



ADMINISTRATIVE COMPLIANCE AGREEMENT



This Compliance Agreement (Agreement) is made between the United States Army (Army) and [REDACTED] Quality Enterprises, USA, Inc., and Quality Environment Company, Inc. (hereinafter QEUSA, QEC, or Contractor).

A. PREAMBLE

1. On 28 May 2003, a Federal Grand Jury in the United States District Court, Middle District of Florida, returned a one-count indictment against [REDACTED] for violation of 18 U.S.C. § 1001, False Statements. QEUSA is a company incorporated in the Commonwealth of Virginia engaged in the removal and replacement of service station tanks and excavation and grading. [REDACTED] is the president/treasurer and an owner of QEUSA. QEC is a company incorporated in the Commonwealth of Virginia engaged in environmental testing and the removal of contaminated waste. [REDACTED] is the vice president and an owner of QEC.

2. In 1999, [REDACTED], on behalf of QEUSA, caused a bid to be submitted to the U.S. Army Corps of Engineers (USACE) in Mobile, Alabama for a contract to be performed at Fort Buchanan, Puerto Rico. After review by the Contracting Officer, it was determined that QEUSA's bid price was considerably lower than the Government estimate. Accordingly, the Contracting Officer notified [REDACTED] and requested that QEUSA review their bid for errors. Subsequently, QEUSA responded via letter to USACE and stated that approximately \$277,000.00 in profit and general and administrative overhead costs were mistakenly left out of the original bid. That was a false statement.

3. On 17 July 2003, [REDACTED] entered into the Pretrial Diversion Program which was scheduled to last 18 months. On 28 July 2003, based on his entrance into the Pretrial Diversion Program, [REDACTED] indictment was dismissed. On 29 September 2003, [REDACTED] QEUSA, and QEC were suspended from future contracting with the executive branch of the U.S. Government. On 15 January 2004, [REDACTED] completed the Pretrial Diversion Program 12 months early. He completed six months of supervision satisfactorily and made full payment of restitution at the beginning of his supervision.

4. In order to assure its present responsibility, Contractor agrees to take the remedial actions specified in Section C, subject to the terms and conditions described in Sections D and E.

5. The Army has determined that the terms and conditions of this Agreement provide adequate assurance that the interests of the Government will be sufficiently protected to preclude the necessity of debarment or further suspension of the Contractor. The current suspension of the Contractor will be terminated immediately upon the effective date of this Agreement.

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NOW THEREFORE, in consideration of the promises set forth herein and for good and valuable consideration, the parties mutually agree as follows.

B. DEFINITIONS

1. "Contractor" refers to [REDACTED] QEUSA, and QEC, including its directors, officers, and employees, while acting in their capacities as such.
2. "Days" refers to "calendar days."
3. "Effective date" (of this Compliance Agreement) refers to the date on which the Army's Suspension and Debarment Official signs this Agreement on behalf of the Army.
4. "Employee" refers to officers, managers, and supervisors. All full and part-time workers and consultants will be considered employees for training purposes.
5. "FAR" refers to the Federal Acquisition Regulation.
6. "Government" refers to any department, agency, division, independent establishment, or wholly owned corporation of the United States Government.
7. "Independent cause" for suspension or debarment refers to a reason or basis for such action not directly related to information set forth in the Preamble or any document referred to in the Preamble.
8. "Ethics Program Director/Ombudsman" refers to an independent attorney, certified public accountant, or other expert knowledgeable in the area of Federal Government contracting policies and procedures who will audit Contractor compliance with the terms of this Agreement.

C. CONTRACTOR RESPONSIBILITY PROGRAM

1. **General.** Contractor shall institute a Contractor Responsibility Program involving all its employees. The program shall be designed to ensure that Contractor maintains the high standard of business integrity and honesty required of Government contractors and that Contractor's performance of Government contracts is in strict compliance with their terms. At a minimum, the Program shall include the following features, which are described in greater detail below:

- a. Notification to employees of this Agreement;

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- b. Adoption of a Code of Business Ethics and Conduct;
- c. Publication of a Government Contracting Policies and Procedures Manual;
- d. Establishment of a training program in business ethics and Government contracting for all Contractor employees;
- e. Appointment of an Ethics Program Director/Ombudsman; and
- f. Installation of an employee hotline to report suspected instances of improper conduct;

