

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF HEARINGS AND APPEALS
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In the Matter of

DOLORES CROSS,

Docket No. 07-30-DA
Debarment Proceeding

Respondent.

DECISION

On June 29, 2007, the United States Department of Education (Department), issued a Notice of Proposed Government-Wide Debarment from Federal Procurement and Non-Procurement Transactions (Notice) to Dr. Dolores Cross (Respondent). I have jurisdiction over this matter by virtue of a delegation of authority from the Director, Office of Hearings and Appeals, U.S. Department of Education. The June 29, 2007 Notice informed Respondent that the proposed debarment was based upon her May 1, 2006 criminal conviction for offenses, which occurred while she was serving as President of Morris Brown College in Atlanta Georgia.

On July 24, 2007, Respondent filed a request that certain alleged mitigating factors be taken into consideration in this proceeding and that an Order of Debarment would be unnecessary and excessive. On August 17, 2007, I issued an Order Governing Proceedings directing Respondent to file information in opposition to the proposed debarment. The Respondent filed a Brief Opposing Debarment on September 4, 2007, followed by the Department's brief and exhibits on behalf of its Notice Debarment and Suspension Official on October 11, 2007. On October 29, 2007, Respondent filed a reply brief to the Department's brief.

According to the Notice, Respondent pled guilty to count 27 of a 34 count federal Indictment to Aiding and Abetting the Embezzlement of Education Funds in violation of 20 U.S.C. § 1097(a) on May 1, 2006. In support of the Notice, the Department attached the criminal indictment and the Respondent's January 26, 2007 criminal conviction.

In her guilty plea, the Respondent accepted responsibility for her criminal actions and was fined \$3000. Additionally, the federal court ordered her to serve 500 hours of community service and restitution in the amount of \$13,942 to the Department of Education. In lieu of imprisonment, the Respondent was placed on probation for a term of 5 years. As a special condition of the probation, the Respondent was ordered to home confinement for 12 months and required to wear an electronic monitoring device for 6 months.

To ensure the integrity of its programs, the federal government only conducts business with responsible persons. Debarment is an action to exclude a person not considered responsible from participating in covered transactions under non-procurement programs and activities of any federal agency and transactions covered under the Federal Acquisition regulation (i.e. federal procurement transactions). Debarment may be imposed upon an individual for a criminal conviction for fraud, embezzlement, falsification of records, making false statements and making false claims. In a debarment proceeding, the Department must demonstrate that a cause for debarment exists by a preponderance of the evidence. If the Department's proposed debarment is based upon a criminal conviction, the Department's standard of proof is met. Respondent then must demonstrate that he or she is presently responsible and that debarment is not necessary. 34 C.F.R. §§ 85.800-885.

The Department has established to my satisfaction that Respondent was convicted of criminal offenses that constitute a cause for debarment. Respondent presented strong and convincing evidence that she has had a distinguished career in higher education, did not personally benefit from the misuse of federal funds at Morris Brown College and has held numerous positions of trust both in and out of academia. Nevertheless, based on my review of the evidence, I find that Respondent's May 1, 2006 criminal conviction supports the proposed debarment.

The period of debarment is to be commensurate with the seriousness of the cause(s) of debarment, generally not to exceed three years. 34 C.F.R. § 85.860. Based upon the circumstances here and Dr. Cross's significant contributions to higher education, I have determined that a period of debarment of one year from the date of this decision is warranted.

ORDER

On the basis of the foregoing, it is hereby ORDERED that Dr. Dolores Cross be debarred from initiating, conducting, or otherwise participating in any covered transaction under the non-procurement programs and activities of any federal agency, and is ineligible to receive federal financial and nonfinancial assistance or benefits from any federal agency or activity for a period of one year. Dr. Cross may not act as a principal, as defined by 34 C.F.R. § 85.995, on behalf of any person in connection with a covered transaction. This debarment is effective for all covered transactions unless any agency head or authorized designee grants an exception for a particular transaction in accordance with 34 C.F.R. § 85.870.

Judge Richard I. Slippen
Hearing Official

Dated: August 12, 2008

SERVICE

A copy of the attached document was sent to the following:

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