

Interagency Suspension & Debarment Committee (ISDC)

Section 873 Report to Congress



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Who We Are

- An unfunded interagency body established by Executive Order 12549 consisting of the Chief Financial Officers (CFO) Act agencies that pool resources, such as experience and promising practices to provide support for Federal suspension and debarment programs
- Mission: To protect the Government's business interests from potential harm posed by individuals or entities whose conduct constitute cause for exclusion, such as poor performance or a lack of business honesty or integrity
- Vision: The ISDC's vision is to promote transparency and best practices across its community to address business and integrity risks within the framework of the Federal suspension and debarment remedy
- Committee work is implemented by agency representatives who share their time and talents to support ISDC efforts as collateral duties in addition to their regular duties
- For more information, see www.acquisition.gov/isdc-home.

FYs 2021 and 2022 Summary Highlights and Accomplishments

- Referrals and all categories of exclusion declined in FY 2021, the first full year of the COVID pandemic, due in part to its impact on court proceedings and investigations, and then rebounded in FY 2022.
- The pandemic presented new challenges for agencies including the imposition of additional responsibilities in connection with establishing new Governmentwide policies and procedures and competing demands for non-debarment-related duties and roles. Agencies maintained flexible procedures to ensure continuity of operations for suspension and debarment activities despite continuing delays in mail service, travel restrictions, and postponements in court proceedings.
- During both years, alternatives to exclusion increased. The total number of administrative agreements in FY 2021 tripled to an unprecedented total, notwithstanding that negotiations of these agreements require significant additional resources. These alternatives properly address business risks and promote competition and retention of jobs for Americans, which was especially important during the pandemic.
- Agencies reported increased engagements with respondents as well as increased use of pre-notice letters by 56% from FY 2020 to FY 2022.
- Five agencies indicated that they issued administrative actions in FY 2021 and nine agencies in FY 2022 in response to COVID-related fraud.
- Notable achievements included: (1) technical support to improve consistency between procurement/nonprocurement suspension and debarment procedures; (2) support to implement National Security Presidential Memorandum-33 guidance and other efforts regarding foreign affiliation fraud, including establishment of an ISDC subcommittee; (3) launch of a pilot for an internal lead agency coordination portal; (4) training to help ensure best practices, consistency, and due process in anticipation of, and in response to, Federal workforce turnover such as a joint Council of the Inspectors General on Integrity and Efficiency and ISDC workshop, collaboration with the Federal Law Enforcement Training Center, and legal development updates; and (5) technical guidance to the Organisation for Economic Co-operation and Development through the U.S. delegation that led to the adoption of an international recommendation to consider mitigating/remedial measures in debarment matters.



Pallets of USAID COVID-19 Supplies Await Loading on Department of the Air Force Aircraft. Photo credit: USAID photo by Martha VanLieshout.

***Federal agencies have various missions and business lines, such as:**

- ◇ providing domestic and international COVID-19 relief;
- ◇ funding or issuing guidance in support of research and societal navigation of viruses, communicable diseases, and other medical conditions, and improving roads, bridges, and infrastructure;
- ◇ the provision of national security and defense;
- ◇ responding to natural disasters, including environmental restoration efforts and impact studies; and
- ◇ promoting the pursuit of knowledge, innovation, and excellence through the sciences, humanities, and arts.



Diagram of Fiber-Optic Network that Relies on High-Fidelity Information Conversion. Photo credit: NSF Multimedia Gallery, posted July 19, 2021; image courtesy of Second Bay Studios/Harvard SEAS.

Agency Actions Consider Agency Missions, Business Lines, and Coordinated Governmentwide Needs

Suspending and Debarment Officials (SDOs) and corresponding suspension and debarment programs are strategically situated in-house with expertise on the agency’s various missions, programs, and business lines. This facilitates Federal suspension and debarment programs’ consideration of the business risks posed by an entity or individual¹ and promotes coordination with impacted programs, such as agency procurement or nonprocurement programs and activities. Agencies also assess and coordinate the need for and impact of suspension and debarment actions Governmentwide through participation in the ISDC and through its internal Lead Agency Coordination Request (LACR) process.

Federal Suspension, Debarment, and Related Administrative Activities: An Overview

The Federal suspension and debarment system is governed by the Federal Acquisition Regulation (FAR) at 48 C.F.R. Subpart 9.4 and the Nonprocurement Common Rule (NCR) at 2 C.F.R. Part 180. Administrative suspensions and debarments are designed to protect the Government’s business interests from potential harm posed by individuals or entities whose conduct constitute cause for exclusion, such as poor performance or a serious or a lack of business honesty or integrity. The Government uses suspension and debarment procedures to exercise business judgment in accordance with principles of fairness and due process, through the actions of agencies’ SDOs and suspension and debarment program offices. These procedures afford parties (respondents) due process and equip Federal officials with the ability to exclude parties from participation in certain transactions as needed to protect Government operations and financial resources.

In contrast with other governments’ suspension and debarment systems, U.S. remedies of suspension and debarment are not imposed for purposes of punishment; they are based upon protection of the Government and taxpayer funds against *prospective* business risks, including the mitigation of fraud, waste, and abuse. Under this U.S. system, if a party takes sufficient corrective or remedial actions and demonstrates present responsibility, an SDO may decline to impose debarment or otherwise restore the party’s eligibility to participate in Federal procurement and nonprocurement transactions.

¹ Suspension and debarment of individuals may be appropriate whether that misconduct is committed on behalf of a business or for the individual’s interest. A significant portion of those subject to a debarment action were first convicted, having already been afforded due process through the criminal justice system by the time of administrative action. Individuals are routinely, and appropriately, subject to actions since business entities engage in misconduct through individuals acting on behalf of the business entity.

Various agency mission and business lines continued:



Employees Training on use of Personal Protective Equipment. Photo credit: HHS Administration for Strategic Preparedness and Response (ASPR).



Supply-class fast combat support ship USNS Supply (T-AOE-6), right, replenishing U.S. Navy Nimitz-class aircraft carrier USS Harry S. Truman, left. Photo credit: Petty Officer Marius Vaagenes Villanger / Norwegian Armed Forces.



USAID Employee in Protective Gear in Madagascar, Showing Chart on Proper Behavior to Reduce Pandemic Risks. Photo credit: USAID in Africa.



Big Creek Bridge: Example of Coastal Engineering Found on the Pacific Coast Highway. Photo credit: Federal Highway Administration (FHWA).

After coordinating through the ISDC to serve as the “lead agency” for administrative proceedings,² an agency SDO initiates proceedings and may exclude entities or individuals who engaged in serious misconduct and failed to demonstrate remedial or corrective actions, such as an altered pattern of conduct or adoption of effective controls to protect Federal activities and ensure present responsibility. This exclusion of entities or individuals, which applies to the activities of all Federal agencies for both procurement and nonprocurement transactions, temporarily bars their ability to serve as a participant or principal in covered transactions, including as an agent or representative of a participant,³ as a contractor, or as an agent or representative of a contractor in Government procurement transactions.⁴

The suspension and debarment system also includes tools to protect the Government’s business interests if an excluded party controls affiliated entities or forms a new entity to evade award ineligibility. An SDO may extend an exclusion to affiliates, provided that the affiliate is given notice and an opportunity to contest the action. This approach serves to mitigate risks to taxpayer funds or interests in accordance with the purpose of suspension and debarment: to protect the Government, not to punish wrongdoers.

Additional administrative activities authorized under the suspension and debarment system include the use of alternative resolutions such as administrative agreements. Agencies are outfitted with multiple tools that agency SDOs may use to protect Government procurement and nonprocurement programs.