2. Notification of This Agreement. Within 30 days of the effective date of this Agreement, Contractor's President shall prepare and display, in a prominent place accessible to all employees, a letter stating that Contractor has entered into an administrative Compliance Agreement with the Army. A copy of the President's letter will be forwarded to the Army for approval prior to distribution and will describe this Agreement and Contractor's responsibilities thereunder. The letter shall state:

- a. The basis for this Agreement;
- b. Contractor's commitment to observing all applicable laws and regulations, and to maintaining the highest standards in conducting business with the United States Government;
- c. A brief description of the features of the Contractor Responsibility Program;
- d. The name, address, and toll-free hotline and local telephone number of the Contractor's Ethics Program Director/Ombudsman;
- e. The availability of the Ethics Program Director/Ombudsman for consultation on any questions concerning Contractor's business practices or employee responsibilities, including required reporting of improprieties; and
- f. That all improprieties regarding Government operations shall be reported to the Ethics Program Director/Ombudsman who will conduct an investigation followed by appropriate corrective action, and that employees may make such reports without revealing their identity.

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3. Code of Business Ethics and Conduct.

a. Contractor shall create, maintain, and revise, as necessary, a Code of Business Ethics and Conduct (Code). The Code shall be designed to ensure that Contractor maintains the business integrity and honesty required of a Government contractor, and that Contractor's performance is in strict compliance with the terms and conditions of its Government contracts.

b. Within 30 days of the effective date of this Agreement, Contractor shall submit a draft Code of Business Ethics and Conduct to the Army for written approval. If the Army objects to the Code of Business Ethics and Conduct, Contractor shall promptly revise the Code to meet the Army's objections and resubmit it for approval.

c. Elements of the Code of Business Ethics and Conduct. The Code shall include at a minimum:

(1) A statement of Contractor's commitment to comply with the contractor responsibility provisions of the FAR and all other applicable laws and regulations concerning the conduct of Government contracting or subcontracting;

(2) A statement of Contractor's commitment to fully cooperate with any Government agencies responsible for either investigation or corrective actions;

(3) Specific standards of conduct for Contractor employees concerning their business dealings with the Government on behalf of Contractor;

(4) Notice that Contractor will immediately discipline, to include termination if appropriate, employees or officers whose conduct violates applicable laws, regulations, or the basic tenets of business integrity and honesty set forth in the Code of Business Ethics and Conduct; and

(5) A requirement that Contractor employees report to the Ethics Program Director/Ombudsman any impropriety or violation of this Agreement, whether committed by Contractor, a vendor, a subcontractor, or a Government employee.

4. Government Contracting Policies and Procedures Manual.

a. Contractor shall establish and maintain a written Government Contracting Policies and Procedures Manual (Manual) to regulate the performance of its Government contracts. The Manual shall describe, in detail, Contractor's method for competing for and administering

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Government contracts and the positions responsible for performing, approving, and reviewing these tasks.

b. Contractor management shall monitor employee compliance with the policies and procedures set forth in the Manual, and consider such compliance when making decisions concerning personnel decisions, including compensation.

c. Within 60 days of the effective date of this Agreement, Contractor shall submit a draft Manual to the Army for written approval. If the Army objects to the Manual, Contractor shall promptly revise it to meet the Army's objections and resubmit it for approval. At a minimum, the Government Contracting Policies and Procedures Manual will be updated annually.

5. Training Program.

a. Army Approval of Training Plans. Within 30 days of the effective date of this Agreement, Contractor shall provide the Army a training plan with a detailed description of course materials it intends to use in Ethics and Government Contracting training classes. If the Army rejects a plan, Contractor will promptly propose another plan.

b. Ethics Training. Within 60 days of the approval of the training plan by the Army, pursuant to paragraph a above, Contractor shall provide all its employees with a copy of its Code of Business Ethics and Conduct and conduct initial training in Ethics. All employees shall sign and date a roster, certifying that they attended training and received and read a copy of the Code of Business Ethics and Conduct. Contractor shall ensure that newly hired employees receive training, a copy of the Code of Business Ethics and Conduct, and sign and date a roster certifying they attended training and received and read a copy of the Code.

c. Government Contracting Training. Within 60 days of the approval of the training plan by the Army, pursuant to paragraph a above, Contractor shall provide employees specialized training in laws, regulations, and contractor policies and procedures related to Government contracting. These employees shall sign and date a roster certifying that they attended the training and were familiarized with the Government Contracting Policies and Procedures Manual, which is readily accessible to them.

d. Frequency and Certification of Training. Contractor shall conduct and update all ethics and Government contracting training and employee certifications annually. The Ethics Program Director shall maintain all employee certification rosters for ethics and Government contracting training and make them available to the Army upon request.

