

Environmental Protection Agency

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and technology programs—Requirements with guidance for use, approved February 4, 2014.

- (i) [Reserved]
- (2) [Reserved]

[79 FR 76050, Dec. 19, 2014, as amended at 80 FR 61088, Oct. 9, 2015. Redesignated at 85 FR 61573, Sept. 30, 2020, as amended at 87 FR 30397, May 19, 2022]

Subpart E—Disputes

§ 1500.13 Purpose and scope of this subpart.

(a) This section provides the process for the resolution of pre-award and post-award assistance agreement disputes as described in § 1500.14, except for:

(1) Assistance agreement competition-related disputes which are covered by EPA's Grant Competition Dispute Resolution Procedures; and,

(2) Any appeal process relating to an award official's determination that an entity is not qualified for award that may be developed pursuant to guidance implementing Section 872 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417, as amended).

(b) Pre-award and post-award disagreements between affected entities and EPA related to an assistance agreement should be resolved at the lowest level possible. If an agreement cannot be reached, absent any other applicable statutory or regulatory dispute provisions, affected entities must follow the dispute procedures outlined in this subpart.

(c) Determinations affecting assistance agreements made under certain Agency decision-making processes are not subject to review under the procedures in this subpart or the Agency's procedures for resolving assistance agreement competition-related disputes. These determinations include, but are not limited to:

- (1) Decisions on requests for exceptions under § 1500.4;
- (2) Bid protest decisions under 2 CFR 200.318(k);
- (3) National Environmental Policy Act decisions under 40 CFR part 6;
- (4) Policy decisions of the EPA Internal Audit Dispute Resolution Process

(formerly known as Audit Resolution Board);

(5) Suspension and Debarment Decisions under 2 CFR parts 180 and 1532;

(6) Decisions to decline to fund non-competitive applications or not to award incremental or supplemental funding based on the availability of funds or agency priorities;

(7) Decisions on requests for reconsideration of specific award conditions under 2 CFR 200.208;

(8) Decisions to deny requests for no-cost extensions under 2 CFR 200.308(e)(2), 40 CFR 35.114(b), and 40 CFR 35.514(b); and

(9) Denials of requests for EPA approval of procurement through non-competitive proposals under 2 CFR 200.320(c)(4).

[79 FR 76050, Dec. 19, 2014. Redesignated at 85 FR 61573, Sept. 30, 2020; 85 FR 61574, Sept. 30, 2020]

§ 1500.14 Definitions.

As used in this subpart:

(a) *Action Official (AO)* is the EPA official who authors the Agency Decision to the Affected Entity regarding a pre-award or post-award matter.

(b) *Affected Entity* is an entity that applies for and/or receives Federal financial assistance from EPA including but not limited to: State and local governments, Indian Tribes, Intertribal Consortia, Institutions of Higher Education, Hospitals, and other Non-profit Organizations, and Individuals.

(c) *Agency Decision* is the agency's initial pre-award or post-award assistance agreement determination that may be disputed in accordance with this subpart. The Agency Decision is sent by the Action Official (AO) to the Affected Entity electronically and informs them of their dispute rights and identifies the Dispute Decision Official (DDO). An Agency Decision based on audit findings serves as EPA's *Management decision* as defined in 2 CFR part 200.1.

(d) *Dispute* is a disagreement by an Affected Entity with a specific Agency Decision submitted to the DDO in accordance with this subpart.

(e) *Dispute Decision Official (DDO)* is the designated agency official responsible for issuing a decision resolving a Dispute.

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(1) The DDO for a Headquarters Dispute is the Director of the Grants and Interagency Agreement Management Division in the Office of Grants and Debarment or designee. To provide for a fair and impartial review, the AO for the challenged Agency Decision may not serve as the Headquarters DDO.

(2) The DDO for a Regional Assistance Agreement Dispute is the Regional Administrator or the official designated by the Regional Administrator to issue the written decision resolving the Dispute. To provide for a fair and impartial review, the AO for the challenged Agency Decision may not serve as the Regional DDO.

