

their determination of contractor responsibility on a review of the company's "Summary or Financial Report" from Dun & Bradstreet (available on the Internet for a fee at <http://www.dnb.com/>).

### **Subpart 2909.4—Debarment, Suspension, and Ineligibility**

#### **2909.402 Policy.**

(a) This subpart prescribes DOL policies and procedures governing the debarment and suspension of contractors, the listing of debarred and suspended contractors, contractors declared ineligible (see FAR 9.403) and distribution of the list. This subpart does not apply to Department of Labor debarments or suspensions issued for Davis-Bacon Act and Davis-Bacon Related Act violations, Service Contract Act violations, Affirmative Action/Equal Employment Opportunity violations, or violations under other statutes administered by the Department of Labor.

(b) *Contracting activity officials shall have the following responsibilities.* (1) Heads of contracting activity (HCA) shall:

(i) Provide an effective system to ensure that contracting staffs consult the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs" at <http://epls.arnet.gov/> before soliciting offers, awarding or extending contracts, or consenting to sub-contract.

(ii) Consider debarment or suspension of a contractor when cause, as defined under FAR 9.406-2 for debarment and FAR 9.407-2 for suspension, is shown. Contracting officers should consult with their appropriate legal counsel before making a decision to initiate debarment or suspension proceedings. If a determination is made that available facts do not justify beginning debarment or suspension proceedings, the file should be documented accordingly. This determination is subject to reconsideration if warranted by new information.

(iii) When the decision is made to initiate debarment and/or suspension of a contractor, the Senior Procurement Executive must prepare a notice in accordance with FAR 9.406-3(c) or FAR 9.407-3(c). The draft notice, along with

the administrative file containing all relevant facts and analysis, must be forwarded to the Senior Procurement Executive, as the debarring and suspending official, following review by the activity's legal counsel.

(2) The Senior Procurement Executive shall:

(i) Review the notice and administrative file for sufficiency and provide for review by other DOL officials as considered appropriate;

(ii) In accordance with FAR 9.406-3(c) or FAR 9.407-3(c), if it is determined that action is warranted, give the contractor prompt notice of the proposed debarment or suspension;

(iii) Direct additional fact-finding as necessary when material facts are in dispute;

(iv) Notify the contractor and any affiliates involved of the final decision to debar or suspend, including a decision not to debar or suspend, in accordance with FAR 9.406-3(c) and FAR 9.407-3(c);

(v) Be responsible for accomplishing the actions required in FAR 9.404(c) within five working days after debarring or suspending a contractor or modifying or rescinding such an action;

(vi) Maintain Department-wide records of debarred or suspended contractors in accordance with FAR 9.404.

#### **2909.405 Effect of listing.**

(a) Contractors debarred, suspended, or proposed for debarment are excluded from receiving contracts, and agencies must not solicit offers from, award contracts to, or consent to subcontract with these organizations, unless the HCA determines in writing that there is a compelling reason for such action and the Assistant Secretary for Administration and Management approves such determinations.

(b) Bids received from any listed contractor in response to an invitation for bids must be entered on the abstract of bids, and rejected unless the HCA determines in writing that there is a compelling reason to consider the bid and the Assistant Secretary for Administration and Management approves such action.

(c) Proposals, quotations, or offers received from any listed contractor shall not be evaluated for award or included in the competitive range, nor