

September 16, 1986

UNRESTRICTED CONT

B-219262

DIGEST

1. By this memorandum, these four recommendations are approved for implementation: (1) that the General Accounting Office (GAO) no longer make independent distribution (independent of distribution through the General Services Administration's (GSA's) "List of Debarred, Suspended, and Ineligible Contractors") of the Comptroller General's "List of Persons or Firms Currently Debarred for Violations of Various Public Contracts Acts Incorporating Labor Standards Provisions;" (2) that GAO no longer consolidate the Comptroller General's list; (3) that GAO publish the Comptroller General's list monthly; and (4) that GAO use the same format for entries as that used by GSA.

2. By this letter, government officers, contractors, and other interested parties, are notified: (1) that the General Accounting Office (GAO) will no longer make independent distribution (independent of distribution through the General Services Administration's (GSA's) "List of Debarred, Suspended, and Ineligible

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Contractors") of the Comptroller General's "List of Persons or Firms Currently Debarred for Violations of Various Public Contracts Acts Incorporating Labor Standards Provisions;" and (2) of the availability of GSA's list.

GAO

United States
General Accounting Office

Memorandum

~~CONFIDENTIAL~~ Released
9/22/86

Date: September 16, 1986
To: Group Director, Claims Group/GGD - Gerald R. Miller

From: General Counsel - *Harry R. Van Cleve*
Harry R. Van Cleve

Subject: Changes Involving the Comptroller General's
"List of Persons or Firms Currently Debarred
for Violations of Various Public Contracts Acts
Incorporating Labor Standards Provisions" -
B-219262-O.M.

As you are aware, we have received several suggestions regarding the Comptroller General's "List of Persons or Firms Currently Debarred for Violations of Various Public Contracts Acts Incorporating Labor Standards Provisions." In response, the General Accounting Office will:

- no longer make independent distribution of the Comptroller General's list;
- no longer consolidate the Comptroller General's list;
- publish the Comptroller General's list monthly; and
- use the same format for entries as that used by the General Services Administration.

I have attached a memorandum dated September 3, 1986, from Mr. Stewart Graham of my staff which provides details on these changes. Please make these changes as soon as practical. For your information, I have also attached a copy of the notification letter being sent to current recipients of the list.

Thank you.

Attachments

GAO

United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-219262

September 16, 1986

TO: Government Contracting Officers, Contractors
and Other Interested Parties

SUBJECT: The Comptroller General's "List of Persons or Firms
Currently Debarred for Violations of Various Public
Contracts Acts Incorporating Labor Standards
Provisions"

The General Accounting Office (GAO) has long distributed the Comptroller General's "List of Persons or Firms Currently Debarred for Violations of Various Public Contracts Acts Incorporating Labor Standards Provisions" directly to government officers, contractors, and other interested parties upon request. Since 1982, GAO has also distributed it through the General Services Administration (GSA). The GSA incorporates that list in its "List of Debarred, Suspended, and Ineligible Contractors."

In accordance with 48 C.F.R. Subpart 9.4 (1985), GSA's list is to be a current, consolidated list of all contractors debarred, suspended, or declared ineligible by agencies or GAO. See specifically section 9.404(a)(1). This list is revised and distributed monthly. Since it is more comprehensive than--and includes--the Comptroller General's list, GAO's independent distribution of the Comptroller General's list serves little purpose.

In the interest of economy and efficiency, GAO will no longer make independent distribution of the Comptroller General's list. Federal agencies may purchase their annual GSA list requirements in bulk from the United States Government Printing Office at cost and provide for their internal distribution; specific instructions concerning subscriptions to GSA's list have been given to each agency's designated procurement executive. Other parties interested in obtaining subscriptions to GSA's list should contact:

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The Superintendent of Documents
United States Government Printing Office
Washington, D.C. 20402

The commercial telephone number is: (202) 783-3238; the
Federal Telecommunications System (FTS) number is: 783-3238.

