PART 609—CONTRACTOR QUALIFICATIONS

Subpart 609.2—Qualifications Requirements

Sec. 609.202 Policy.

609.206 Acquisitions subject to qualification requirements.

609.206–1 General.

Subpart 609.4—Debarment, Suspension, and Ineligibility

609.403 Definitions.

Debarring official means the Procurement Executive.

Suspending official means the Procurement Executive.

609.403–70 DOSAR definitions.

Fact-finding official means the chairperson of a three member fact-finding panel. The panel comprises one representative each from the Office of the Legal Adviser, the contracting activity, and the requirements office. The representative from the Office of the Legal Adviser is the panel chairperson.

Notice means a written communication sent by certified mail (return receipt requested) to the last known address of the party, its identified counsel, or its agent. In the case of a business, such notice may be sent to any partner, principal officer, director, owner or co-owner, or joint venturer. If no return receipt is received within 10 calendar days of mailing, receipt shall then be presumed. This definition applies to the notice requirements in FAR 9.406–3 and FAR 9.407–3.

609.404 Excluded parties list system.

A/OPE shall accomplish the agency responsibilities prescribed in FAR 9.404(c)(1) through (c)(3). The authority to establish procedures prescribed in FAR 9.404(c)(7) is delegated, without power of redelegation, to the head of the contracting activity.

609.404–70 Specially Designated Nationals List.

Contracting officers shall not award to any of the entities listed on the Specially Designated Nationals (SDN) List, available on the Department of Treasury’s Office of Foreign Assets Control Web site at http://www.treas.gov/ofac/. Contracting officers shall consult this list prior to award for any dollar amount. This list...
may also be accessed through the

609.405 Effect of listing.

(a) The Procurement Executive is the
agency head’s designee for the purposes
of FAR 9.405(a).

(d)(3) The Procurement Executive is
the agency head’s designee for the pur-
poses of FAR 9.405(d)(3).

609.405–1 Continuation of current con-
tracts.

The Procurement Executive is the
agency head’s designee for the purposes
of FAR 9.405–1. The decision whether to
terminate a current contract shall be
made in consideration of the cir-
cumstances listed in 609.405–70.

609.405–2 Restrictions on subcon-
tracting.

The Procurement Executive is the
agency head’s designee for the purposes
of FAR 9.405–2.

609.405–70 Termination action deci-
sion.

(a) Prior to making a decision to ter-
minate, based on the consideration
listed below, the contracting officer
shall have the proposed action re-
viewed and approved by:

(1) The Office of the Legal Adviser;

(2) An individual one level above the
contracting officer; and

(3) For overseas posts, A/OPE.

(b) Termination for default. Termi-
nation for default under a contract’s
default clause is appropriate when the
circumstances giving rise to the debar-
ment or suspension also constitute a
default in the contractor’s performance
of that contract. Debarment or suspen-
sion of the contractor for reasons unre-
related to the performance of that con-
tract may not support a termination
for default.

(c) Termination for convenience or can-
cellation. Termination for convenience
or cancellation under appropriate con-
tract clauses should be considered when
the contractor presents a signifi-
cant risk to the Government in com-
pleting a current contract and when
such termination for convenience or
cancellation is determined to be in the
Government’s best interests. In mak-
ing this determination, the contracting
officer should consider such factors as
the—

(1) Seriousness of the cause for debar-
ment or suspension;

(2) Extent of contract performance;

(3) Potential costs to the Govern-
ment;

(4) Urgency of the requirement and
the impact of the delay; and/or

(5) Availability of other safeguards to
protect the Government’s interests.

609.406 Debarment.
609.406–1 General.

The Procurement Executive is the
agency head’s designee for the purposes
of FAR 9.406–1(c).

609.406–3 Procedures.

(a) Investigation and referral. (1) DOS
employees aware of any cause that
may serve as the basis for debarment
shall immediately refer those cases
through the contracting officer to the
debarring official. The debarring offi-
cial shall immediately refer to the Of-
fice of the Inspector General all re-
ported cases that involve possible
criminal or fraudulent activities for in-
vestigation by that office. The Office of
the Inspector General shall investigate
the matter, as appropriate, and provide
a copy of its investigation report to the
Procurement Executive for consider-
ation of debarment action, if and when
appropriate. The contracting officer
shall provide to the Procurement Exec-
utive and the Office of the Inspector
General a copy of his or her intended
actions in response to the Office of the
Inspector General report.

(2) Referrals for consideration of de-
barment shall include—

(i) The cause for debarment (see FAR
9.406–2);

(ii) A statement of facts;

(iii) Copies of supporting documen-
tary evidence and a list of all necessary
or probable witnesses, including ad-
dresses and telephone numbers, to-
gether with a statement concerning