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e. Notice of Training. Contractor will provide the Army a schedule of all Ethics and Government Contracting training sessions at least 15 days in advance, so the Army may attend the training.

6. Ethics Program Director/Ombudsman. Contractor shall appoint an outside individual as the Ethics Program Director/Ombudsman. The Ethics Program Director/Ombudsman shall serve as the Contractor's first point of contact for all questions regarding the terms and conditions of this Agreement and Contractor implementation of this Agreement; investigate complaints concerning Contractor's compliance with this Agreement; and report to the Army concerning Contractor's compliance with this Agreement.

a. Appointment of Ethics Program Director/Ombudsman. Within 30 days of the effective date of this Agreement, Contractor shall nominate an individual, not an employee, to serve as an Ethics Program Director/Ombudsman at Contractor's expense for the oversight of this Agreement. Contractor shall provide the Army with the name, telephone number, current position, resume, and duties of the nominee for Army approval. Should the Army reject the nominee, Contractor shall promptly nominate another Ethics Program Director/Ombudsman for Army approval. Furthermore, any change of Ethics Program Director/Ombudsman requires prior Army approval, and should the Army become dissatisfied with the performance of the Ethics Program Director/Ombudsman, the Army may require Contractor to propose a new Ethics Program Director/Ombudsman, subject to Army approval.

b. Nature of Employment. The Ethics Program Director/Ombudsman is an independent check upon the Contractor's compliance with this Agreement. The Ethics Program Director/Ombudsman shall not be an agent of the Contractor, and his work shall not be subject to the Contractor's assertion of the attorney-client privilege or the work product doctrine. Generally, it will be the Ethics Program Director/Ombudsman's duty to assist management in implementing this Agreement, serve as a point of contact for all questions regarding the terms and conditions of this Agreement, investigate complaints concerning Contractor's compliance with this Agreement, and report to the Army concerning Contractor's compliance with this Agreement. If not an attorney, the Ethics Program Director/Ombudsman may consult with an attorney, at Contractor's expense, in performing any of his responsibilities under this Agreement.

c. Annual Certification of Independence. Upon nomination, and upon each anniversary of the effective date of this Agreement during its tenure, Contractor shall furnish the Army with an affidavit from the Ethics Program Director/Ombudsman certifying that he/she has no financial interest in, or other relationship with, the Contractor or its affiliates, other than that arising from his/her appointment as the Ethics Program Director/Ombudsman. The affidavit must also certify that his representation of any other client will not create a conflict of interest or appearance

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thereof in fulfilling his responsibilities as Ethics Program Director/Ombudsman. Any change in relationships that would affect these certifications must be reported to the Army before they occur or as soon as the Ethics Program Director/Ombudsman or Contractor learns of them.

d. Particular Duties. The Ethics Program Director/Ombudsman will investigate all allegations of violations of this Agreement, Government contract laws, rules, and regulations, or other matters that raise questions concerning Contractor's present responsibility. For this purpose, the Ethics Program Director/Ombudsman, at the conclusion of each investigation, shall provide a written report to Contractor's president and to the Army, detailing the substance of the allegations, evidence revealed by the investigation, and the findings and recommendations. Contractor shall take corrective actions where appropriate. The Ethics Program Director/Ombudsman's complete investigative file shall be furnished to the Army. This provision does not preclude participation in the Department of Defense Voluntary Disclosure Program.

7. Hotline.

a. General. Within 30 days of the effective date of this Agreement, Contractor shall establish and maintain a toll-free "hotline" number by which employees may report to the Ethics Program Director/Ombudsman suspected incidents of improper conduct, to include fraud, waste, and abuse, or violation of the terms of any contract or this Agreement. The "hotline" number and the name and address of the Ethics Program Director/Ombudsman shall be prominently displayed in all employee work and break areas, and included in all appropriate internal employee and management publications. These notifications shall describe the hotline's purpose, and explain that reports may be made anonymously, that all anonymous reports will be acted upon in the same manner as identifiable reports.

b. Hotline Log. The Ethics Program Director/Ombudsman shall maintain a log of all hotline calls, to include: date and time of call; identity of caller, if disclosed; summary of allegation or inquiry; and general resolution or referral. The Ethics Program Director/Ombudsman shall ensure that each call is adequately investigated and resolved. Hotline investigation reports shall be provided to the Army. Contractor shall not assert an attorney-client or work-product privilege with respect to the hotline log, investigative reports, or their contents.