[79 FR 76050, Dec. 19, 2014. Redesignated at 85 FR 61573, Sept. 30, 2020; 85 FR 61574, Sept. 30, 2020, as amended at 87 FR 30397, May 19, 2022]

§ 1500.15 Submission of Dispute.

An Affected Entity or its authorized representative may dispute an Agency Decision by electronically submitting a Dispute to the DDO identified in the Agency Decision. In order for the DDO to consider the Dispute, it must satisfy the following requirements:

(a) *Timeliness*. The DDO must receive the Dispute no later than 30 calendar days from the date the Agency Decision is electronically sent to the Affected Entity. The DDO will dismiss any Dispute received after the 30-day period unless the DDO grants an extension of time to submit the Dispute. The Affected Entity must submit a written request for extension to the DDO before the expiration of the 30-day period. The DDO may grant a one-time extension of up to 30 calendar days when justified by the situation, which may include the unusual complexity of the Dispute or because of exigent circumstances.

(b) *Method of submission*. The Affected Entity must submit the Dispute electronically via email to the DDO, with a copy to the AO, using the email addresses specified in the Agency Decision within the 30-day period stated in paragraph (a) of this section.

(c) *Contents of Dispute*. The Dispute submitted to the DDO must include:

(1) A copy of the disputed Agency Decision;

(2) A detailed statement of the specific legal and factual grounds for the

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Dispute, including copies of any supporting documents;

(3) The specific remedy or relief the Affected Entity seeks under the Dispute; and

(4) The name and contact information, including email address, of the Affected Entity's designated point of contact for the Dispute.

[85 FR 61575, Sept. 30, 2020]

§ 1500.16 Notice of receipt of Dispute to Affected Entity.

Within 15 calendar days of receiving the Dispute, the DDO will provide the Affected Entity a written notice, sent electronically, acknowledging receipt of the Dispute.

(a) *Timely Disputes*. If the Dispute was timely submitted, the notice of acknowledgement may identify any additional information or documentation that is required for a thorough consideration of the Dispute. The notice should provide no more than 30 calendar days for the Affected Entity to provide the requested information. If it is not feasible to identify such information or documentation in the notice the DDO may request it at a later point in time prior to issuance of the Dispute decision.

(b) *Untimely Disputes*. If the DDO did not receive the Dispute within the required 30-day period, or any extension of it, the DDO will notify the Affected Entity that the Dispute is being dismissed as untimely and the Agency Decision of the AO becomes final. The dismissal of an untimely Dispute constitutes the final agency action. In appropriate circumstances, the DDO may, as a matter of discretion, consider an untimely Dispute if doing so would be in the interests of fairness and equity.

[85 FR 61575, Sept. 30, 2020]

§ 1500.17 Determination of Dispute.

(a) In determining the merits of the Dispute, the DDO will consider the record related to the Agency Decision, any documentation that the Affected Entity submits with its Dispute, any additional documentation submitted by the Affected Entity in response to the DDO's request under §1500.16(a), and any other information the DDO determines is relevant to the Dispute

provided the DDO gives notice of that information to the Affected Entity. The Affected Entity may not on its own initiative submit any additional documents except in the support of a request for reconsideration under paragraph (c) of this section.

(b) The DDO will issue the Dispute decision within 180 calendar days from the date the Dispute is received by the DDO unless a longer period is necessary based on the complexity of the legal, technical, and factual issues presented. The DDO will notify the Affected Entity if the expected decision will not be issued within the 180-day period and if feasible will indicate when the decision is expected to be issued. The DDO will issue the Dispute decision electronically and advise the Affected Entity of procedures for requesting reconsideration. The DDO's decision will constitute the final agency action unless the Affected Entity electronically petitions the DDO for reconsideration within 15 calendar days of issuance of the DDO Decision. The Affected Entity must include a detailed statement of the factual and legal grounds warranting reversal or modification of the DDO decision. In addition, the Affected Entity may submit additional documents that were not previously provided to the DDO.

