



Order

Subject: Suspension and Debarment Program

Directive Number: FM 15-3

Effective Date: 12/08/11

Originator: OGC

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Chief Management Officer**

1. **PURPOSE:** This directive establishes the policy and procedures for the Corporation's Suspension and Debarment Program.
2. **SCOPE:** Suspension and debarment are contract remedies; as such, the provisions of this directive apply to all PBGC contractors and subcontractors. PBGC Federal employees are responsible for the enforcement of this directive.
3. **AUTHORITIES:**
 - a. Public Law 103-355, Section 2455 (31 U.S.C. 6101);
 - b. Executive Order 12689, August 16, 1989 (54 C.F.R. 34131);
 - c. Executive Order 12549 (Non-Procurement Rule), Feb. 18, 1986 (51 C.F.R. 6370);
 - d. Federal Acquisition Regulation (FAR) Subpart 9.4—Debarment, Suspension, and Ineligibility (48 C.F.R. 9.4, et seq.);
 - e. 29 C.F.R. 4002, Pension Benefit Guaranty Corporation;
 - f. PBGC Directives FM 15-1 “PBGC Systems for the Requisition of, Acquisition of, and Payment for Goods and Services” (September 18, 2007) and FM 15-2 (“Obligating Procedures for PBGC Procurements”) (September 18, 2007); and
 - g. OFPP Policy Letter 82-1 (47 Fed. Reg. 28,854).
4. **BACKGROUND:** As an executive agency and wholly-owned government corporation, PBGC has the authority to suspend and debar contractors. Exercise of this implied power is necessary for execution of the agency’s duties. The Federal Acquisition Regulation (FAR) encourages agencies to implement procedures for coordinating and initiating suspension and debarment actions.
5. **POLICY:** PBGC shall only solicit offers from, award contracts to, and consent to subcontracts with presently responsible contractors. The Corporation has instituted a suspension and debarment program as a means of effectuating this policy. The agency shall

initiate suspension and debarment actions in the public interest for the Government's protection and only for causes described in the FAR. Suspension and debarment actions shall not be used to punish or harass contractors.

6. **DEFINITIONS:**

- a. **Action Referral Memorandum (ARM).** The investigative report developed and compiled by OIG or a PBGC Department for recommending that the Suspending and Debarring Official (SDO) take a suspension and debarment action against a contractor. At a minimum, the ARM shall include the following information: (1) identity of respondents; (2) business activity of contractor; (3) narrative statement; (4) grounds for suspension and debarment; (5) time-critical events (if any); (6) recommended course of action; and (7) supporting documentation (as applicable). The ARM forms the basis for the Administrative Record. See Appendix B for ARM template.
- b. **Adequate Evidence.** Information sufficient to support a reasonable belief that a particular act or omission has occurred. An agency must have adequate evidence that a cause for suspension exists (as well as an immediate need) to suspend a contractor. For example, an indictment constitutes adequate evidence for suspension.
- c. **Administrative Agreement.** An agreement between an agency and a respondent entered into at any time during a suspension and debarment proceeding. Administrative Agreements are typically executed in lieu of imposing a suspension or debarment. Such agreements may include acceptance of responsibility by the respondent, voluntary exclusion, mitigation plans, training requirements, and other required actions of, limitations on, or representations made by the respondent. Administrative Agreements are effective for a specified period of time (usually three (3) years) and have government-wide effect. Violation of the terms of an Administrative Agreement provides an independent cause for debarment.
- d. **Administrative Record.** All information considered by the Suspending and Debarring Official (SDO), which may include: OIG or GAO reports, notes, emails, contract documents, newspaper articles, summaries of oral briefings, and contractor submissions. The Administrative Record is the basis of the SDO Decision.
- e. **Affiliation.** The extension of a suspension and debarment action to a party with **control** over a contractor engaged in misconduct. Generally, unlike imputation, there is no requirement to show that affiliates have knowledge of or have participated in the contractor's misconduct. The following characteristics suggest indicia of control, which may give rise to a suspension and debarment action against an affiliate: (1) interlocking management or ownership; (2) family-run businesses; (3) common use of employees and facilities; and (4) organization of similar business immediately following suspension or debarment action. An entity may be able to

avoid suspension or debarment by affiliation by dissolving ties with the contractor who engaged in misconduct.