² In accordance with Public Law 110-417, the ISDC coordinates suspension, debarment, and related administrative remedies among interested agencies and resolves issues regarding the designation of a lead agency, when more than one agency seeks to be the lead. The ISDC also serves as a forum to discuss current suspension and debarment-related issues and assists in developing unified Federal policy. When requested by the Office of Management and Budget (OMB), the ISDC serves as a regulatory drafting body for revisions to the Governmentwide nonprocurement suspension and debarment common rule.

³ Covered transactions are defined in the NCR at 2 CFR Part 180, Subpart B.

⁴ The effect of a suspension or debarment under the procurement system is explained at FAR 9.405. Public Law 103-355, section 2455, and Executive Order 12689 provide for the reciprocal effect of a debarment or suspension action taken under the FAR or the NCR.

Agencies continued to face new challenges during the pandemic, including: (1) the rise of new types of and increasingly complex cases, (2) additional responsibilities in connection with establishing new Governmentwide policy and procedures, and (3) competing demands for unrelated duties and roles.

Federal suspension and debarment program offices implemented greater procedural flexibilities and outreach to respondents.

The ISDC continued to focus on four strategic objectives: to promote fundamental fairness, increase transparency and consistency through training and outreach, enhance practices including alternatives to exclusion, and encourage the development of more effective compliance programs by Government contractors and participants.

FYs 2021 and 2022 Governmentwide Activities and Efforts

Agencies continued to face new challenges during the COVID-19 pandemic. Agencies reported an increase in new types of cases, including cases that are more complex. Agencies also took on additional responsibilities in connection with implementing flexibilities for SDOs and providing input for FAR Case 2019-015 (Improving Consistency Between Procurement & Non-Procurement Procedures on Suspension and Debarment), among other competing demands for unrelated duties and roles. Notwithstanding pandemic challenges, Federal suspension and debarment program offices implemented greater procedural flexibilities and outreach to communicate with respondents and to ensure continuity of operations through education for an informed workforce.

During FYs 2021 and 2022, the ISDC continued to focus on four strategic objectives:

- (1) promoting the fundamental fairness of the suspension and debarment process;
- (2) increasing transparency and consistency through training, engagement, and outreach;
- (3) enhancing Federal suspension and debarment practices, including alternatives to exclusion, by identifying and developing resources available to the ISDC community; and
- (4) encouraging the development of more effective compliance and ethics programs by Government contractors and nonprocurement participants to address business risks.

Examples of ISDC member agencies' ongoing collective efforts across FYs 2021 and 2022 included:

- Recruiting volunteer instructors who taught and trained Federal employees on suspension, debarment, and other related administrative remedies in connection with the Department of Homeland Security (DHS) Federal Law Enforcement Training Centers (FLETC);
- Providing regular updates on relevant legal developments and procedural practices for enhanced virtual accessibility during the pandemic;
- Facilitating training on, and promoting beta testing of, the implementation of SAM.gov updates for practitioners;
- Coordinating voluminous multi-agency lead agency coordination requests (LACRs) and implementing additional steps to develop a modernized, streamlined internal LACR online portal in collaboration with the GSA and OMB;
- Continuing outreach and engagement with governmental and non-governmental stakeholders, including inviting speakers to present at monthly ISDC meetings and providing presentations to organizations;
- Promoting transparency and access to information about the governmentwide suspension and debarment system by maintaining the ISDC's public website; and
- Facilitating intergovernmental communication as well as communications with parties and agency SDOs by providing continuous updates to the ISDC acquisition.gov site.

The ISDC continued to provide recommendations and technical support to the FAR Council to help improve the consistency between procurement and nonprocurement suspension and debarment procedures.

The ISDC established a subcommittee to address questions concerning foreign affiliation fraud and the Governmentwide effort in implementing NSPM-33 to help develop a more uniform Federal approach to this emerging and developing area.

Other notable achievements in FY 2021 include:

- partnering with the PRAC and Federal Inspectors General community to protect pandemic funds and consider administrative actions as appropriate against parties who engaged in misconduct;
- adoption of flexible procedures to ensure continuity of operation for suspension and debarment procedures during pandemic;
- conducting a joint S&D workshop with CIGIE covering foreign affiliation fraud, procurement fraud, coordination of remedies, etc.
- exploration with DOJ National Security Division to help facilitate effective coordination and use of parallel remedies; and
- continued development of ISDC training to ensure continuity of operations and consistency.

FY 2021

Notable achievements and activities in FY 2021 include:

Continued Technical Support Towards Improving Consistency Between Procurement and Nonprocurement Suspension and Debarment Procedures

An ISDC subcommittee provided recommendations and technical assistance to the Federal Acquisition Regulatory Council (FAR Council) drafting team and Defense Acquisition Regulations Council (DARC) to better align coverage in the FAR with the NCR to support a more consistent set of procedures for both procurement and nonprocurement suspension and debarment activity. The input was provided to support development of a proposed rule as part of FAR Case 2019-015. The Committee believes that the use of more consistent practices between the procurement and nonprocurement communities would generally enhance transparency and increase efficiency. In particular, the majority of CFO Act agencies report reliance on both the FAR and NCR.

Support Towards Implementing National Security Presidential Memorandum 33 (NSPM-33) Guidance and Other Related Efforts Concerning Foreign Affiliation Fraud

The ISDC established a subcommittee to address questions concerning foreign affiliation fraud and the Governmentwide effort to implement NSPM-33 to help develop a more uniform Federal approach to this emerging and developing area. ISDC members collaborated with the Office of Science and Technology Policy and the U.S. Department of Justice (DOJ).

In addition, during FY 2021, the ISDC:

- Partnered with the Pandemic Response Accountability Council (PRAC) and Federal Inspectors General community to protect pandemic relief funds and consider appropriate actions against parties who engaged in misconduct concerning federally funded relief;
- Coordinated adoption of additional flexible procedures to ensure continuity of operations for suspension and debarment activities, such as conducting virtual presentations of matters in opposition (PMIOs), permitting electronic notices, and virtual meetings with respondents;
- Conducted the first virtual joint suspension and debarment workshop with the Council of the Inspectors General on Integrity and Efficiency (CIGIE) on foreign affiliation fraud and threats to the U.S. research enterprise, which had almost 600 registrants from more than 90 agencies; best practices and lessons learned with DOJ on procurement fraud; coordination of remedies and parallel proceedings; available tools and remedies to address business risks, development of administrative records; procurement fraud indicators; fraud remedies, appropriate coordination, and Small Business Innovation Research (SBIR) fraud; and trial preparation;
- Explored, with DOJ National Security Division, how to facilitate effective coordination and use of parallel remedies; and

- Coordinated efforts and developed ISDC training to ensure continuity of operations and consistency as well as assisted agencies developing suspension and debarment programs and new initiatives.

FY 2022

Notable achievements and activities in FY 2022 include:

Launched Pilot for Lead Agency Coordination Portal

An ISDC subcommittee helped design and facilitate a pilot portal for future ISDC internal lead agency coordination. Members of the ISDC who participated in the beta testing were trained on the portal and provided user-based feedback in coordination with GSA's efforts.

Provided Technical Guidance to OECD that Led to Adoption of International Recommendation to Consider Mitigating and Remedial Measures Concerning Suspension and Debarment

ISDC leadership provided technical guidance through the U.S. delegation to the Organisation for Economic Co-operation and Development (OECD) that ultimately led to the adoption of consideration of mitigation and remedial measures internationally in the OECD recommendation concerning debarment. This OECD recommendation reflects a shift in the international paradigm from debarment as punishment to a remedy that incentivizes and promotes effectively addressing business risks. Enabling companies that demonstrate their commitment for effective compliance and ethics programs to remain award eligible expands competition, potentially reduces Government costs, and protects jobs for innocent workers.