(c) If a petition for reconsideration is submitted, the DDO's will advise the Affected Entity within 15 calendar days of receipt of the petition whether the DDO Decision will be reconsidered. The DDO will issue this determination electronically. DDO's will only grant a reconsideration petition if the Affected Entity provides relevant and material evidence that was not available to the Affected Entity at the time the Dispute was submitted or to correct a clear and prejudicial error of fact or law. Denial of a petition for reconsideration constitutes final agency action and the DDO will advise the Affected Entity of the reasons for denying the reconsideration in writing.

(d) If the DDO grants a reconsideration petition, the DDO will issue a revised DDO Decision within 30 calendar days of acceptance of the reconsideration petition unless a longer period is necessary based on the complexity of the legal, technical, and factual issues

presented. The DDO will issue the revised DDO Decision electronically. The revised DDO Decision and any new material considered by the DDO in making the revised DDO Decision will become part of the record of the Dispute. The revised DDO Decision will constitute final agency action.

(e) The DDO may consider untimely filed reconsideration petitions only if necessary, to correct a DDO Decision that is manifestly unfair and inequitable in light of relevant and material evidence that the Affected Entity could not have discovered during the 15-calendar day period for petitioning for reconsideration. This evidence must be submitted within six months of the date of the DDO Decision. The DDO will advise the Affected Entity within 30 days of receipt of an untimely filed reconsideration petition whether the DDO will accept the petition. Denial of an untimely filed reconsideration petition constitutes final agency action.

[85 FR 61575, Sept. 30, 2020, as amended at 87 FR 30397, May 19, 2022]

PARTS 1501–1531 [RESERVED]

PART 1532—NONPROCUREMENT DEBARMENT AND SUSPENSION

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AUTHORITY: 33 U.S.C. 1251 *et seq.*; 42 U.S.C. 7401 *et seq.*; Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 11738 (3 CFR, 1973 Comp., p. 799); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235).

SOURCE: 72 FR 2422, Jan. 19, 2007, unless otherwise noted.

§ 1532.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) guidance in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Environmental Protection Agency (EPA) policies and procedures for nonprocurement debarment and suspension. It thereby gives regulatory effect for the EPA to the OMB guidance as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 1532.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB guidance in subparts A through I of 2 CFR part 180 (see table at 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970;

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(b) Respondent in an EPA suspension or debarment action;

(c) EPA debarment or suspension of official; or

(d) EPA grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 1532.30 What policies and procedures must I follow?

The EPA policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB guidance in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by section 220 of the OMB guidance (i.e., 2 CFR 180.220) as supplemented by section 220 in this part (i.e., § 1532.220). For any section of OMB guidance in subparts A through I of 2 CFR 180 that has no corresponding section in this part, EPA policies and procedures are those in the OMB guidance.

Subpart A—General

§ 1532.137 Who in the EPA may grant an exception to let an excluded person participate in a covered transaction?

The EPA Debarring Official has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB guidance at 2 CFR 180.135. If the EPA Debarring Official grants an exception, the exception must be in writing and state the reason(s) for deviating from the governmentwide policy in Executive Order 12549.

Subpart B—Covered Transactions

§ 1532.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

In addition to the contracts covered under 2 CFR 180.220(b) of the OMB guidance, this part applies to any contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representa-

tive in any transaction, if the contract is to be funded or provided by the EPA under a covered nonprocurement transaction and the amount of the contract is expected to equal or exceed \$25,000. This extends the coverage of the EPA nonprocurement suspension and debarment requirements to all lower tiers of subcontracts under covered nonprocurement transactions, as permitted under the OMB guidance at 2 CFR 180.220(c) (see optional lower tier coverage in the figure in the appendix to 2 CFR part 180).

Subpart C—Responsibilities of Participants Regarding Transactions

§ 1532.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of the OMB guidance in 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 1532.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435 of the OMB guidance, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subparts E–F [Reserved]

Subpart G—Suspension

§ 1532.765 How may I appeal my EPA suspension?