Sincerely yours,

Harry R. Van Cleve

Harry R. Van Cleve
General Counsel

Memorandum

Date: September 3, 1986

To: General Counsel - Harry R. Van Cleve
 THRU: Deputy General Counsel - James F. Hinchman
 Associate General Counsel - Henry R. Wray *Henry R. Wray*
 Assistant General Counsel - Robert L. Higgins
 From: Attorney-Adviser - Wm. Stewart Graham *Wm. Stewart Graham*

Subject: Proposed Changes Involving the Comptroller General's "List of Persons or Firms Currently Debarred for Violations of Various Public Contracts Acts Incorporating Labor Standards Provisions" - B-219262-O.M.

We have received several suggestions regarding the Comptroller General's "List of Persons or Firms Currently Debarred for Violations of Various Public Contracts Acts Incorporating Labor Standards Provisions." I have discussed these suggestions with the suggestors and representatives of the General Services Administration (GSA), the Department of Labor (DOL), and the General Accounting Office's (GAO's) Claims Group. Based on these suggestions and discussions, I recommend that:

- GAO no longer make independent distribution of the Comptroller General's list;
- GAO no longer consolidate the Comptroller General's list;
- GAO publish the Comptroller General's list monthly; and
- GAO use the same format for entries as that used by GSA.

All of the parties consulted agree with these recommendations. A discussion of these recommendations follows.

DISTRIBUTION

Since 1982, GAO has distributed the Comptroller General's list through GSA. The GSA incorporates that list in its "List of Debarred, Suspended, and Ineligible Contractors." In accordance with 48 C.F.R. Subpart 9.4 (1985), GSA's list is to be a current, consolidated list of all contractors debarred, suspended, or declared ineligible by agencies or GAO. See specifically section 9.404(a)(1).

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Upon request, GAO has independently distributed the Comptroller General's list to government officers, contractors, and other interested parties. All such interested parties should be using the more comprehensive GSA list. Therefore, GAO's independent distribution of the Comptroller General's list is unnecessary.

In a memorandum dated June 26, 1985, Mr. Gary W. Carbone, Director, Fraud Referral and Investigations Group, Accounting and Financial Management Division, suggested that we no longer distribute the Comptroller General's list beyond GSA. Specifically, Mr. Carbone stated:

"There are currently 289 agencies and individuals on GAO's quarterly and interim mailing lists. This distribution seems redundant in light of GSA's more complete listing."

* * * * *

"Since GSA's list was created to centrally disseminate debarment information, continued dissemination of GAO's list beyond GSA seems counterproductive."

There is no legal prohibition to the implementation of this suggestion. There are statutes that require the Comptroller General to make certain distribution of his list. The most extensive of these statutes is the Service Contract Act of 1965 (41 U.S.C. §§ 351-358 (1982)), which provides: "The Comptroller General is directed to distribute a list to all agencies of the Government giving the names of persons or firms that the Federal agencies or the Secretary [of Labor] have found to have violated this [act]." 41 U.S.C. § 354. See the Walsh-Healey Act, 41 U.S.C. §§ 35-45 (1982), for similar language requiring distribution to "all agencies of the United States." 41 U.S.C. § 37. No statute requires that the Comptroller General distribute his list directly, rather than through GSA. Since all Federal procurement officers should be using the more comprehensive GSA list (see 48 C.F.R. § 9.404(c)(5)), as a practical matter the Comptroller General's list is being distributed to all Federal government entities.

Some Federal government contracts require contractors to certify that they are not on the Comptroller General's list.

Usually, such certifications by the contractors are made without actual reference to that list. Some contractors call GAO to verify that they are not on that list before making such certifications. Even less frequently, some contractors have GAO send them that list to verify directly that they are not on it. Only this last group of contractors would be affected by this proposed change: while that list is distributed to them without charge, the annual subscription for GSA's list is \$23. This is not unduly burdensome, especially since GSA's list is widely available to contractors for reference without charge.

At present, GAO independently produces and distributes the Comptroller General's list to 291 entities at an approximate annual cost of \$9,160 (this includes \$5,760 in Claims Group and Office of General Counsel personnel costs, and \$3,400 in mailing and other production costs). This cost will increase: over the past several years, while the number of distributees has remained relatively constant, the length of that list has increased at about a 48.5 percent annual rate. The proposed change would reduce the approximate annual cost to \$5,760 (this is all Claims Group and Office of General Counsel personnel costs, since the mailing and other production costs would be minimal).