- f. **Agent (or Representative).** Any person or entity who acts on behalf of, or who is authorized to bind a contractor. The misconduct of an agent may be sufficient evidence on which to base a suspension and debarment action against the agent's employer or principal (through affiliation or imputation).
- g. **Debarment.** A final decision made by the SDO rendering a contractor ineligible to receive new government contracts and subcontracts, including renewals and extensions, for a fixed period of time (usually three (3) years). A contractor is first proposed for debarment (see "Proposed Debarment") and afforded an opportunity to present its defenses and mitigating factors.
 - (1) **Statutory (aka "Mandatory") Debarment.** A debarment action automatically warranted by a violation of a particular Federal statute. Such statutes include the Clean Water Act (Environmental Protection Agency (EPA) enforces), the Service Contract Act (Department of Labor (DOL) enforces), and the Davis-Bacon Act (DOL enforces). The agencies designated to enforce these statutes typically have lead agency status with respect to statutory debarment.
 - (2) **Administrative Debarment.** A discretionary debarment action, which all executive agencies have inherent authority to impose. There are two (2) types of administrative debarment:
 - (a) **Fact-Based Debarment.** A debarment action where the cause for debarment is based on factual circumstances (e.g., history of poor performance, evidence of fraud or willful misconduct). The facts giving rise to this action must be proven by a "preponderance of the evidence."
 - (b) **Conviction-Based Debarment.** A debarment action based on a conviction (i.e., verdict, guilty plea, "no contest" plea) or civil judgment.
- h. **De facto Debarment.** Impermissibly excluding an entity from contracting with the Government. De facto debarment of a contractor is illegal because it deprives a contractor of due process. Repeated ad hoc determinations that a contractor is not responsible may constitute a de facto debarment.
- i. **Excluded Parties List System (EPLS).** Online database operated by the General Services Administration (GSA). EPLS includes the following information: (1) names and addresses of all contractors debarred, suspended, proposed for debarment, declared ineligible, or excluded or disqualified under the non-procurement common rule, with cross-references when more than one name is involved in a single action;

(2) name of the agency or other authority taking the action; (3) cause for the action or other statutory or regulatory authority; (4) effect of the action; (5) termination date for each listing; (6) DUNS No.; (7) Social Security Number (SSN), Employer Identification Number (EIN), or other Taxpayer Identification Number (TIN), if available; and (8) name and telephone number of the agency point of contact for the action. The EPLS is available at <http://epls.gov>. The SDO's Administrative Assistant (SDO Admin) is responsible for inputting and updating information in EPLS.

- j. **Exception.** A case-by-case authorization to award a specific contract or subcontract to an ineligible contractor (i.e., one that has been suspended, debarred, or proposed for debarment). An exception must be supported by a compelling reason, documented in writing, and approved by the PBGC Director.
- k. **Extension.** Continuation of a previously-imposed debarment. The SDO may implement an extension upon finding that it is necessary to protect the Government's interests. Debarments may not be extended solely on the basis of the same facts and circumstances that gave rise to the original debarment. The contractor is entitled to due process prior to an extension.
- l. **Fact-Finding Proceeding.** Stage arising during the course of a suspension and debarment action after the respondent submits its initial response (i.e., Presentation of Matters in Opposition (PMIO)). A fact-finding proceeding will only occur if the SDO determines that there is a *material fact in genuine dispute*. If a fact is in dispute, the SDO may refer the matter to a fact finder,¹ whose determination the SDO may accept or reject. Facts in dispute are determined on the basis of a preponderance of the evidence – the overarching evidentiary standards for imposing suspension and debarment are adequate evidence and preponderance of the evidence, respectively. Fact-finding proceedings do not occur for conviction-based debarment actions and may be denied for suspended contractors (see “Parallel Proceedings”).
- m. **Federal Awardee Performance and Integrity Information System (FAPIIS).** Online database containing public information pertaining to contractor integrity, business practices, and nonpublic past performance ratings. FAPIIS provides past performance information uploaded from other databases (e.g., Past Performance Information Retrieval System (PIRS) and Contractor Performance Assessment Reporting System (CPARS)), information from the Central Contractor Registration (CCR) database, and suspension and debarment information from EPLS. FAPIIS also contains the following suspension and debarment-related information: (1) Contracting Officer determinations of non-responsibility; (2) terminations for default or cause; (3) agency defective pricing determinations; (4) contractor self-reporting of criminal convictions, civil liability, and adverse administrative actions; and (5) Administrative Agreements.

¹ A fact-finder can be any individual appointed by the SDO.