(a) If the EPA suspending official issues a decision under 2 CFR 180.755 to continue your suspension after you

present information in opposition to that suspension under 2 CFR 180.720, you can ask for review of the suspending official's decision in two ways:

(1) You may ask the suspending official to reconsider the decision for material errors of fact or law that you believe will change the outcome of the matter; and/or

(2) You may request the Director, Office of Grants and Debarment (OGD Director), to review the suspending official's decision to continue your suspension within 30 days of your receipt of the suspending official's decision under 2 CFR 180.755 or paragraph (a)(1) of this section. However, the OGD Director can reverse the suspending official's decision only where the OGD Director finds that the decision is based on a clear error of material fact or law, or where the OGD Director finds that the suspending official's decision was arbitrary, capricious, or an abuse of discretion.

(b) A request for review under this section must be in writing; state the specific findings you believe to be in error; and include the reasons or legal bases for your position.

(c) A review under paragraph (a)(2) of this section is solely within the discretion of the OGD Director who may also stay the suspension pending review of the suspending official's decision.

(d) The EPA suspending official and the OGD Director must notify you of their decisions under this section, in writing, using the notice procedures at 2 CFR 180.615 and 180.975.

Subpart H—Debarment

§ 1532.890 How may I appeal my EPA debarment?

(a) If the EPA debarring official issues a decision under 2 CFR 180.870 to debar you after you present information in opposition to a proposed debarment under 2 CFR 180.815, you can ask for review of the debarring official's decision in two ways:

(1) You may ask the debarring official to reconsider the decision for material errors of fact or law that you believe will change the outcome of the matter; and/or

(2) You may request the Director, Office of Grants and Debarment (OGD Director),

to review the debarring official's decision to debar you within 30 days of your receipt of the debarring official's decision under 2 CFR 180.870 or paragraph (a)(1) of this section. However, the OGD Director can reverse the debarring official's decision only where the OGD Director finds that the decision is based on a clear error of material fact or law, or where the OGD Director finds that the debarring official's decision was arbitrary, capricious, or an abuse of discretion.

(b) A request for review under this section must be in writing; state the specific findings you believe to be in error; and include the reasons or legal bases for your position.

(c) A review under paragraph (a)(2) of this section is solely within the discretion of the OGD Director who may also stay the debarment pending review of the debarring official's decision.

(d) The EPA debarring official and the OGD Director must notify you of their decisions under this section, in writing, using the notice procedures at 2 CFR 180.615 and 180.975.

Subpart I—Definitions

§ 1532.995 Principal (EPA supplement to government-wide definition at 2 CFR 180.995).

In addition to those listed in 2 CFR 180.995, other examples of individuals who are principals in EPA covered transactions include:

(a) Principal investigators;

(b) Technical or management consultants;

(c) Individuals performing chemical or scientific analysis or oversight;

(d) Professional service providers such as doctors, lawyers, accountants, engineers, etc.;

(e) Individuals responsible for the inspection, sale, removal, transportation, storage or disposal of solid or hazardous waste or materials;

(f) Individuals whose duties require special licenses;

(g) Individuals that certify, authenticate or authorize billings; and

(h) Individuals that serve in positions of public trust.

Subpart J—Statutory Disqualification and Reinstatement Under the Clean Air Act and Clean Water Act

§ 1532.1100 What does this subpart do?

This subpart explains how the EPA administers section 306 of the Clean Air Act (CAA) (42 U.S.C. 7606) and section 508 of the Clean Water Act (CWA) (33 U.S.C. 1368), which disqualify persons convicted for certain offenses under those statutes (see § 1532.1105), from eligibility to receive certain contracts, subcontracts, assistance, loans and other benefits (see coverage under the Federal Acquisition Regulation (FAR), 48 CFR part 9, subpart 9.4 and subparts A through I of 2 CFR part 180). It also explains: the procedures for seeking reinstatement of a person's eligibility under the CAA or CWA; the criteria and standards that apply to EPA's decision-making process; and requirements of award officials and others involved in Federal procurement and nonprocurement activities in carrying out their responsibilities under the CAA and CWA.

§ 1532.1105 Does this subpart apply to me?

(a) Portions of this subpart apply to you if you are convicted, or likely to be convicted, of any offense under section 7413(c) of the CAA or section 1319(c) of the CWA.