Therefore, in the interest of economy and efficiency, I recommend that GAO no longer make independent distribution of the Comptroller General's list. That list would continue to be distributed through GSA. I have attached a letter that I propose be sent to the entities to whom GAO independently distributes the Comptroller General's list notifying them of this change and the availability of GSA's list.

CONSOLIDATION

Under 48 C.F.R. § 9.404(a)(2), GSA's list is to be revised and distributed quarterly, and monthly supplements to it are to be issued to all agencies and GAO. In practice, that list is revised and distributed monthly, and is supplemented weekly. The weekly supplements are not included in the subscription to GSA's list, although the monthly publication consolidates all new entries, weekly supplements, and continuing entries from the previous monthly publication.

The Comptroller General's list is published quarterly, with semi-monthly supplements. Each semi-monthly supplement consolidates all new entries and the prior semi-monthly

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supplement. Each quarterly publication consolidates all new entries, the prior semi-monthly supplement, and continuing entries from the previous quarterly publication.

The consolidation function requires the repetition of the preparation and review of entries, consuming about one-half of the Claims Group and Office of General Counsel personnel costs. The elimination of the consolidation function would further reduce the approximate annual cost to GAO of the Comptroller General's list from \$5,760 to \$2,880. Since GSA's list consolidates all entries that GAO sends GSA, as a practical matter GAO has no need to consolidate the Comptroller General's list. Therefore, again in the interest of economy and efficiency, I recommend that GAO no longer consolidate the Comptroller General's list.

PUBLICATION INTERVAL

As noted above and by Mr. Carbone in his memorandum, there are differences between the publication intervals used for the Comptroller General's list and GSA's list. Mr. Carbone has stated that, "recipients of both lists may be confused by the frequency of publication (semi-monthly, monthly, and quarterly)." Confusion aside, if GAO is going to make general distribution of the Comptroller General's list through GSA, the Comptroller General's list should be published at the same interval as the GSA list used to distribute it. (Publication of the Comptroller General's list at odd intervals would just delay its general distribution until GSA's list was published.) Since only GSA's monthly consolidated list receives general distribution, the Comptroller General's list should be published at that interval. (Also, it should be published sufficiently in advance of GSA's list to permit its timely consolidation with GSA's list.)

While the timing of debarments and their terminations can be of great importance to contractors bidding on Federal government contracts, publication of the Comptroller General's list on a monthly basis provides a reasonable maximum length of time between the decision to debar and the act of debarment. Assuming that GAO will no longer perform the consolidation function, the cost savings of this would be minimal: the number of debarments would be the same whether the Comptroller General's list was published monthly or

semi-monthly. Therefore, in the interest of consistency, I recommend that GAO publish the Comptroller General's list monthly.

FORMAT FOR ENTRIES

Finally, in his memorandum Mr. Carbone has stated that, "recipients of both lists may be confused by the * * * different formats for presenting the lists, and the listing by GAO of dates of debarments as opposed to GSA's listing of the date the suspension is lifted." Again confusion aside, if GAO is going to make distribution of the Comptroller General's list through GSA, the format for entries used by GAO should be consistent with the format for entries used by GSA. It is inefficient for GAO to use one format which GSA then has to convert to a different format.

Since GAO puts the raw information into a finished entry format, GAO should save GSA the additional effort of converting GAO's format to the GSA format by putting the raw information into the GSA format rather than the current GAO format. This would entail: adding street addresses and zip codes; using debarment termination dates, rather than the debarment dates (except where the debarment is for an indefinite period of time, in which situation GSA specifies that the debarment is for an indefinite period of time); and using GSA's debarment codes (which are categorical, having the advantage of generally not needing amendments to provide for debarments under statutes not previously used), rather than GAO's debarment codes (which are statute-specific, and have needed amendments three times in the last 2 years to provide for debarments under statutes not previously used). While the cost to GAO of these changes would be minimal, the cost savings to GSA would be significant. Therefore, in the interest of consistency for GAO, and economy and efficiency for GSA, I recommend that GAO use the same format for entries as that used by GSA.

Attachment

cc: Mr. Carbone
Mr. Miller

1.
BIDDERS
Debarment
Listing

2.
BIDDERS
Debarment
Listing