- n. **Imputation.** Attributing the misconduct of an individual or organization to another individual or organization by virtue of the latter's **knowledge or implied knowledge** of the misconduct. An agency may impute the basis of a suspension and debarment action through the following relationships:
- (1) **Individual to organization.** The misconduct of an individual associated with an organization may be imputed to the organization when that organization had knowledge, approved, or acquiesced to the conduct. Knowledge may also be implied if the conduct occurred in connection with the individual's performance of duties for, or on behalf of, the contractor (i.e., within the scope of employment).
 - (2) **Organization to individual, or individual to individual.** The misconduct of an organization may be imputed to any individual associated with the organization who participated in, knew of, or had reason to know of the organization's conduct. The misconduct of an individual may be imputed to any individual who participated in, knew of, or had "reason to know" of the individual's misconduct. In the suspension and debarment context, "reason to know" is having information that would cause a person of ordinary intelligence and experience to be on notice of the situation. "Reason to know" may be demonstrated via job responsibility or acceptance of a benefit.
 - (3) **Joint ventures.** The misconduct of an individual or organization participating in a joint venture or similar arrangement may be imputed to other participating individuals or organizations if the conduct occurred for, or on behalf of, the joint venture, or with the knowledge, approval, or acquiescence of these participants.
- o. **Ineligible.** The status of a contractor excluded from receiving government contracts and subcontracts, including options and extensions, as a result of a suspension, debarment, or proposed debarment. Ineligibility takes effect upon the issuance of a notice of proposed debarment or notice of suspension. Ineligible contractors may continue performing contracts awarded before the onset of the suspension or debarment action. A contractor's ineligible status has government-wide effect and is published in EPLS.
- p. **Interagency Suspension and Debarment Committee (ISDC).** An organization established under Executive Order 12549, and composed of suspension and debarment representatives from participating executive agencies, including PBGC. The ISDC is charged with coordinating suspension and debarment actions among agencies. In the event agency representatives cannot agree on the lead agency responsible for handling the government-wide action, the ISDC Chair will select the lead agency. The ISDC also discusses suspension and debarment policies and makes recommendations regarding suspension and debarment to Congress.

- q. **Lead Agency.** Agency with the authority to process and impose a government-wide suspension and debarment action against a contractor. The lead agency is selected by the ISDC Chair in the event agencies cannot agree on lead agency designation. Considerations in lead agency determination include the total dollar value of the contractor's work with an agency, the egregiousness of the contractor's misconduct with respect to an agency, the criticality of the contractor's work at an agency, the extent of an agency's suspension and debarment resources and expertise, etc.
- r. **Mandatory Disclosure.** The requirement that a contractor timely inform its Contracting Officer and COTR, in writing, when the contractor has credible evidence that a principal, employee, agent, or subcontractor has violated a Federal criminal law (e.g., fraud, organizational conflict of interest (OCI), bribery or gratuity), the civil False Claims Act, or if the contractor has received a significant overpayment. Failure to inform the agency of potential misconduct may be grounds for suspension or debarment.
- s. **Material Fact.** Information that is critical to the determination of whether a suspension and debarment action is appropriate. The lack of such facts can prevent an agency from imposing a suspension or debarment.
- t. **Mitigating Factors.** Actions that reflect favorably on a respondent's present responsibility. Mitigating factors must be considered by the SDO in a suspension and debarment decision and be documented in the Administrative Record. Examples of mitigating factors include standards of conduct, voluntary disclosure, internal investigations, full cooperation with the government, restitution, discipline of employees, remedial actions, ethics training, adequacy of time spent addressing the problem, and management's recognition of the problem.
- u. **Nexus.** The connection between a contractor and the business of the agency. The nexus statement demonstrates the contractor's relationship to the agency's procurement activities, enforcement responsibilities, or general mission, thus establishing a regulatory, jurisdictional basis for a suspension and debarment action. The nexus statement is typically included in the Action Referral Memorandum (ARM) and is a consideration in lead agency determination.
- v. **Nonprocurement Common Rule (NCR).** Model rule published in the Federal Register and used by agencies to suspend, debar, or exclude contractors from participation in non-procurement activities. Nonprocurement activities include grants, cooperative agreements, scholarships, fellowships, loans, loan guarantees, subsidies, insurance, payments for specified use, and donation agreements. FAR and NCR-based suspension and debarment actions are recognized equally by all executive agencies regardless of which regulations they follow (see "Reciprocity").
- w. **Notice of Suspension or Notice of Proposed Debarment.** Written communication informing a contractor that an agency is taking a suspension or debarment action.