(b) Portions of this subpart apply to you if you are the EPA debarred official, a Federal procurement or nonprocurement award official, a participant in a Federal procurement or nonprocurement program that is precluded from entering into a covered transaction with a person disqualified under the CAA or CWA, or if you are a Federal department or agency anticipating issuing an exception to a person otherwise disqualified under the CAA or CWA.

§ 1532.1110 How will a CAA or CWA conviction affect my eligibility to participate in Federal contracts, subcontracts, assistance, loans and other benefits?

If you are convicted of any offense described in § 1532.1105, you are automatically disqualified from eligibility

to receive any contract, subcontract, assistance, sub-assistance, loan or other nonprocurement benefit or transaction that is prohibited by a Federal department or agency under the Governmentwide debarment and suspension system (i.e. covered transactions under subpart A through I of 2 CFR part 180, or prohibited awards under 48 CFR part 9, subpart 9.4), if you:

(a) Will perform any part of the transaction or award at the facility giving rise to your conviction (called the violating facility); and

(b) You own, lease or supervise the violating facility.

§ 1532.1115 Can the EPA extend a CAA or CWA disqualification to other facilities?

The CAA specifically authorizes the EPA to extend a CAA disqualification to other facilities that are owned or operated by the convicted person. The EPA also has authority under subparts A through I of 2 CFR part 180, or under 48 CFR part 9, subpart 9.4, to take discretionary suspension and debarment actions on the basis of misconduct leading to a CAA or CWA conviction, or for activities that the EPA debarred official believes were designed to improperly circumvent a CAA or CWA disqualification.

§ 1532.1120 What is the purpose of CAA or CWA disqualification?

As provided for in Executive Order 11738 (3 CFR, 1973 Comp., p. 799), the purpose of CAA and CWA disqualification is to enforce the Federal Government's policy of undertaking Federal procurement and nonprocurement activities in a manner that improves and enhances environmental quality by promoting effective enforcement of the CAA or CWA.

§ 1532.1125 How do award officials and others know if I am disqualified?

If you are convicted under these statutes, the EPA enters your name and address and that of the violating facility into the Excluded Parties List System (EPLS) as soon as possible after the EPA learns of your conviction. In addition, the EPA enters other information describing the nature of your

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disqualification. Federal award officials and others who administer Federal programs consult the EPLS before entering into or approving procurement and nonprocurement transactions. Anyone may access the EPLS through the internet, currently at <http://www.epls.gov>.

§ 1532.1130 How does disqualification under the CAA or CWA differ from a Federal discretionary suspension or debarment action?

(a) CAA and CWA disqualifications are exclusions mandated by statute. In contrast, suspensions and debarments imposed under subparts A through I of 2 CFR part 180 or under 48 CFR part 9, subpart 9.4, are exclusions imposed at the discretion of Federal suspending or debarring officials. This means that if you are convicted of violating the CAA or CWA provisions described under § 1532.1105, ordinarily your name and that of the violating facility is placed into the EPLS before you receive a confirmation notice of the listing, or have the opportunity to discuss the disqualification with, or seek reinstatement from, the EPA.

(b) CAA or CWA disqualification applies to both the person convicted of the offense, and to the violating facility during performance of an award or covered transaction under the Federal procurement and nonprocurement suspension and debarment system. It is the EPA's policy to carry out CAA and CWA disqualifications in a manner which integrates the disqualifications into the Governmentwide suspension and debarment system. Whenever the EPA determines that the risk presented to Federal procurement and nonprocurement activities on the basis of the misconduct which gives rise to a person's CAA or CWA conviction exceeds the coverage afforded by mandatory disqualification, the EPA may use its discretionary authority to suspend or debar a person under subparts A through I of 2 CFR part 180, or under 48 CFR part 9, subpart 9.4.

§ 1532.1135 Does CAA or CWA disqualification mean that I must remain ineligible?

You must remain ineligible until the EPA debarring official certifies that the condition giving rise to your con-

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viction has been corrected. If you desire to have your disqualification terminated, you must submit a written request for reinstatement to the EPA debarring official and support your request with persuasive documentation. For information about the process for reinstatement see §§ 1532.1205 and 1532.1300.

