

Subject: KTurbo Suspension Notice
Attachments: Attachment Not Posted

Importance: High

From: Timothy Connor/DC/USEPA/US
To: CWSRF Program
Date: 04/21/2011 09:11 AM
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The following is a notice from Wendel Askew in OGC re: KTurbo. +++++++
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On April 19, 2011, EPA's Suspension and Debarment Official issued Notices of Suspension to KTurbo, Inc., KTurbo USA, Inc., Heon Seok Lee, and Trinity Lee a/k/a Seung Eun Lee (collectively KTurbo) that excludes KTurbo from participating in certain Federal contracts and assistance activities (suspension). The suspension is based on allegations of fraudulent, criminal or other improper conduct in connection with performing federally funded contracts subject to the Buy American requirements of the American Recovery and Reinvestment Act of 2009 (ARRA). The suspension – effective upon signature of the Notices of Suspension – renders KTurbo temporarily ineligible for procurement and nonprocurement transactions pending the completion of an investigation or legal proceedings. However, the suspension does not invalidate transactions entered into prior to its effectiveness on April 19, 2011.

The suspension is governed by OMB regulations at 2 CFR 180 as adopted by EPA regulations at 2 CFR 1532 (regulations). OMB's regulations define nonprocurement transactions to include, among other things, grants and loans. Under the regulations, the suspension applies to EPA grants and in some cases impacts transactions entered pursuant to a grant. Because the applicability of the suspension extends beyond direct EPA awards and flows down to subsequent transactions, KTurbo is prohibited from receiving federal funds by participating in contracts, grants, subgrants, subcontracts, or loans in the situations described below:

- KTurbo may not contract directly with a federal agency or receive federal grants, loans or federally guaranteed loans. Federal prime contractors may not enter into subcontracts with KTurbo that require Government consent or other subcontracts in excess of \$30,000 unless there is a compelling reason to do so and inform the Government of that reason.

- The "flow down" effect of the KTurbo suspension in the CWSRF context is based on the duty of a participant in a primary tier transaction, in this case the recipient of CWSRF capitalization grant funds, to ensure that participants in lower tiered "covered" transactions such as municipalities receiving loans and their prime contractors do not award subcontracts to KTurbo that are financed with federal funds.

Essentially, municipalities and their prime contractors may not use proceeds of a CWSRF loan that comes directly from a capitalization grant to acquire blowers or other equipment from KTurbo if the purchase price is greater than or equal to \$25,000 or if the terms of the CWSRF loan require that EPA approve or consent to the subcontract with KTurbo.

Consequently, the primary effect of the suspension would be to prevent CWSRF

loan recipients to use federal funds to acquire major system components from KTurbo.

I've included a chart from the OMB regulations illustrating the transactions covered by the suspension.

The suspension does not cover CWSRF transactions that do not involve Federal funds, such as transactions funded solely with State over-match, bond proceeds, or repayments from prior CWSRF loans.

If you have further questions please let me, or Jim Drummond, know.
Thanks.

(See attached file: Covered transactions chart.pdf)

Wendel Askew
Assistant General Counsel for Assistance Law
Civil Rights and Finance Law Office
Office of General Counsel
Mail Code 2399A
Room 7454H ARN
202-564-3987

(See attached file: Covered transactions chart.pdf)