In addition, during FY 2022, the ISDC:

- Continued its focus on training in anticipation of and in response to turnover in the Federal workforce and greater community of practitioners both in public and private practice. The ISDC redoubled its training efforts by inviting subject matter experts to present on topics including but not limited to:
 - unsolicited third-party submissions during suspension and debarment proceedings;
 - determination of appropriate time to close the administrative record;
 - appropriate use of suspension and debarment on former Federal employees and contractors;
 - processing of submissions from respondents;
 - evaluating effective compliance programs; and
 - lead agency coordination.
- Continued to support member agencies by providing timely updates regarding suspension and debarment-related legislative, regulatory, and case law developments, as well as updates and revisions to the System for Award Management's exclusions webpage and database;

In FY 2022, the ISDC launched a pilot portal for future internal lead agency coordination among its members.

The ISDC provided technical guidance through the U.S. delegation to the OECD that led to the adoption of the international recommendation to consider mitigating and remedial measures concerning suspension and debarment.

In FY 2022, the ISDC continued its focus on training in anticipation of and in response to turnover in the Federal workforce and community of practitioners. The ISDC redoubled its efforts by focusing on topics in six areas.

The ISDC and PRAC explored ways to refer cases and address pandemic fraud more efficiently and effectively.

- Conducted outreach through an American Bar Association (ABA) panel on coordination of remedies as well as to the ABA and Professional Services Council on the Section 873 Report; and
- With the PRAC, explored ways to address pandemic fraud more effectively through the use of templates, technology, and best practices as appropriate, and through interagency support.

FYs 2021 and 2022 Metrics: Summary Highlights

FY 2021 in context:

During the first full year of the pandemic, the total reported referrals, and ensuing suspensions, proposed debarments, and debarments decreased from FY 2020, in part due to the continuing impact of the pandemic on court proceedings and investigations.

The number of declinations of matters referred for administrative action decreased substantially.

At the same time, agencies' use of alternative remedies, such as administrative agreements, pre-notice letters, and voluntary exclusions, increased significantly.

Post-notice engagements with respondents stayed at historically significant high levels.

FY 2022 in context:

The total reported suspensions, proposed debarments, and debarments increased from the prior year, in part, as impacts of the pandemic diminished.

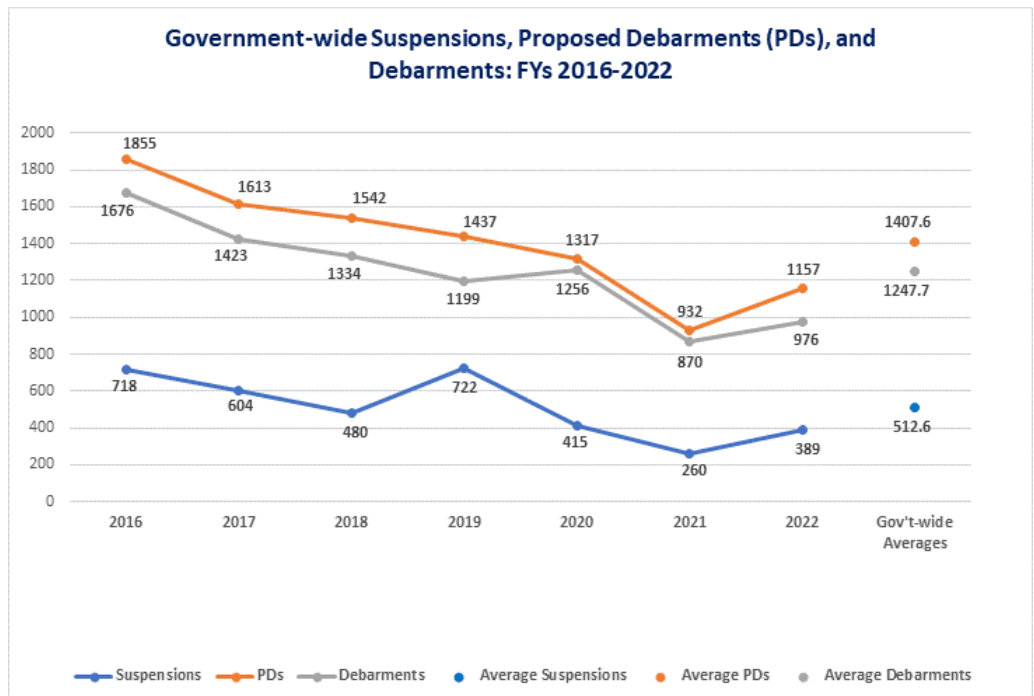
Total reported referrals, declinations, proactive engagements by respondents, and pre-notice letters also increased.

In FY 2021, during the first full year of the pandemic, the total number of referrals decreased from FY 2020, due, in part, to the continuing impact of COVID on court proceedings and investigations. In FY 2022, referred cases increased as impacts of the pandemic diminished. Similarly, the total reported declinations also increased across the fiscal years from 48 in FY 2021 to 63 in FY 2022. Likewise, from FY 2020 to FY 2021, agencies reported a decreasing trend in the Governmentwide issuance of exclusions, yielding 260 suspensions, 932 proposed debarments, and 870 debarments in FY 2021 compared to the 415 suspensions, 1,317 proposed debarments, and 1,256 debarments in FY 2020. By contrast, from FY 2021 to FY 2022, agencies reported increases, yielding 389 suspensions, 1,157 proposed debarments, and 976 debarments in FY 2022, notwithstanding the continuation of the COVID-19 pandemic and a dispersed, remote, or socially distanced workforce.

Federal agencies also reported significant increases in pre-notice letters issued, specifically, an approximate 16% increase from FY 2020 to FY 2021, followed by a 35% increase in FY 2022. Agencies also reported an unprecedented total of 176 administrative agreements entered into in FY 2021, and then returned to the previous high record of 75 in FY 2022. Similarly, proactive engagements increased almost 60% in FY 2021 to 57 respondents and again in FY 2022 to 64 proactive respondents.

Conversely, reports of total post-notice engagements with respondents declined by approximately 26% from FY 2020 to FY 2021 to 424 respondents and remained steady at 418 respondents in FY 2022. That notwithstanding, the FY 2021 and FY 2022 reported post-notice engagements remained among the historic high tallies reported to date and reflected some different agencies from the previous year. (See Figures 1, 2, and 3. For activities by agency, see Appendices 2 and 3.)