- x. **Organizational Conflict of Interest (OCI).** A contractor's unequal access to nonpublic or proprietary information, impaired objectivity, or unfair competitive advantage with respect to a particular contract action. Contractors with an unmitigatable OCI may not participate in contracts, subcontracts, and other procurement actions. OCI determinations shall be made by Contracting Officers with the consultation of counsel, in accordance with the FAR. Failure to mandatorily disclose an OCI is grounds for suspension and debarment. *See* FAR § 3.903(a)(2).
- y. **Parallel Proceedings.** Two (2) or more contemporaneous legal actions initiated by different government entities against the same contractor, and involving the same material facts. Parallel proceedings often arise where an agency has suspended or proposed a contractor for debarment, and the Department of Justice (DOJ) is investigating or prosecuting the contractor for the same misconduct.
- z. **Preponderance of the Evidence.** Proof by information that, compared with information opposing it, leads to the conclusion that the fact at issue is more likely true than not (over 50%). The SDO's debarment decision and the determination of facts during the fact-finding proceeding are made on the basis of a preponderance of the evidence.
- aa. **Presentation of Matters in Opposition (PMIO).** Phase of the suspension and debarment proceedings where the respondent argues it either (1) did not commit the alleged misconduct, or (2) committed the misconduct and describes the remedial measures taken to fix the problem. The respondent may also present mitigating factors in the PMIO. Presentation may be in person, in writing, through a representative, or through a combination of these methods.
- bb. **Present Responsibility.** The status of a contractor indicating whether the contractor is fit to receive government contracts at the current time. A contractor is presently responsible if the contractor is honest, ethical, competent, and has not acted in any way that reveals a lack of business integrity or business honesty, or an inability to satisfactorily perform government contracts. All suspension and debarment actions are based on an assessment of the contractor's present responsibility. Contracting Officers must assess a contractor's responsibility prior to contract award. *See* FAR Subpart 9.1.
- cc. **Principal.** An officer, director, owner, partner, agent, consultant or person having primary management or supervisory responsibilities (e.g., general manager; plant manager; head of a division or business segment) within a business entity. Principals are often implicated in a suspension and debarment action through affiliation or imputation.
- dd. **Prohibition.** The restriction placed on a Contracting Officer, barring that official from awarding government contracts to an ineligible contractor (i.e., a contractor that has been suspended, debarred, or proposed for debarment).

- ee. **Proposed Debarment.** Action taken by an agency to formally consider a contractor for debarment. The SDO may only propose a contractor for debarment when there is a preponderance of the evidence to support a statutory or fact-based debarment, or a final judicial action to support a conviction-based debarment. Once an agency has proposed a contractor for debarment, that contractor becomes ineligible to receive new contracts and is placed on EPLS until the SDO issues a final decision. A proposed debarment takes effect upon issuance of a Notice of Proposed Debarment.
- ff. **Reciprocity.** The unwritten agreement between all executive agencies that no agency shall allow a contractor to participate in any new procurement or nonprocurement activity if an agency has debarred, suspended, or otherwise deemed that contractor ineligible. FAR and NCR-based suspension and debarment actions are recognized equally by all executive agencies regardless of which regulations they follow.
- gg. **Remedial Measures.** Actions taken by a respondent to correct the misconduct that is the subject of a suspension and debarment action. These measures serve three (3) key functions: (1) ensure wrongdoers are held accountable for their conduct; (2) put structures in place to prevent recurrence of misconduct; and (3) demonstrate recognition by the respondent's management of misconduct and commitment to maintaining business honesty and integrity.
- hh. **Respondent.** Contractor against which a suspension and debarment action has been formally initiated (signaled by contractor receipt of notice).
- ii. **Restitution.** Contractor reimbursement of an agency for the cost of its misconduct. Restitution is often provided for in an Administrative Agreement. The SDO must consider restitution as a mitigating factor in the SDO's Decision.
- jj. **Scope of Ineligibility.** The applicability of a suspension and debarment action to business units within a suspended or debarred organization. Suspension and debarment actions automatically affect divisions, organizational elements, and operational components of a suspended or debarred contractor. The SDO may limit the scope of ineligibility in the SDO Decision.
- kk. **Show Cause Letter.** Written communication issued by the SDO advising a contractor of alleged misconduct that appears to establish grounds for suspension and debarment. The SDO may issue a Show Cause Letter at any time prior to issuing a Notice of Suspension or Notice of Proposed Debarment. The Letter offers the contractor an opportunity to respond to allegations of misconduct, and the contractor's response may provide additional information to the investigating agency. The Show Cause Letter is not entered into EPLS or FAPIIS and does not affect a contractor's eligibility to receive government contracts.

- ll. **Suspending and Debarring Official's (SDO) Decision.** The documented findings of fact and determinations of the SDO based on the Administrative Record and an Administrative Agreement (if applicable).
- mm. **Suspension.** An immediate but temporary (**typically 12 months**) measure imposed by the SDO, rendering a contractor ineligible to receive new government contracts or subcontracts, pending the outcome of a legal proceeding or investigation that could give rise to a debarment.
- nn. **Voluntary Exclusion.** Contractor's agreement to be excluded from government contracting for a certain period of time pursuant to the terms of an Administrative Agreement. Voluntary exclusions have government-wide effect. The SDO should consider a contractor's voluntary exclusion in making the final SDO Decision.