8. Reports to the Army. The Ethics Program Director/Ombudsman shall submit a quarterly report to the Army that is postmarked no later than seven days after the first day of October, January, April, and July of each year that this Agreement is in effect, until this Agreement has expired. The report shall include:

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a. A description of the training conducted that is required by this Agreement and the number of persons who attended, including a statement of the percentage of total employees trained year to date as of the date of the report.

b. The total number of hotline calls and other contacts made or referred to the Ethics Program Director and Ombudsman. This part of the report shall include:

(1) The means by which any alleged misconduct was reported (e.g., call, letter, or drop-in visit, etc.);

(2) The category of any alleged misconduct (e.g., product substitution, mischarging, defective pricing, etc.) and a brief descriptive summary thereof;

(3) Whether the alleged misconduct was substantiated, in whole or in part;

(4) Whether disciplinary action was imposed and if so, a description of that action; and

(5) Whether corrective measures other than disciplinary action were taken and if so, a description of those actions. Matters pending resolution at the time of a reporting period shall be included in each subsequent report until final resolution of all matters are reported.

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D. GENERAL CONDITIONS

1. Unallowable Costs. All costs, as defined in FAR 31.205-47, incurred for or on behalf of Contractor in response to or in preparation of Government criminal, civil, or administrative actions arising out of alleged violations described in the Preamble, and all costs incurred by Contractor in negotiating, implementing and abiding by the terms of this Agreement, shall be deemed unallowable costs, direct or indirect, for Government contract purposes. These unallowable amounts shall be separately accounted for by Contractor by identification of costs incurred: a) through accounting records to the extent possible; b) through memorandum records, including diaries and formal logs, regardless of whether such records are part of official corporate documentation, where accounting records are not available; and c) through good faith itemized estimates where no other accounting basis is available.

2. Allowable Costs. The costs of all self-governance, compliance, or ethics programs, activities and offices in existence prior to when the matters described in the Preamble of this Agreement arose and which are continued by the terms of this Agreement shall be allowable costs to the extent otherwise permitted by law and regulation.

3. Modifications of This Agreement. Any requirements imposed on Contractor by this Agreement may be discontinued by the Army at its sole discretion. Other modifications to this Agreement may be made only in writing and upon mutual consent of the parties to this Agreement.

4. Business Relationships with Suspended or Debarred Entities. Contractor shall not knowingly form a contract with, purchase from, or enter into any business relationship with any individual or business entity that is listed by the General Services Administration (GSA) as debarred, suspended, or proposed for debarment. In order to implement this provision, Contractor shall make reasonable inquiry into the status of any such potential business partner, to include, at a minimum, review of the GSA's List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

5. Public Document. This Agreement is a public document that may be distributed by the Army throughout the Federal Government for official purposes and to other interested parties upon appropriate request under the Freedom of Information Act.

6. Releases. Contractor releases the United States, its instrumentalities, agents, and employees in their official and personal capacities, of any and all liability or claims, monetary or equitable, arising out of the investigation and negotiation of this Agreement.

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7. Scope of This Agreement - Suspension and Debarment for Independent Cause. This Agreement in no way restricts the authority, responsibility, or legal duty of the Army, or any other federal agency to consider and institute suspension or debarment proceedings against Contractor based upon information constituting independent cause for suspension or debarment concerning events unrelated to the facts and circumstances set out herein, including, but not restricted to, any substantive allegations of wrongdoing under any past, present, or future hotline complaint or security program investigations. The Army or any other federal agency may, in its sole discretion, initiate such proceedings in accordance with the FAR Subpart 9.4.

8. Survival of This Agreement. If, during the term of this Agreement, Contractor establishes new companies or subsidiaries, merges with another company, or transfers the entire company or major assets to new owners, it shall notify the Army 90 days in advance of such action and provide a copy of the corporate documents. This Agreement shall inure to the benefit of, and be binding upon, the parties and their respective successors and assigns, unless the new owners request and show good cause why it should not be applicable to their operations. Bankruptcy proceedings shall not prevent or stay the enforcement of this Agreement or any debarment proceedings the Army deems to be appropriate should the parties fail to comply with the terms of this Agreement, or engage in such other conduct that is a cause for suspension or debarment.