Figure 1



FYs 2021 and 2022 in context:

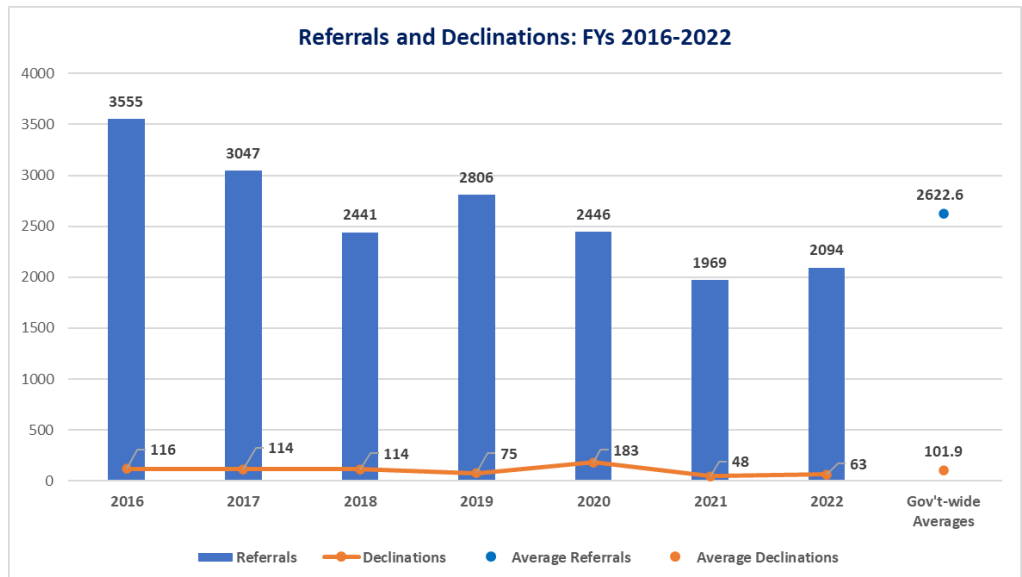
The overall number of referrals received in FY 2021 decreased approximately 20% from FY 2020 due in part to the impacts of the pandemic on court and other proceedings. In FY 2021, while 5 agencies at least doubled the number of their total FY 2020 referrals, those increases were offset by substantial decreases in referrals received by 11 agencies that had received the largest number of referrals in FY 2020.

Additionally, the FY 2021 total number of declined referrals also decreased to almost one-fourth of the total reported in the prior year and remained relatively stable through FY 2022.

In FY 2022, the total number of referrals increased by approximately 6%. The number of declined cases also increased slightly.

Work demands on debarment program personnel increased and expanded. During FYs 2021 and 2022, some agencies noted COVID-19 fraud-related actions as well as other new categories of business risk, including increasingly complex and challenging matters, which required interagency collaboration to issue joint responses and further reliance on alternatives to exclusion. Agencies also reported the assumption of additional responsibilities, for example, in connection with establishing new Governmentwide policy and procedures, and other non-suspension and debarment-related duties and roles.

Figure 2

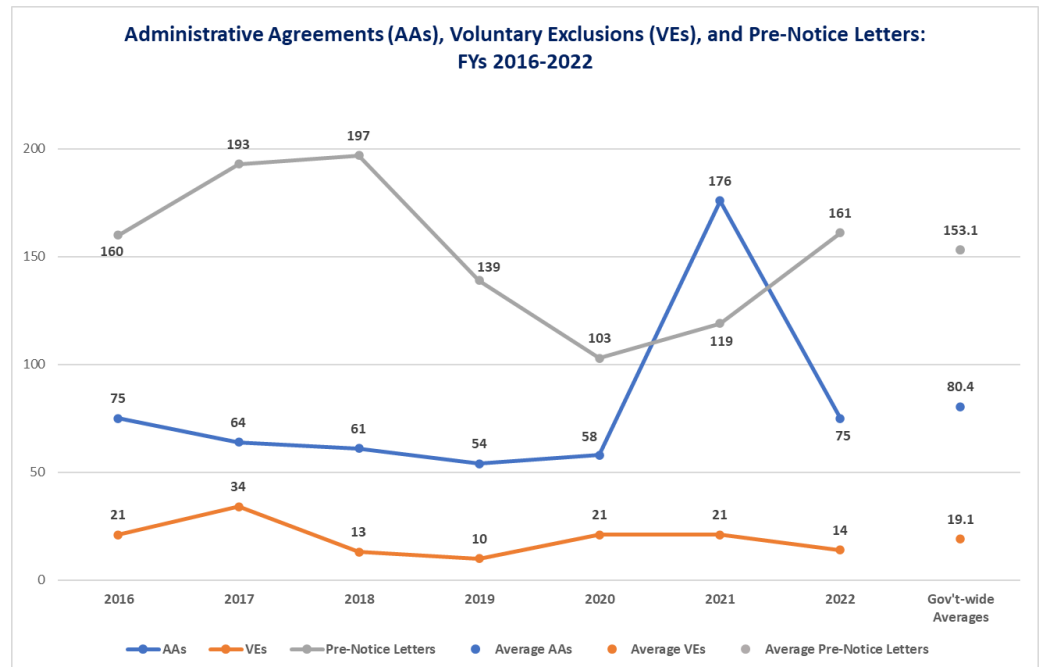


During FYs 2021-22, the pandemic continued to impact agencies' receipt of referrals. In FY 2021, five agencies received at least double the total number of referrals reported in FY 2020. However, those increases in referrals were offset by substantial decreases in referrals received by 11 agencies that previously reported the largest number of referrals in FY 2020. FY 2021 was the first full year of the pandemic and Federal operations continued to be impacted, resulting in postponement of judicial and other proceedings. Such delays contributed to several agencies reporting significantly fewer referrals received in FY 2021. In FY 2021, agencies also reported declining significantly fewer cases, or approximately 26% of the total number of declined cases reported in FY 2020. By contrast, in FY 2022, as operations continued and technological flexibilities were increasingly implemented, some agencies received an increased volume of referrals, tripling their FY 2021 totals. Governmentwide, referrals increased 6% from FY 2021 to FY 2022.

During FYs 2021 and 2022, some agencies noted COVID-19 fraud-related actions as well as other new categories of business risk, including increasingly complex and challenging matters, which required interagency collaboration to issue joint responses and further reliance on alternatives to exclusion. Agencies also reported that personnel assumed additional responsibilities, for example, in connection with establishing new Governmentwide policy and procedures, and other non-suspension and debarment-related duties and roles, such as other legal work and/or programmatic management roles. One agency reported the establishment of a new Office of the General Counsel Acquisition Integrity Program and an Acquisition Integrity Working Group. At least two agencies supported the implementation of an international economic framework to advance the resilience, sustainability, inclusiveness, transparency, rule of law, accountability, economic growth, fair economy, and competitiveness of member economies. Other debarment programs reported that they provided training for their respective agency's workforce, including resuming in-person and virtual training offerings as of FY 2022. In FY 2022, at least one agency implemented changes reducing its timeline for coordinating lead agency Governmentwide.

Several agencies in both years reported contributing to ISDC-supported updates on Government systems and related best practices, efforts to counteract human trafficking and fraud in tandem with the Federal Acquisition Security Council and others. During this period, several agencies observed continued delays in court hearings, trials, and sentences and referrals, but reported significant increases in alternatives to exclusions and, upon continuity of operations, also reported similar surges from FY 2021 to FY 2022 in their referrals and administrative actions.

Figure 3



FYs 2021-22 in context (continued):

While agencies noted ongoing delays in court and other proceedings and diminishing referrals received in FY 2021, they declined fewer matters while increasing interactions with respondents on alternatives to exclusion, such as administrative agreements or voluntary exclusions, and reported more proactive and post-notice engagements. In FY 2021, agencies entered some of the highest number of alternative administrative actions reported to date.

Although administrative agreements peaked in FY 2021 with a return to the prior record in FY 2022, pre-notice letters issued steadily increased during this timeframe with both categories of remedies exceeding their corresponding year-to-date reported averages and approximating the averages for this time period.

The number of administrative agreements entered in FY 2021 more than tripled the preceding year, reaching an unprecedented sum despite that negotiations of such agreements require significant additional resources.