7. **RESPONSIBILITIES:**

- a. **Contract Controls and Review Department (CCRD).** CCRD is responsible for conducting compliance evaluations and providing management advisory services for PBGC. CCRD also works in conjunction with the Procurement Department (PD) to evaluate contractor compliance with the terms and conditions of PBGC solicitations and contracts. CCRD shall refer all potential suspension and debarment matters to OIG for further review, including audit, evaluation or investigation. If provided for in an Administrative Agreement, CCRD in coordination with OIG, shall evaluate contractor compliance with the terms and conditions of the Agreement.
- b. **Director of PBGC.** The Director has the authority to approve the award of a contract or subcontract to an ineligible contractor for compelling reasons. The Director may delegate this authority to a member of the Executive Management Committee.
- c. **Office of the Inspector General (OIG).** OIG conducts much of the work that may result in suspension and debarment, including audits, evaluations and investigations against former, current, and potential PBGC contractors and their affiliates. Generally, OIG drafts the Action Referral Memorandum (ARM), coordinates legal review of the ARM with OGC, and submits the final ARM to OGC – in some instances these activities may be performed by OGC after consultation with OIG professional staff. OIG investigators may also serve as witnesses during a fact-finding proceeding. If provided for in an Administrative Agreement, OIG in coordination with CCRD, may evaluate contractor compliance with the terms and conditions of the Agreement.
- d. **Office of the General Counsel (OGC).** OGC provides legal advice regarding the Suspension and Debarment Program to all PBGC departments. OGC shall oversee intra-agency and interagency coordination of suspension and debarment matters, as well as lead agency coordination with the ISDC. An OGC representative(s) shall serve on the ISDC – attending monthly meetings and submitting information

requested by the ISDC, such as annual suspension and debarment statistics and opinions on proposed statutes and policies. All such information shall be provided to OGC by other departments within the agency upon request.

OGC reviews the ARM prepared by OIG, the notices and other correspondence prepared by the SDO Admin, the Administrative Record, the SDO Decision, the Administrative Agreement, and other documents for legal sufficiency. OGC shall also review the Director of PD's decision to terminate or void contracts held by suspended, debarred, or proposed-for-debarment contractors. OGC shall also ensure that personally identifiable information (PII) and information protected under the Privacy Act is adequately identified and guarded from unauthorized disclosure.

- e. **Procurement Department (PD).** PD is responsible for evaluating the responsibility of prospective contractors before award, including checking EPLS and FAPIIS. PD must ensure contractor compliance with all contract terms and conditions. PD is also responsible for ensuring proper monitoring and record-keeping of contractor performance, including entry of past performance evaluations into CPARS, PPIRS, and/or FAPIIS. PD shall consult with OIG on all potential suspension and debarment matters. PD shall assist OIG by responding to document requests, participating in interviews, and providing additional information, as needed by OIG. PD shall be responsible for handling all contract administration resulting from a suspension or debarment action.
- f. **Procurement Department (PD), Director.** The Director of PD makes the final decision whether to terminate or void contracts held by suspended, debarred, or proposed-for-debarment contractors.
- g. **Suspending and Debarring Official (SDO).** Individual designated by the Director of PBGC to impose a suspension and debarment action. The SDO decides whether to send out a Notice of Suspension or Notice of Proposed Debarment, issue a Show Cause Letter, or take no suspension and debarment action. Upon commencing a formal action, the SDO reviews the ARM, considers the PMIO submitted or presented by the respondent, and determines whether a fact-finding proceeding is necessary. The SDO may negotiate an Administrative Agreement with the respondent at any time. The SDO's final decision regarding the respondent's present responsibility is based on the Administrative Record and Administrative Agreement (if applicable). The Director has designated the General Counsel as the SDO. To preserve the General Counsel's objectivity, the Deputy General Counsel shall supervise all OGC staff participating in PBGC Suspension and Debarment proceedings.
- h. **Suspending and Debarring Official's Administrative Assistant (SDO Admin).** Individual who provides assistance to the SDO. The SDO Admin is responsible for entering contractors into EPLS and FAPIIS, sending all correspondence between the SDO and affected contractors, and coordinating all intra-agency communications between the SDO and various PBGC departments. This position resides in OGC.

8. **PROCEDURES FOR AUDIT OR INVESTIGATION:**

As noted in the Roles and Responsibilities section above, suspension and debarment audits, evaluations, and investigations are primarily within the jurisdiction of OIG. However, other PBGC departments, particularly PD and CCRD, also are responsible for discovering and monitoring misconduct that may give rise to a suspension and debarment action. The OIG should be notified upon any indication of misconduct or allegation of misconduct. FAR Subpart 9.4 lists numerous grounds for suspending and debarring contractors. Particular grounds may be discovered through the ordinary course of departmental duties.

