mistakes it made in the past, the appropriate disciplinary action taken by the company to ensure mistakes are not made again, the company's counterfeit mitigation program and how its employees have been trained to implement it, the certificates and awards received by the company, the company's supplier evaluation program, the company's nonconformity practices, the company's efforts to develop best practices throughout the entire industry, the company's ethics compliance program, the company's involvement with any trade groups, and the company's status as an approved supplier with other customers.

Even if a company is not the subject of a debarment or suspension proceeding and it does business or wants to do business with the government, it should still consider creating a document that shows how all of the above-referenced factors establish its own strengths and weaknesses.

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