Following FY 2020’s report of increased post-notice and proactive engagements, agencies also reported greater reliance on alternatives to suspension and debarment in FYs 2021-22. Governmentwide, agencies entered some of the highest number of alternative administrative actions to date, which more than doubled the preceding highest total and more than tripled the FY 2020 sum. As noted in preceding reports, the recent data demonstrates a slightly different group of agencies utilizing alternatives to the suspension and debarment remedies in lieu of immediate and/or continued imposition of an exclusion under both the FAR and NCR, as determined necessary by the circumstances and case. Although reliance on exclusion alternatives ebbed in FY 2022, agencies’ continued use remained at historically high levels, notwithstanding that alternative remedies such as administrative agreements, voluntary exclusions, and pre-notice letters require significant additional time and resources.

The Government's use of these remedies approximated reported averages for this period, with pre-notice letters exceeding the average. These alternatives and efforts enabled parties to remain viable despite ongoing economic challenges, while properly addressing business risks and promoting the competition and retention of jobs for Americans, particularly in light of the economic recovery during and emerging from the COVID-19 pandemic.

Agencies that executed these alternatives also varied from the prior year, continuing to demonstrate that agencies consider and apply these remedies based on the pertinent facts of each matter. Administrative actions are considered and applied as necessary under the circumstances to protect the Government's business interests, including the nature of cases and impacted agency's (or agencies') needs. Variation in the total number of actions and across categories of actions within a given year or across fiscal years is attributable to a number of factors, including the receipt of referrals or proactive disclosures.

The FY 2021 and 2022 data, similar to other recent years, show that agency reliance upon suspensions, debarments, and related administrative remedies not only fluctuated by agency but that agencies also increased their use of alternatives to exclusion, as needed. Moreover, the increased proactive outreach to agency SDOs and suspension and debarment programs by potential participants and respondents further correlates with historically significant post-notice engagements. Such increased engagements with respondents, which correlates with an unprecedented volume of negotiated agreements, reflects SDOs' focus on assessing business risks, especially during a time when many were facing additional economic challenges posed by a global pandemic. The ebb of exclusions and flow of heightened interactions, in part, reflects agency consideration of the circumstances and consideration of alternatives to exclusion for these unique times during an economic recovery and in the aftermath of challenges posed by the ongoing pandemic.

In FY 2021, two agencies reported substantial increases in their total administrative compliance agreements. Agencies also reported increases in pre-notice and post-notice engagements with respondents, including those agencies that reported decreases in the total number of administrative and/or voluntary exclusion agreements for FY 2021. The FY 2021 use of exclusion alternatives may partially account for the corresponding Governmentwide decrease in referrals, suspensions, proposed debarments, and debarments, as compared to the prior year. The increased volume of referrals and communications between parties and Government agencies are also reflected by the increased issuance of pre-notice letters and declined matters in FYs 2021 and 2022.

Of those agencies voluntarily reporting, in both years, agencies entered into agreements with individuals and entities alike and reported that a significant number of exclusions were based on criminal indictment, information, convictions, or civil judgments. In FY 2021, 12 agencies reported that criminal indictments or information constituted a basis for a portion of the FY 2021 suspensions. Fifteen agencies similarly reported reliance on criminal convictions or civil judgments for debarments reported in FY 2021. In FY 2022, a slightly different group of 12 agencies reported suspensions that were

**FYs 2021-22 in context
(continued):**

Potential and actual respondents more actively engaged with suspension and debarment programs.

Suspension and debarment programs continued to apply remedies, whether exclusions or alternatives thereto, on case-by-case bases.

A significant number of exclusions were based in part or in whole on criminal indictments, information, convictions, or civil judgments, having received further due process through the court systems and corresponding procedures.

based on criminal indictments or information. A slightly different set of 13 agencies similarly reported that criminal convictions or civil judgments constituted a basis for debarments in FY 2022. This data reflects that, in addition to SDO consideration of business risks, parties are referred for cause consistent with the regulations after having received further due process in the judicial system.

Proactive Engagements by Entities and Individuals: Entities and individuals proactively contacted or self-disclosed matters to a greater number of agencies in FY 2021 than the prior year and to a significant degree. The ISDC continued to engage in outreach with stakeholders internal and external to the Government. As a result of the ISDC's past and ongoing efforts, individuals and entities have continued to proactively reach out to SDOs to provide information relating to their present responsibility, particularly, when an entity has identified possible misconduct within its operations. Such activity makes possible even earlier consideration of present responsibility factors by agency SDOs and allows both sides to focus on corrective measures taken by an entity or individual to address any misconduct and concerns, along with efforts to improve internal controls, enhance compliance programs, and promote a culture of ethics and accountability.

For the agencies that track such information, in FY 2021, 8 member-agencies reported 57 instances of proactive engagement initiated by potential respondents. While the number of agencies reporting proactive engagements decreased from the FY 2020 count of 10 agencies, 7 agencies did not report proactive engagements in both years. In FY 2022, 10 agencies reported 64 proactive engagements, as counted by respondent. Seven of the 10 agencies that reported proactive engagements in FY 2022 also reported such engagements in FY 2021. This underscores that entities and individuals are more aware of these administrative remedies and how to proactively address and disclose business risks on a case-by-case basis.

Agency Pre-notice Letters: Pre-notice letters, which include SDO show cause letters, letters of concern, requests for information, and similar types of communication, are used to inform an individual or entity that the agency's suspension and debarment program is reviewing matters for potential suspension or debarment action. These letters identify assertion(s) of misconduct or a history of poor performance and give the recipient(s) an opportunity to respond and implement corrective action(s) prior to formal SDO action.

Responses to these letters help agencies better assess the risk to the Government's programs and determine what measures are necessary to protect the Government's interest(s) without immediately imposing an exclusion action.

Use of pre-notice letters increased by 56% from FY 2020 to FY 2022. In FY 2021, 13 agencies reported issuing 119 pre-notice letters to potential respondents, representing a 16% increase from the prior year. (See Appendix 3.) Of the agencies reporting use of such notices in FYs 2020 and 2021, 7 had not in both years. Of the agencies that issued letters in FY 2021, 3 did not report any letters in FY 2022. In FY 2022, another group of 13 agencies

Notably, companies and individuals proactively contacted or self-disclosed matters to a greater number of agencies in FY 2021 than in FY 2020.

Use of pre-notice letters increased by 56% from FY 2020 to FY 2022.

In FY 2021, the total number of pre-notice letters increased approximately 16%. In FY 2022, that total increased again by approximately 35%.

Post-notice engagements present further opportunities for agencies and respondents to discuss and resolve suspension and debarment concerns. The number of agencies reporting engagements increased from FY 2021 to FY 2022.

Administrative agreements provide that certain verifiable actions are taken in a prescribed timeframe to mitigate business risks, such as the implementation of enhanced internal corporate governance practices and procedures and/or the use of independent third-party monitors.

issued 161 pre-notice letters, or an approximately 35% increase from the previous year. Of the agencies reporting pre-notice letters issued in FY 2022, three did not report any letters the prior year. Such fluctuations demonstrate a growing and varying implementation of this tool Governmentwide and reflects the potential for earlier resolution of suspension or debarment concerns.

Post-Notice Engagements by Entities and Individuals: These interactions consist of challenges to a notice of suspension, a notice of proposed debarment, or a debarment decision as counted by the number of respondents who submit a written response. Such post-notice engagements present further opportunities for agencies and respondents to discuss and resolve suspension and debarment concerns.

