

509.405-2

(e.g., other multiple award contracts, readily available commercial items.)

(c) The responsibilities of the agency head under FAR 9.405-1 are delegated to the GSA Suspension and Debarment Official.

[74 FR 12732, Mar. 25, 2009]

509.405-2 Restrictions on subcontracting.

The responsibilities of the agency head under FAR 9.405-2(a) are delegated to the GSA Suspension and Debarment Official.

[74 FR 12732, Mar. 25, 2009]

509.406 Debarment.

509.406-1 General.

The Suspension and Debarment Official is the designee under FAR 9.406-1(c).

[74 FR 12733, Mar. 25, 2009]

509.406-3 Procedures.

(a) *Investigation and referral.* (1) Refer to the Suspension and Debarment Official matters involving serious contract improprieties or performance deficiencies. Performance deficiencies that continue over a period of time or apply to more than one contract may warrant debarment consideration.

(2) Refer possible criminal or fraudulent activities to the Office of the Inspector General (OIG). See 5 CFR 6701.107, Reporting Waste, Fraud, Abuse, and Corruption. If, after investigation, the OIG believes a cause for debarment exists, it will refer the matter to the Suspension and Debarment Official for consideration of debarment action.

(b) *Reports.* Include in referrals to the Suspension and Debarment Official a report that contains at least the following:

(1) The recommendation and supporting rationale.

(2) A list of parties to be considered for possible debarment, including the contractor, principals, and affiliates. Include last known home and business addresses, zip codes, and DUNS Numbers.

(3) A statement of facts.

(4) Copies of documentary evidence and a list of witnesses. Include address-

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es and telephone numbers. Determine their availability to appear at a fact-finding proceeding and identify the subject matter of their testimony.

(5) GSA's acquisition history with the contractor. Include recent experience, copies of the pertinent contracts, and an explanation of impact debarment would have on GSA programs. OIG referrals do not require this explanation; the Suspension and Debarment Official will obtain the information directly from the contracting activity(s).

(6) A list of any known active or potential criminal investigations, criminal or civil proceedings, or administrative claims before the Board of Contract Appeals.

(c) *Review.* The Suspension and Debarment Official will review the report, and after coordinating with assigned legal counsel—

(1) Initiate debarment action;

(2) Decline debarment action;

(3) Request additional information; or

(4) Refer the matter to the OIG for further investigation and development of a case file.

(d) *Decisionmaking process.* (1) The Suspension and Debarment Official will provide:

(i) Notice of declinations, proposed debarments, and decisions to the referring activity.

(ii) Notice of proposed debarment to each party being considered for debarment.

(iii) Decision notices to each party after considering information in the administrative record and information and argument submitted by the affected party or parties.

(2) A party proposed for debarment:

(i) Has 30 calendar days after receipt of the notice to respond to the Suspension and Debarment Official or the debarment becomes final.

(ii) May request and receive a copy of the administrative record that was the basis for the proposed debarment. If information is withheld, the party will be notified and provided the reason.

(iii) May request the opportunity to present information and argument in person to the Suspension and Debarment Official. The Suspension and Debarment Official will schedule an oral presentation within 20 calendar days of