§ 1532.1140 Can an exception be made to allow me to receive an award even though I may be disqualified?

(a) After consulting with the EPA debarring official, the head of any Federal department or agency (or designee) may exempt any particular award or a class of awards with that department or agency from CAA or CWA disqualification. In the event an exemption is granted, the exemption must:

(1) Be in writing; and

(2) State why the exemption is in the paramount interests of the United States.

(b) In the event an exemption is granted, the exempting department or agency must send a copy of the exemption decision to the EPA debarring official for inclusion in the official record.

§ 1532.1200 How will I know if I am disqualified under the CAA or CWA?

There may be several ways that you learn about your disqualification. You are legally on notice by the statutes that a criminal conviction the CAA or CWA automatically disqualifies you. As a practical matter, you may learn about your disqualification from your defense counsel, a Federal contract or award official, or from someone else who sees your name in the EPLS. As a courtesy, the EPA will attempt to notify you and the owner, lessor or supervisor of the violating facility that your names have been entered into the EPLS. The EPA will inform you of the procedures for seeking reinstatement and give you the name of a person you can contact to discuss your reinstatement request.

§ 1532.1205 What procedures must I follow to have my procurement and nonprocurement eligibility reinstated under the CAA or CWA?

(a) You must submit a written request for reinstatement to the EPA debarring official stating what you believe the conditions were that led to your conviction, and how those conditions have been corrected, relieved or addressed. Your request must include documentation sufficient to support all material assertions you make. The debarring official must determine that all the technical and non-technical causes, conditions and consequences of your actions have been sufficiently addressed so that the Government can confidently conduct future business activities with you, and that your future operations will be conducted in compliance with the CAA and CWA.

(b) You may begin the reinstatement process by having informal discussions with the EPA representative named in your notification of listing. Having informal dialogue with that person will make you aware of the EPA concerns that must be addressed. The EPA representative is not required to negotiate conditions for your reinstatement. However, beginning the reinstatement process with informal dialogue increases the chance of achieving a favorable outcome, and avoids unnecessary delay that may result from an incomplete or inadequate reinstatement request. It may also allow you to resolve your disqualification by reaching an agreement with the EPA debarring official under informal procedures. Using your informal option first does not prevent you from submitting a formal reinstatement request with the debarring official at any time.

§ 1532.1210 Will anyone else provide information to the EPA debarring official concerning my reinstatement request?

If you request reinstatement under § 1532.1205, the EPA debarring official may obtain review and comment on your request by anyone who may have information about, or an official interest in, the matter. For example, the debarring official may consult with the EPA Regional offices, the Department of Justice or other Federal agencies, or

state, tribal or local governments. The EPA debarring official will make sure that you have an opportunity to address important allegations or information contained in the administrative record before making a final decision on your request for reinstatement.

§ 1532.1215 What happens if I disagree with the information provided by others to the EPA debarring official on my reinstatement request?

(a) If your reinstatement request is based on factual information (as opposed to a legal matter or discretionary conclusion) that is different from the information provided by others or otherwise contained in the administrative record, the debarring official will decide whether those facts are genuinely in dispute, and material to making a decision. If so, a fact-finding proceeding will be conducted in accordance with 2 CFR 180.830 through 180.840, and the debarring official will consider the findings when making a decision on your reinstatement request.

(b) If the basis for your disagreement with the information contained in the administrative record relates to a legal issue or discretionary conclusion, or is not a genuine dispute over a material fact, you will not have a fact-finding proceeding. However, the debarring official will allow you ample opportunity to support your position for the record and present matters in opposition to your continued disqualification. A summary of any information you provide orally, if not already recorded, should also be submitted to the debarring official in writing to assure that it is preserved for the debarring official's consideration and the administrative record.

§ 1532.1220 What will the EPA debarring official consider in making a decision on my reinstatement request?

(a) The EPA debarring official will consider all information and arguments contained in the administrative record in support of, or in opposition to, your request for reinstatement, including any findings of material fact.

(b) The debarring official will also consider any mitigating or aggravating factors that may relate to your conviction or the circumstances surrounding