- a. **Actionable Misconduct for Debarment.** A debarment may be imposed when the SDO finds that (1) a cause for debarment exists, and (2) debarment is in the Government's best interest. Debarment cannot be imposed until the contractor is given an opportunity to be heard and is granted due process. Under FAR § 9.406-2, the SDO may debar:
- (1) A contractor for a **conviction** or **civil judgment** (see "Conviction-Based Debarment") for:
 - (a) Commission of fraud or a criminal offense in connection with:
 - (i) Obtaining;
 - (ii) Attempting to obtain; or
 - (iii) Performing a public contract or subcontract.
 - (b) Violation of Federal or State antitrust statutes relating to submission of offers;
 - (c) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;
 - (d) Intentionally affixing a label bearing "Made in America" to a product sold in or shipped to the U.S., when the product was not made in the U.S.; or
 - (e) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a Government contractor or subcontractor (catch-all provision).
 - (2) A contractor, based upon a **preponderance of the evidence** (see "Fact-Based Debarment"), for any of the following:
 - (a) Violation of the terms of a government contract or subcontract so serious as to justify debarment, such as:
 - (i) Willful failure to perform in accordance with the terms of a contract; or
 - (ii) A history of failure to perform, or of unsatisfactory performance of a contract.
 - (b) Violations of the Drug-Free Workplace Act, as indicated by:
 - (i) Failure to comply with the requirements of FAR § 52.223-6, Drug-Free Workplace; or

- (ii) Failure to make a good faith effort to provide a drug-free workplace as indicated by the number of contractor employees convicted of violating criminal drug statutes in the workplace (see FAR § 23.504).
 - (c) Intentionally affixing a label bearing “Made in America” to a product sold in or shipped to the U.S., when the product was not made in the U.S.
 - (d) Commission of an unfair trade practice as defined in FAR § 9.403.
 - (e) Delinquent Federal taxes in an amount that exceeds \$3,000.
 - (i) Federal taxes are considered delinquent if both of the following apply:
 - a. The tax liability is finally determined (i.e., assessed); and
 - b. The taxpayer is delinquent in making payment.
 - (f) Knowing failure by a principal, within 3 years after final payment on any government contract, to timely disclose credible evidence of:
 - (i) Violation of Federal criminal law involving fraud, Organizational Conflict of Interest, bribery, or gratuity violations found in Title 18 of the United States Code;
 - (ii) Violation of the civil False Claims Act; or
 - (iii) Significant overpayment(s) on the contract (but see FAR § 32.001).
- (3) A contractor, based on a determination by the Secretary of Homeland Security or the Attorney General of the United States, that the contractor is not in compliance with Immigration and Nationality Act employment provisions. Such determination is not reviewable in the debarment proceedings.
- (4) A contractor based on any other cause of so serious or compelling a nature that it affects the present responsibility of the contractor (catch-all provision).

b. **Actionable Misconduct for Suspension.** To suspend a contractor, an SDO must find that: (1) **adequate evidence** of a cause for suspension exists, and (2) **immediate** action is necessary to protect the Government's interest. Under FAR § 9.407-2, the SDO may suspend a contractor, if **immediate** action is warranted:

- (1) Upon **adequate evidence** of or **indictment** for:
 - (a) Commission of fraud or a criminal offense in connection with:
 - (i) Obtaining;
 - (ii) Attempting to obtain; or
 - (iii) Performing a public contract or subcontract.
 - (b) Violation of Federal or State antitrust statutes relating to submission of offers;

- (c) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;
- (d) Violations of the Drug-Free Workplace Act, as indicated by:
 - (i) Failure to comply with the requirements of FAR § 52.223-6, Drug-Free Workplace; or
 - (ii) Failure to make a good faith effort to provide a drug-free workplace as indicated by the number of contractor employees convicted of violating criminal drug statutes in the workplace (see FAR § 23.504).
- (e) Intentionally affixing a label bearing “Made in America” to a product sold in or shipped to the U.S., when the product was not made in the U.S.
- (f) Commission of an unfair trade practice as defined in FAR § 9.403.
- (g) Delinquent Federal taxes in an amount that exceeds \$3,000.
 - (i) Federal taxes are considered delinquent if both of the following apply:
 - a. The tax liability is finally determined (i.e., assessed); and
 - b. The taxpayer is delinquent in making payment.
- (h) Knowing failure by a principal, within 3 years after final payment on any government contract, to timely disclose credible evidence of:
 - (i) Violation of Federal criminal law involving fraud, OCI, bribery, or gratuity violations found in Title 18 of the United States Code;
 - (ii) Violation of the civil False Claims Act; or
 - (iii) Significant overpayment(s) on the contract (but see FAR § 32.001); or
 - (iv) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a contractor.
- (i) Any other cause of so serious or compelling a nature that it affects the present responsibility of a contractor (catch-all provision).

c. **Departmental Discovery of Actionable Misconduct.** The following departments are expected to monitor and discover particular bases for suspending and debarring contractors in the course of executing their duties. When misconduct is discovered by a department other than OIG, referral will be made to OIG as the lead department responsible for conducting the investigation and preparing the Action Referral Memorandum (ARM).