In FY 2021, 15 agencies reported receiving 424 of such post-notice engagements in total. While the total number of post-notice engagements decreased from FY 2020 by approximately 26%, this volume of interaction with agencies nonetheless represents a regular flow of communication between respondents and various suspension and debarment offices. In FY 2022, 18 agencies reported engaging with 418 respondents post-notice. Of the agencies reporting such engagements in FYs 2021 and 2022, 5 did not receive post-notice engagements from respondents in both years.

Administrative Agreements: Also known as administrative compliance agreements, this remedy typically requires the implementation of several provisions to improve the ethical culture and corporate governance processes of a respondent, often with the use of qualified, independent third-party monitors paid by the respondent. The terms of administrative agreements are tailored to the nature of the issues giving rise to an agency's suspension or debarment action or concerns. With appropriate provisions, administrative agreements may be entered into with individuals or entities where such resolutions are in the best business interests of the Government.

Administrative agreements also may arise at different points in the process, whether as the result of proactive, pre-notice engagements or in resolution of and following the issuance of an exclusion notice. Therefore, the viability of an administrative agreement as the appropriate outcome of a matter will always be a case-specific determination depending on the circumstances and cause for the action. The terms of an administrative agreement for an individual or a small business entity may differ from those appropriate for a large business entity — one size does not necessarily fit all. This tool can be effective in situations where award eligibility would further the Government's interests, such as increasing competition for procurement opportunities. Administrative agreements provide that certain verifiable actions are taken in a prescribed timeframe to mitigate business risks, such as the implementation of enhanced internal corporate governance practices and procedures and/or the use of independent third-party monitors. Where appropriate as a resolution of Government exclusion concerns, an administrative agreement can provide an outcome beneficial to all parties while ensuring protection for the Government.

In FYs 2021 and 2022, administrative agreements were among the most used alternatives to suspension and debarment actions and reached an unprecedented record in FY 2021.

In FY 2021, the number of voluntary exclusions was the same as the FY 2020 total. That number represents double the reported FY 2019 voluntary exclusions

In FYs 2021-22, administrative agreements were among the most used alternatives to suspension and debarment actions and reached an unprecedented record in FY 2021. In FY 2021, 11 agencies reported entering into 176 administrative agreements, which represents more than triple the prior year's total. (See Appendix 3 and Figure 3.) Comparing FYs 2020 and 2021, 4 agencies reporting administrative agreements did not enter into agreements in both years of which one agency entered into an administrative agreement in FY 2021 alone; the 3 remaining agencies entered into administrative agreements only in FY 2020. In FY 2022, 9 agencies reported 75 agreements. Comparing FYs 2021 and 2022, 11 agencies entered into administrative agreements in only one year: 6 agencies executed agreements solely during FY 2021; and 5 reported agreements only for FY 2022. During FYs 2020-22, only 5 agencies entered into agreements during the consecutive fiscal years, albeit with fluctuating totals year to year. The variation in agencies' exercise of this remedy is a function of its application appropriate to the circumstances, the terms of which reflect and address the Government's concerns and interests as well as those of the countersigning respondent(s).

In addition, based on voluntary input of the agencies, in FY 2021, five agencies reported entering into administrative agreements *with individuals* to resolve suspension or debarment concerns whereas nine agencies reported doing so the following year.

Voluntary Exclusions: Like administrative agreements, voluntary exclusions provide protections for agencies and equip them with additional flexibilities and alternative means to resolve suspension or debarment concerns. In FY 2021, the number of voluntary exclusions matched the preceding total, which, in turn, doubled the FY 2019 year's sum. For FY 2022, 6 agencies entered a total of 14 voluntary agreements Governmentwide. In FY 2021, 7 agencies reported the use of voluntary exclusions to resolve suspension or debarment concerns involving 21 parties. Five of those seven agencies reported voluntary exclusions in the previous fiscal year, while five of the seven reported agreements in the subsequent year. Only 3 agencies reported agreements throughout FYs 2020-22; the remaining agencies applying this remedy varied across FYs 2020-22.

Such variation in agency reliance on this remedy similarly reflects its application appropriate to the circumstances such that the terms of such exclusions address the concerns and interests of the Government as well as the representations and interests of the countersigning respondents.

Additional data regarding the FY 2021 and 2022 actions are available in the enclosed appendices. The ISDC looks forward to its continued work with agencies to better protect taxpayer programs and operations from fraud, waste, and abuse through effective Governmentwide suspension and debarment programs.

Appendix 1 Glossary and Counting Conventions

For consistency and clarity, the ISDC used the following in preparing the Appendices to this report.

Glossary

“Administrative Agreement” - also known as an administrative compliance agreement, refers to a document that resolves an exclusion or potential exclusion matter. The election to enter into an administrative agreement is solely within the discretion of the SDO and is used only if the administrative agreement appropriately furthers the Government’s interest. Agreements may be entered into with any respondent, whether an individual person or organization, when it is appropriate to do so. While administrative agreements vary according to the SDO’s concerns regarding each respondent, these agreements typically mandate the implementation of several provisions to improve the ethical culture and corporate governance processes of a respondent in a suspension or debarment-related proceeding. Agreements also may call for the use of independent third-party monitors or the removal of individuals associated with a violation from positions of responsibility within a company. Administrative agreements are made publicly available online in the Federal Awardee Performance and Integrity Information System (FAPIIS).

“Declination” - an SDO’s determination, after receiving a referral, that issuing a suspension or debarment notice is not necessary to protect the Government’s interests. Placing a referral on hold in anticipation of additional evidence for future action is not a declination.

“Referral” - a written request prepared in accordance with agency procedures and guidelines, supported by documentary evidence, presented to the SDO for issuance of a notice of suspension or notice of proposed debarment as appropriate under FAR Subpart 9.4 and 2 C.F.R. Part 180.

Note: This definition is designed to eliminate potential variations due to differences in agency tracking practices and organizational structures. For example, agency debarment programs organized as coordination of fraud remedies divisions (responsible for the coordination of the full spectrum of fraud remedies: criminal, civil, contractual and administrative) may not have a common starting point for tracking case referrals as agency programs exclusively performing suspension and debarment functions.

“Agency Pre-Notice Letters” - includes show cause letters, requests for information, and similar types of letters used to inform the recipient that the agency debarment program is reviewing matters for potential SDO action, identify the alleged misconduct, and give the recipient an opportunity to respond prior to formal SDO action. This is a discretionary tool employed when appropriate to the circumstances of the matter under consideration.

“Post-Notice Engagements” - the contested suspension or debarment actions, counted and reported herein by the number of respondents.

“Voluntary Exclusion” - a term used under 2 C.F.R. Part 180 referring to the authority of an agency to enter into a voluntary exclusion with a respondent in lieu of suspension or debarment. A voluntary exclusion, like a debarment, carries the same Governmentwide reciprocal effect and, generally, bars the respondent from participating in procurement and nonprocurement transactions with the Government. Agencies must enter all voluntary exclusions in the General Services Administration’s System for Award Management (SAM), which is available at SAM.gov.

Appendix 1

Glossary and Counting Conventions (continued)

Counting Conventions

Consistent with previous Section 873 reports, the number of suspensions, proposed debarments, and debarment actions are broken out as separate exclusion actions even if they relate to the same respondents. With each of these exclusion actions, both FAR Subpart 9.4 and 2 C.F.R. Part 180 require an analysis performed by program personnel involving separate procedural and evidentiary considerations. Furthermore, a suspension may resolve without proceeding to a notice of proposed debarment, a notice of proposed debarment may commence without a prior suspension action, and a proposed debarment may resolve without an agency SDO imposing a debarment. Moreover, separate “referrals” are typically generated for suspensions and proposed debarments. Finally, suspension and debarment actions trigger separate notice and other due process requirements by the agency.

