# PGI 209.4 —DEBARMENT, SUSPENSION, AND INELIGIBILITY

**Parent topic:** PGI PART 209 - CONTRACTOR QUALIFICATIONS

## PGI 209.405 Effect of listing.

(1) Environmental Protection Agency (EPA) responsibilities under Executive Order 11738, Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act With Respect to Federal Contracts, Grants, or Loans, have been delegated to the EPA Suspending and Debarring Official (EPA SDO).

(i) Submit notifications and reports required by DFARS 209.405(b) to the EPA SDO at the following address:

Office of Grants and Debarments

U.S. Environmental Protection Agency

Ariel Rios Building

1200 Pennsylvania Avenue NW

Washington, DC 20640

Telephone: 202-564-5399

(ii) Unless agency procedures specify otherwise, coordinate submissions to the EPA SDO through the applicable agency suspending and debarring official.

(2) Executive Order 11738 is available at http://www.epa.gov/isdc/eo11738.htm.

(3) Contracting officers are required to review the System for Award Management (SAM) Exclusions twice, once after opening of bids/receipt of proposals (FAR 9.405(d)(1)) and again immediately prior to award (FAR 9.405(d)(4)). The contracting officer shall document the contract file for both searches; the documentation may include a copy of the SAM Exclusions search results.

## PGI 209.406 Debarment.

### PGI 209.406-3 Procedures.

(i) *Investigation and referral*. When referring any matter to the agency debarring and suspending official for consideration, provide the following specific information and documentation, to the extent practicable. Send two copies (one paper and one electronic) of each report, including enclosures.

(ii) For all referrals, provide the following:

(A) Name, address, and telephone number of the point of contact for the activity making the report.

(B) Name and address of the referred individual/contractor, CAGE code, and DUNS number, if applicable.

(C) Name and addresses of the members of the board, principal officers, partners, owners, and managers of the referred contractor.

(D) Name and addresses of all known affiliates, subsidiaries, or parent firms, and the nature of the business relationship to the referred individual/contractor.

(E) If a contracting office initiates the report, the comments and recommendations of the contracting officer and of each higher-level contracting review authority regarding—

(*1*) Whether to suspend or debar the contractor;

(*2*) Whether to apply limitations to the suspension or debarment;

(*3*) The period of any recommended debarment; and

(*4*) Whether to continue any current contracts with the contractor (or explain why a recommendation regarding current contracts is not included).

(F) To the extent that this information is available through FPDS-NG, a list of other agencies that hold current contracts with the referred individual/contractor.

(iii) For referrals based on judicial actions (indictments, convictions, civil judgments, etc.), provide the following:

(A) Copies of indictments, judgments, and sentencing actions.

(B) Copies of investigative reports when authorized by the investigative agency.

(C) Witness statements or affidavits when authorized by the investigative agency.

(D) If judicial action is contract-related, the contract number, description of supplies or services, and contract amount.

(iv) For “fact-based” referrals (no judicial action), for each contract affected by the misconduct or poor performance being reported, provide the following:

(A) The contract number, description of supplies or services, contract amount, percentage of completion, and amounts paid to and withheld from the contractor.

(B) Whether the contract is assigned under the Assignment of Claims Act and, if so, to whom.

(C) The contract fund citations involved, to expedite accurate return of funds to open accounts and commands, as appropriate.

(D) For any other contracts outstanding with the contractor or any of its affiliates, the contract number, description of supplies or services, and contract amount.

(E) A complete summary of all pertinent evidence and the status of any legal proceedings involving the contractor.

(F) An estimate of any damages sustained by the Government as a result of the contractor's action (explain how the estimate was calculated).

(G) A copy of pertinent extracts of each pertinent contract.

(H) Copies of investigative reports when authorized by the investigative agency.

(I) Witness statements or affidavits when authorized by the investigative agency.

(J) A copy of any available determinations of nonresponsibility in accordance with FAR 9.105-2(a)(1).

(K) Any other appropriate exhibits or documentation.

(b) Decision making process.

(i) The agency debarring and suspending official shall follow the procedures and decision making process stated in FAR 9.406-3(c) for proposed debarments and debarments) and FAR 9.407-3 (for suspensions), DFARS Appendix H, and any agency-specific procedures that are to be provided to the individual/contractor with the notice of proposed debarment or suspension, either by enclosure or electronic reference.

(ii) The absence of a referral in accordance with this section, or the absence of any information specified in this section, will not preclude the debarring and suspending official from making decisions to suspend, propose for debarment, or debar an individual/contractor.

(iii) The signature of the debarring and suspending official on the notice of suspension, proposed debarment, or debarment is sufficient evidence that the debarring and suspending official has made the specified decision.

(iv) If a debarring and suspending official determines that a referral lacks sufficient evidence of a cause for suspension or debarment, the debarring and suspending official may refer the matter for further review or investigation, as appropriate, by an appropriate agency or other Government entity, including a contracting activity, inspector general, auditing agency, or a criminal investigative agency.

# PGI 209.407 Suspension.

## PGI 209.407-3 Procedures.

Use similar procedures as in DFARS PGI PGI 209.406-3 for suspensions.