- (1) **Office Inspector General (OIG).** OIG has the authority to investigate all grounds for a potential suspension and debarment action.
 - (a) **Statutory Violations.** OIG may discover a potential statutory violation, which may form the basis of a statutory suspension and

debarment action. Statutory violations (e.g., breach of the Clean Water Act (CWA)) should be reported to OGC for lead agency coordination with the agency responsible for enforcement (e.g., EPA enforces the CWA).

- (b) **Adverse Judicial Proceeding or Judgment.** OIG may discover indictments, criminal convictions, civil judgments, or settlements through various news sources. OIG may confirm and learn the circumstances of such judicial actions through databases such as PACER, Westlaw, or consultation with the prosecuting authority (e.g., DOJ). A conviction, guilty plea, or civil judgment may provide grounds for a conviction-based debarment, whereas an indictment or other preliminary judicial action may form the basis for a suspension.
- (c) **Contractor Misconduct.** OIG may discover contractor misconduct during the course of a routine audit, evaluation, investigation, or from referrals submitted by PD, CCRD, or other departments within the agency. Actionable misconduct includes, but is not limited to:
 - (i) Contractor fraud, dishonesty, or unethical behavior;
 - (ii) Repeated or severe contract performance issues;
 - (iii) Unmitigated or undisclosed OCIs; and
 - (iv) Improper invoicing and questioned costs.

These grounds may form the basis of a fact-based suspension and debarment action.

- (2) **Procurement Department (PD).** During the course of performing its duties, PD including Contracting Officer's Technical Representatives (COTRs), may find the particular grounds for a suspension and debarment action. PD should refer the following matters to OIG:
 - (a) Contractor fraud, dishonesty, or unethical behavior;
 - (b) Repeated or severe contract performance issues;
 - (c) Unmitigated or undisclosed OCIs;
 - (d) Improper invoicing and questioned costs; and
 - (e) All non-responsibility determinations (see "Present Responsibility").
- (3) **Contracts Controls and Review Department (CCRD).** During the course of routine compliance evaluations, CCRD may find particular grounds for a suspension and debarment action. CCRD should refer the following matters to OIG:
 - (a) Contractor fraud, dishonesty, or unethical behavior;
 - (b) Repeated or severe contract performance issues; and
 - (c) Improper invoicing and questioned costs.

9. **PROCEDURES FOR REFERRING MATTERS TO THE SDO:**

Once OIG or a PBGC Department investigates a suspension and debarment matter, it may refer the matter to the SDO. OGC shall perform a legal review of OIG or the referring entities documented findings in the Action Referral Memorandum (ARM) before submission to the SDO.

- a. **Intradepartmental Referrals to OIG.** It is strongly encouraged that departments such as PD and CCRD refer all matters giving rise to a suspension and debarment action to OIG. The referring department shall provide any and all facts and information giving rise to the cause for suspension or debarment, including all supporting documentation. Conviction-based debarment matters should be referred to OIG **within ten (10) working days** of discovery. To the extent practicable, all other matters should be referred to OIG **within thirty (30) calendar days**. See Appendix A for Intradepartmental Suspension and Debarment Referral Form.
- b. **Interagency Coordination of Statutory Violations.** OIG shall coordinate with OGC on potential statutory violations that may provide a basis for statutory debarment to OGC for coordination with the ISDC. OGC shall notify the SDO of all such referrals.
- c. **Preparation of the Action Referral Memorandum (ARM).** **The referring entity shall** use the ARM template (in Appendix B). The ARM includes:
 - (1) **Identity of respondents** (i.e., contractors, business entities, affiliates)
 - (a) Position held by individuals within the business entity;
 - (b) Fictitious names or aliases;
 - (c) Mailing address/contact information for each proposed respondent;
 - (d) DUNs number(s) and CAGE code;
 - (e) CCR registration information;
 - (f) Social security numbers and date of birth for individuals; and
 - (g) Listing of subsidiaries and parent companies.
 - (2) **Business activity of contractor.** The relationship between contractor's business and agency's mission (i.e., Nexus) as well as information relevant to ISDC lead agency determination (e.g., whether the contractor does business with other government agencies).
 - (3) **Narrative statement.** Plain and accurate account of the grounds for suspension and debarment, including the standard the contractor has failed to meet. The narrative should tell the story of the contractor's misconduct and how that misconduct reflects on the overall integrity of the contractor and why the Government needs protection.

