Subpart 309.4—Debarment, Suspension, and Ineligibility

Parent topic: PART 309—CONTRACTOR QUALIFICATIONS

309.403 Definitions.

The following definition applies to this subpart:

The HHS Suspension and Debarment Official is the Deputy Assistant Secretary (DAS) for the Office of Grants and Acquisition Policy and Accountability (OGAPA).

309.404 System for Award Management (SAM) exclusions.

(c) For actions made by HHS pursuant to FAR 9.406 and 9.407, the Office of Recipient Integrity Coordination shall perform the actions required by FAR 9.404(c).

309.405 Effect of listing (compelling reason determinations).

(a) The head of the contracting activity (HCA) (non-delegable) may, with the written concurrence of the Suspension and Debarment Official, make the determinations referenced in FAR 9.405(a) regarding contracts.

(1) If a contracting officer considers it necessary to award a contract, or consent to a subcontract with a debarred or suspended contractor, the contracting officer shall prepare a determination, including all pertinent documentation, and submit it through appropriate acquisition channels to the HCA. The documentation shall include the date by which approval is required and a compelling reason for the proposed action. Compelling reasons for award of a contract or consent to a subcontract with a debarred or suspended contractor include the following:

(i) Only the cited contractor can provide the property or services, and

(ii) The urgency of the requirement dictates that HHS conduct business with the cited contractor.

(2) If the HCA decides to approve the requested action, the HCA shall request the concurrence of the Suspension and Debarment Official and, if given, shall inform the contracting officer in writing of the determination within the required time period.

309.406 Debarment.

309.406-3 Procedures.

Refer all matters appropriate for consideration by an agency Suspension and Debarment Official as soon as practicable to the appropriate Suspension and Debarment Official identified in 309.403. Any person may refer a matter to the Suspension and Debarment Official.

309.407 Suspension.

309.407-3 Procedures.

Refer all matters appropriate for consideration by an agency Suspension and Debarment Official as soon as practicable to the appropriate Suspension and Debarment Official identified in 309.403. Any person may refer a matter to the Suspension and Debarment Official.

309.470 Reporting of suspected causes for debarment or suspension or the taking of evasive actions.

309.470-1 Situations where reports are required.

The contracting officer shall report to the HCA and the Associate Deputy Assistant Secretary—Acquisition whenever the contracting officer—

(a) Knows or suspects that a contractor is committing or has committed any of the acts described in FAR 9.406-2 or 9.407-2; or

(b) Suspects a contractor is attempting to evade the prohibitions of debarment or suspension imposed under FAR 9.405, or any other comparable regulation, by changes of address, multiple addresses, formation of new companies, or by other devices.