

Subpart 1309.4—Debarment, Suspension, and Ineligibility

1309.403 Definitions.

The designees authorized as the Debarring and Suspending Officials are set forth in CAM 1301.70.

1309.405 Effect of listing.

(a) Contracting officers shall review the Excluded Parties List System (EPLS) listing for contractors after the opening of bids or receipt of proposals and, again, immediately prior to award.

(b) The designee authorized to determine that a compelling reason exists to do business with a debarred/suspended contractor is set forth in CAM 1301.70. This designation does not apply to FAR 23.506(e).

1309.405-1 Continuation of current contracts.

(a) The designee authorized to direct the discontinuance of a contract or subcontract because of a debarment, suspension or proposed debarment is set forth in CAM 1301.70.

(b) A written determination must be issued by the designee authorized in CAM 1301.70 before the following actions can be taken with a contractor that is debarred, suspended or proposed for debarment:

(1) Place any orders exceeding the maximum on an indefinite delivery contract;

(2) Place orders under Federal supply schedule contracts, blanket purchase orders or basic ordering agreements; or

(3) Add new work or exercise options that extend the duration of a current contract or order.

1309.405-2 Restrictions on subcontracting.

The designee authorized to provide, in writing, compelling reasons for allowing Government consent to subcontracts with a contractor who is debarred, suspended or proposed for debarment is set forth in CAM 1301.70.

1309.406 Debarment.

1309.406-1 General.

Debarments and proposed debarments shall be effective through-

out the Executive branch of the Government unless the designee authorized in CAM 1301.70 states in writing compelling reasons justifying DOC doing business with the contractor.

1309.406-3 Procedures.

(a) *Investigation and referral.* DOC employees shall immediately refer any cause that might serve as the basis for debarment through the contracting officer to the debarring official.

(b) *Decision-making process.* (1) Procedures shall afford the contractor, and any named affiliates, an opportunity to submit information and argument in opposition to the proposed debarment. This may be done in person, in writing or through a representative.

(2) In actions not based upon a conviction or civil judgment, where the contractor's submission raises a genuine dispute over facts material to the proposed debarment, the following procedures will be followed:

(i) Provide the contractor an opportunity to appear with counsel, submit documentary evidence, present witnesses and confront any person the agency presents;

(ii) A transcribed record of the proceeding will be made, unless the agency and contractor mutually agree to waive the requirement for a transcript. This transcribed record is available to the contractor at cost.

(c) *Notice of proposal to debar.* A notice of proposed debarment shall be issued by the debarring official in accordance with FAR 9.406-3(c)(1) through (7).

(d) *Debarring official's decision.* (1) For actions based upon a conviction or civil judgment, or when there is no authentic dispute over material facts, the debarring official's decision shall be based on all of the information in the administrative record plus any contractor-submitted data. If there is no suspension in effect, the decision shall be rendered within 30 working days after receipt of any information and argument submitted by the contractor. The debarring official can extend this timeframe for good cause.

(2)(i) When necessary, written findings of fact shall be prepared as to disputed material facts. The debarring official will utilize the information in