9. Truth and Accuracy of Submissions. Contractor represents that all written materials and other information supplied to the Army by its authorized representatives, during the course of discussion with the Army preceding this Agreement are true and accurate in all material respects, to the best of the Contractor's information and belief.

10. Violations of This Agreement. Any violation of this Agreement that is not corrected within ten days from the date of receipt of notice from the Army may constitute an independent cause for debarment. If correction is not possible within ten days, Contractor shall present an acceptable plan for correction within that ten-day period. The Army may, at its sole discretion, initiate suspension or debarment proceedings in accordance with FAR Subpart 9.4. Alternatively, in the event of any noncompliance, the Army may in its sole discretion extend this Agreement for a period equal to the period of noncompliance. Contractor does not, by this Agreement or otherwise, waive its right to oppose such action under FAR Subpart 9.4, or any other substantive, procedural, or due process rights it may have under the Constitution or other applicable laws or regulations of the United States.

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E. ADMINISTRATION OF AGREEMENT

1. Addresses for Agreement Correspondence. All submissions required by this Agreement shall be delivered to the following addresses, or such other addresses as the parties may designate in writing.

If to the Army:

Procurement Fraud Branch
U.S. Army Legal Services Agency
ATTN: DAJA-CA-PF (Sheryl A. Butler, Esq.)
901 North Stuart Street - Suite 700
Arlington, Virginia 22203-1837

If to Contractor:

[REDACTED]
Vandeventer Black, LLP
500 World Trade Center
Norfolk, Virginia 23510

2. Certification of Compliance. Within 90 days of the effective date of this Agreement, Contractor will provide the Army a certification that all terms and conditions of this Agreement have been implemented or will be satisfied within the times specified in this Agreement.

3. Access to Books and Records.

a. During the term of this Agreement, the Army Procurement Fraud Branch (PFB), or any agency or office of the Department of Defense designated by PFB for a particular inquiry, shall have the right to examine, audit, and reproduce Contractor's books, records, documents, and supporting materials related to any report, allegation or complaint of suspected wrongdoing, whether criminal, civil, administrative, or contractual and whether reported through the hotline program, or by any other means, and any resulting inquiries or investigations related thereto. Such hotline reports, inquiries, investigations, and all related books, records, documents and supporting material are considered by Contractor to be administrative and managerial and are not investigations, books, records, documents, material, reports, or investigations protected by the attorney-client privilege or any other privilege.

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b. Additionally, PFB or its designee shall have the opportunity to review the books, records, documents, materials, reports, and investigations directly related to compliance with this Agreement.

c. PFB or its designee shall also have the opportunity to interview any Contractor employee for the purpose of evaluating (1) compliance with the terms of this Agreement; (2) future compliance with federal procurement policies and regulations; and (3) maintenance of the high level of business integrity and honesty required of a Government contractor.

d. The interviews and materials described above shall be made available to PFB or its designee at company offices at reasonable times. Contractor's obligation under this Agreement with respect to employee interviews is limited to making its employees available for an interview at their place of employment during normal business hours. The individual employee shall have the right to determine whether or not to submit to an interview. To the extent it is permitted to do so by law, regulation, or policy, the Army shall protect Contractor's confidential and proprietary business information from public disclosure.

e. The materials described above shall be made available, at Contractor's offices at reasonable times for inspection, audit, or reproduction. PFB or its designee shall not copy or remove Contractor's technical or other proprietary data without Contractor's permission.


4. Corporate Officer List. Within 30 days of the effective date of this Agreement, Contractor shall provide the Army with a list of its directors and officers and a copy of its organizational chart, which will be updated, as changes occur.

5. Administrative Costs. Within ten days of the effective date of this Agreement, Contractor shall deliver a check in the amount of \$5,000 to the Army, payable to Treasurer of the United States, in order to compensate the Army for the cost of negotiating and administering this Agreement, to include costs associated with Army visits to Contractor and any of its divisions or its subsidiaries authorized under this Agreement.

6. Expiration. This Agreement shall expire at midnight three years after the effective date of this Agreement.

UNITED STATES ARMY

By


ROBERT N. KITTEL

Army Suspension and Debarment Official

3/11/04
Date

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United States Army and [REDACTED] Quality Enterprises, USA, Inc. and Quality Environment Company, Inc.

By [REDACTED]
(Individually)

2/5/04
Date

QUALITY ENTERPRISES, USA, INC.

By [REDACTED]

2/5/04
Date

QUALITY ENVIRONMENT COMPANY, INC.

By [REDACTED]
Vice President

2/5/04
Date

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