Agencies were instructed to count referrals or actions regarding individuals as one action per individual regardless of the number of associated pseudonyms and AKAs (“also known as”) associated with the individual. Businesses operating under different names or that have multiple DBAs (“doing business as”) are counted separately as separate business entities or units for counting suspensions and debarments.

The data in the appendices focus on the suspension and debarment activities of the 24 agencies and departments subject to the CFO Act. These are the agencies and departments with the highest activity levels in procurement and nonprocurement awards.

The report addresses the discretionary suspension and debarment actions taken under the Government-wide regulations at FAR Subpart 9.4 and 2 C.F.R. Part 180. The Report does not track statutory or other nondiscretionary debarments outside of the scope of these regulations.

Appendix 2
Suspension and Debarment Actions in FY 2021

Agency/Department	Suspensions	Proposed Debarments	Debarments
Agency for International Development	2	20	24
Department of Agriculture	14	51	53
Department of Commerce	0	2	2
Department of Defense			
Department of the Air Force	19	39	17
Department of the Army	16	141	109
Fourth Estate*	5	58	75
Department of the Navy	48	191	136
Department of Education	15	11	21
Department of Energy	9	1	1
Department of Health and Human Services	7	16	26
Department of Homeland Security	5	159	132
Department of Housing and Urban Development	7	23	40
Department of the Interior	0	6	2
Department of Justice	0	7	0
Department of Labor	7	29	25
Department of State	0	6	12
Department of Transportation	12	16	34
Department of the Treasury	0	0	0
Department of Veterans Affairs	13	15	26
Environmental Protection Agency	62	84	84
Export-Import Bank	0	9	9
General Services Administration	10	24	22
National Aeronautics and Space Administration	2	4	6
National Nuclear Security Administration	1	12	4
National Science Foundation	6	2	4
Nuclear Regulatory Commission	0	0	0
Office of Personnel Management	0	0	0
Small Business Administration	0	6	6
Social Security Administration	0	0	0
Total Actions	260	932	870

**The Department of Defense Fourth Estate includes other Defense subcomponents such as the Defense Logistics Agency, Defense Health Agency, and Defense Advanced Research Projects Agency.*

Appendix 2
Suspension and Debarment Actions in FY 2022

Agency/Department	Suspensions	Proposed Debarments	Debarments
Agency for International Development	2	18	7
Department of Agriculture	21	34	34
Department of Commerce	1	4	2
Department of Defense			
Department of the Air Force	19	49	42
Department of the Army	27	115	94
Fourth Estate*	13	138	118
Department of the Navy	67	89	129
Department of Education	10	20	5
Department of Energy	9	13	4
Department of Health and Human Services	0	27	30
Department of Homeland Security	1	186	167
Department of Housing and Urban Development	24	21	21
Department of the Interior	1	14	10
Department of Justice	8	9	8
Department of Labor	24	121	75
Department of State	3	33	24
Department of Transportation	13	27	24
Department of the Treasury	28	11	10
Department of Veterans Affairs	5	18	10
Environmental Protection Agency	80	123	75
Export-Import Bank	8	15	22
General Services Administration	5	15	27
National Aeronautics and Space Administration	7	8	5
National Nuclear Security Administration	1	3	5
National Science Foundation	0	16	10
Nuclear Regulatory Commission	0	0	0
Office of Personnel Management	0	0	0
Small Business Administration	12	30	18
Social Security Administration	0	0	0
Total Actions	389	1157	976

**The Department of Defense Fourth Estate includes other Defense subcomponents such as the Defense Logistics Agency, Defense Health Agency, and Defense Advanced Research Projects Agency.*

Appendix 3
Other Actions Related to Suspension and Debarment in FY 2021

Agency/Department	Show Cause/ Pre-Notice Letters	Referrals	Declinations	Administrative Agreements	Voluntary Exclusions
Agency for International Development	3	25	3	1	0
Department of Agriculture	2	85	11	1	7
Department of Commerce	1	8	3	0	0
Department of Defense					
Department of the Air Force	1	58	0	0	1
Department of the Army	2	269	3	2	0
Fourth Estate*	0	19	0	2	3
Department of the Navy	46	511	0	1	0
Department of Education	0	34	0	0	0
Department of Energy	2	12	0	0	0
Department of Health and Human Services	13	43	4	0	2
Department of Homeland Security	2	164	0	2	0
Department of Housing and Urban Development	0	125	0	132	2
Department of the Interior	0	10	0	0	0
Department of Justice	0	4	0	0	0
Department of Labor	5	44	0	5	0
Department of State	0	6	0	0	0
Department of Transportation	21	64	5	1	3
Department of the Treasury	0	29	0	0	0
Department of Veterans Affairs	0	28	0	1	0
Environmental Protection Agency	8	285	18	25	2
Export-Import Bank	1	4	0	0	0
General Services Administration	5	88	0	0	0
National Aeronautics and Space Administration	0	9	0	2	1
National Nuclear Security Administration	0	9	0	0	0
National Science Foundation	0	18	1	0	0
Nuclear Regulatory Commission	0	0	0	0	0
Office of Personnel Management	0	0	0	0	0
Small Business Administration	7	18	0	1	0
Social Security Administration	0	0	0	0	0
Total Actions	119	1969	48	176	21

**The Department of Defense Fourth Estate includes other Defense subcomponents such as the Defense Logistics Agency, Defense Health Agency, and Defense Advanced Research Projects Agency.*

Appendix 3
Other Actions Related to Suspension and Debarment in FY 2022

Agency/Department	Show Cause/ Pre-Notice Letters	Referrals	Declinations	Administrative Agreements	Voluntary Exclusions
Agency for International Development	0	27	0	0	0
Department of Agriculture	2	262	0	0	1
Department of Commerce	2	4	0	1	0
Department of Defense					
Department of the Air Force	0	68	0	1	2
Department of the Army	5	240	4	9	2
Fourth Estate*	0	28	0	3	0
Department of the Navy	42	324	0	1	0
Department of Education	0	25	0	0	0
Department of Energy	1	22	0	2	0
Department of Health and Human Services	5	40	1	1	0
Department of Homeland Security	12	187	0	2	0
Department of Housing and Urban Development	0	107	0	11	1
Department of the Interior	2	6	0	0	0
Department of Justice	0	9	0	0	0
Department of Labor	0	145	0	0	0
Department of State	0	36	0	0	0
Department of Transportation	5	81	0	19	2
Department of the Treasury	0	5	0	0	0
Department of Veterans Affairs	2	23	0	0	0
Environmental Protection Agency	26	291	55	24	0
Export-Import Bank	0	5	0	0	0
General Services Administration	6	76	0	0	0
National Aeronautics and Space Administration	5	15	0	0	4
National Nuclear Security Administration	0	7	0	0	0
National Science Foundation	0	8	3	1	2
Nuclear Regulatory Commission	0	0	0	0	0
Office of Personnel Management	0	0	0	0	0
Small Business Administration	46	53	0	0	0
Social Security Administration	0	0	0	0	0
Total Actions	161	2094	63	75	14

**The Department of Defense Fourth Estate includes other Defense subcomponents such as the Defense Logistics Agency, Defense Health Agency, and Defense Advanced Research Projects Agency.*

Common Misconceptions about Suspension and Debarment

Frequently Asked Questions (Part 2)



For Common Misconceptions Part 1, refer to:

https://www.acquisition.gov/sites/default/files/page_file/uploads/ISDC_FY_2020_Common_Misconceptions_about_Suspension_and_Debarment.pdf

Question: May potential respondents proactively contact suspension and debarment (S&D) program officials prior to an indictment or conviction?

Answer: Yes. Proactive efforts may be taken early to notify S&D program officials of corrective actions being taken by the party to address business risks. Such steps may potentially mitigate or negate the necessity for a suspension or debarment. Before arriving at any debarment decision, the debarring official will consider factors such as timely self-reporting that may be one of the indicators of present responsibility. Suspension and debarment program points of contact are available at <https://www.acquisition.gov/isdc-debarring-officials>.

Question: Will a guilty plea automatically result in a discretionary debarment action?

Answer: Not necessarily. Although a conviction for certain offenses may constitute cause for a discretionary debarment action, other factors, such as acceptance of responsibility and corrective actions, are mitigating factors that a suspending and debarring official (SDO) may consider in support of demonstrating present responsibility. Suspension and debarment proceedings are parallel proceedings to criminal proceedings. SDOs consider whether there is cause for a discretionary debarment action based on a criminal conviction and provide respondents with notice and an opportunity to respond as part of the debarment proceedings.

Question: Is it generally beneficial if the SDO hears directly from respondents?

Answer: Acceptance of responsibility and understanding and appreciation of the seriousness of the cause(s) for suspension or proposed debarment may, among other factors, be effectively conveyed directly by business leadership, senior management, and/or the affected individual. Their counsel and/or representative(s) are usually present and participate when the individual and/or senior management are conveying matters directly. High-level officials reflect the tone at the top of an organization. Inclusion of individuals who are responsible for the implementation of corrective actions may enhance presentations.

Question: Is the SDO the only individual at a Federal agency with whom respondents can initiate discussions about suspension and debarment-related remedies?

Answer: Generally no, but it depends on the structure of the agency's debarment program. The Interagency Suspension and Debarment Committee (ISDC) provides information at <https://www.acquisition.gov/isdc-debarring-officials> on the points of contact (POCs) for Federal SDOs. These officials often make preliminary assessments and recommendations to the SDO, including any potential actions in lieu of suspension and debarment. To ensure that the administrative record relied upon by the SDO is clear, contacting these POCs also enables respondents to provide additional information that POCs anticipate the SDO would want addressed before a presentation of matters in opposition or a meeting.

Question: Can a debarment extend beyond a period of three years?

Answer: Generally, debarment should not exceed three years but, depending on the circumstances, a debarment may be shorter or longer than three years, based on the seriousness of the cause and mitigating and other factors, as applicable. In addition, reconsideration may be requested when additional mitigating measures have been taken by the respondent(s) to address the cause(s) for which debarment was imposed.

Question: Is it the SDO's role to outline or identify corrective actions needed to be taken by respondents?

Answer: No. Respondents are best situated to know their operations and conduct and what they need to do to address risk(s) created by their conduct. Respondents, both individuals and entities, need to identify, propose, or present corrective actions already taken and those pending to address business risks to demonstrate present responsibility. Once cause for debarment is established, it is the respondent's burden to demonstrate to the SDO that it is presently responsible and that suspension or debarment is not necessary.

Question: Can respondents concurrently negotiate Federal discretionary suspensions or debarments when negotiating criminal plea agreements or civil settlements?

Answer: Discretionary S&D matters are those subject to subpart 9.4 of the Federal Acquisition Regulation and/or 2 C.F.R. Part 180, and such authority is exercised by Federal agency SDOs to protect Federal agency programmatic and business interests. Administrative parallel proceedings are those in which an SDO for the lead agency may enter into a separate agreement to concurrently resolve such discretionary suspension and debarment administrative matters. Respondents should contact the relevant suspension and debarment office(s), which can be found at <https://www.acquisition.gov/isdc-debarring-officials>.



December 22, 2023

The Honorable Gary C. Peters
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The Interagency Suspension and Debarment Committee (ISDC) provides reports to Congress on the status of the Federal suspension and debarment system, pursuant to Section 873 of the Duncan Hunter National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2009 (Public Law 110-417).¹ This report describes Governmentwide progress in improving the Federal suspension and debarment process and provides a summary of the suspension and debarment-related activities for each member agency during FYs 2021 and 2022.²

Suspension and debarment-related actions are administrative remedies designed to protect the Government's business interests from potential harm posed by individuals or entities whose conduct indicates or constitutes cause for exclusion, such as serious poor performance, evidence of fraud, or other indicia of a serious or compelling lack of business honesty or integrity. Agency Suspending and Debarring Officials (SDOs) consider action against business entities and individuals alike, as appropriate, to ensure the present responsibility of the Government's business partners and participants. SDOs ensure present responsibility by excluding parties that engage in serious misconduct and fail to demonstrate an appropriately remedial approach and commitment to business honesty, integrity, and performance. As the purpose of suspension and

¹ Established by Executive Order (E.O.) 12549, the ISDC is an unfunded interagency body, consisting chiefly of representatives from executive branch organizations working together to improve and provide support for suspension and debarment programs throughout the Government. The 24 agencies covered by the Chief Financial Officers Act (CFO Act), as amended, are standing members of the ISDC. ISDC membership also includes independent Federal agencies and corporations. ISDC member agencies are collectively responsible for nearly all Federal procurement and discretionary assistance, loan, and benefit (nonprocurement) transactions. ISDC collaboration includes the law enforcement community, colleagues in the legislative agencies, and other stakeholders.

² In accordance with E.O. 12549, the ISDC is responsible for the discretionary suspension and debarment system, which is governed by the Federal Acquisition Regulation (FAR) at 48 C.F.R. Subpart 9.4 and the Nonprocurement Common Rule (NCR) at 2 C.F.R. Part 180. The information collected for this report reflects activities related only to use of the discretionary suspension and debarment remedy. However, the Federal database for listing exclusions, System for Award Management (SAM), includes additional types of exclusions distinct in scope or application from discretionary actions reported here. This report does not address prohibitions and restrictions mandated by, or imposed as an automatic consequence of, violations of various statutes and/or regulatory compliance regimes, such as agency-specific prohibitions and restrictions.

debarment is the protection of Government interests rather than punishment, SDOs are also vested with an array of tools, such as alternate resolution via an administrative agreement whereby business entities and individuals may demonstrate that, prior problematic conduct notwithstanding, a present risk does not exist. SDOs are thus equipped to exercise business judgment, make tailored assessments, and encourage Federal participants to implement solutions reducing current and prospective business risks to taxpayer funds, programs, and public interests.

This report addresses the ISDC's strategic objectives and activities, outreach, and member agencies' reported information or implementation of the available suspension and debarment-related remedies. During the covered period, suspension and debarment programs executed the highest number of administrative compliance agreements reported to date, which more than doubled the previous reported record, and reported increases in alternatives to exclusions. Agencies also processed a fluctuating volume of referred actions, including new types of referrals such as COVID-19 fraud matters, and contributed to multiple Governmentwide initiatives. Additional data regarding the FY 2021 and 2022 activities are enclosed in the attached appendices, summary highlights, and common misconceptions document. For more information on the ISDC, please see its homepage at <https://www.acquisition.gov/isdc-home>.

The ISDC looks forward to its continued work with agencies to better protect taxpayer programs and operations from business risks through effective suspension and debarment programs.

Sincerely,

/s/

Lori Y. Vassar, Chair
ISDC

/s/

Monica Aquino-Thieman, Vice-Chair
ISDC

Enclosures

Identical Letter Sent to: The Honorable Rand Paul, The Honorable James Comer, and The Honorable Jamie Raskin