- (4) **Grounds for suspension and debarment.** Concise listing of the grounds for suspension and debarment. *See* FAR Subpart 9.4 and Directive Section 8, Procedures for Investigation.
 - (5) **Time-Critical Events (if any).** Imminent events threatened or impacted by contractor's misconduct. Time-critical events may include:
 - (a) The Contractor is being considered for a new contract award;
 - (b) Contract option is about to be exercised; or
 - (c) Contractor performs time-sensitive work (e.g., monthly payment of pension benefits).
 - (6) **Recommended Course of Action.** Suggestion to suspend, propose for debarment, or issue Show Cause Letter to contractor. Where appropriate, should also include rationale for recommendation and suggested period of debarment (typically three (3) years).
 - (7) **Supporting Documentation (as applicable).** Relevant information should be tabbed, highlighted, and identified to assist the SDO in review. Supporting documentation may include:
 - (a) Contract documents (e.g., proposal, solicitation, award, performance evaluations);
 - (b) Court documents (e.g., indictment, plea agreement, judgment and conviction order, sentencing transcript, allocution transcript);
 - (c) Invoices and other cost and pricing documents;
 - (d) Business-related documents (e.g., articles of incorporation); and
 - (e) Emails and communications between contractor and PBGC.
- d. **Office of the General Counsel's (OGC) Review of the ARM.** OGC shall review the ARM for legal sufficiency and completeness prior to submission to the SDO. This review shall include:
- (1) **Legal Sufficiency Review of the ARM.** OGC shall provide OIG with a legal sufficiency review of the ARM, including general comments and concerns. This review shall also include the following:
 - (a) **Redaction of Sensitive Information.** OGC shall redact all information from the ARM that may not be disclosed to the contractor.
 - (b) **Exclusion or Supplementation of Information.** OGC may recommend the exclusion of unnecessary or voluminous material included in the ARM. OGC shall also review the ARM for sufficient factual support and supporting documentation. If the ARM appears incomplete, OGC may recommend that OIG perform further investigation or provide more information.

- (2) **Lead Agency Coordination with the ISDC.** OGC shall coordinate the proposed suspension and debarment action with the ISDC, unless the recommended course of action is the issuance of a Show Cause Letter. OGC shall notify OIG, the SDO, and other concerned parties of the ISDC's decision regarding lead agency determination. If the ISDC refers the action to another agency, OGC shall work with OIG to deliver the ARM and additional information to the lead agency.
- e. **Submission of the ARM to the SDO.** After receiving OGC's legal review and PBGC's lead agency notice (if applicable), the referring entity submits the final ARM to OGC for submission to the SDO Admin. The SDO Admin shall record the time and date of receipt of the ARM, and shall promptly deliver the ARM to the SDO.

10. **SDO'S REVIEW OF THE ARM AND DECISION TO PROCEED:**

The SDO shall review the ARM and take one of the following actions:

- a. **Reject the ARM.** The SDO may determine that there is insufficient evidence to pursue a suspension and debarment action or that a suspension and debarment is not appropriate. This decision shall be documented and transmitted to OIG, OGC, PD, and other concerned parties within the agency. OGC may inform the ISDC if the SDO rejects the ARM. If the SDO rejects the ARM, monitoring should continue and PD and OGC should coordinate with the OIG. The ARM may be resubmitted upon discovery of additional supporting evidence.
- b. **Issue Show Cause Letter.** The SDO may decide to issue a Show Cause Letter, rather than initiating a formal suspension and debarment action. The SDO Admin shall send the Show Cause Letter to the contractor through USPS certified mail, return receipt requested, and forward a copy to OGC, OIG, PD, and other concerned parties within the agency. The Letter must include the following information:
 - (1) Alleged misconduct;
 - (2) That the misconduct may form the basis for a suspension and debarment action;
 - (3) Request for contractor to admit, deny, or explain the alleged misconduct;
 - (4) Time for the contractor to respond (no more than **thirty (30) calendar days** from the date of receipt); and
 - (5) Consequences for failure to respond to the Letter or adequately address the allegations of misconduct.
- c. **Issue Notice of Suspension or Notice of Proposed Debarment.** The SDO may begin a formal suspension and debarment action against a contractor by issuing a Notice of Suspension or Notice of Proposed Debarment. Issuance of either notice renders the contractor (now the "respondent") ineligible to receive government contracts. Notice shall be sent by USPS certified mail, Return Receipt Requested to the last known address of the contractor. The SDO Admin shall enter the respondent

into EPLS **within three (3) working days** and shall forward a copy of the notice to OIG, OGC, PD, and other concerned parties within the agency.

- (1) **Notice of Proposed Debarment.** The notice shall inform the respondent:
 - (a) That it is being considered for debarment;
 - (b) The reasons and causes under the FAR for the proposed debarment;
 - (c) The effect of the proposed debarment;
 - (d) The potential effect of actual debarment (including scope of ineligibility);
 - (e) PBGC's debarment procedures;
 - (f) That the respondent has **thirty (30) calendar days** from the receipt of the notice to respond with its Presentation of Matters in Opposition (PMIO) in person, in writing, or through a representative with information and its argument in opposition to PBGC's proposed debarment; and
 - (g) That a fact-finding proceeding may be conducted by PBGC.

- (2) **Notice of Suspension.** The notice shall inform the respondent:
 - (a) That it has been suspended;
 - (b) The suspension is based on an indictment or other **adequate evidence** that the respondent has committed misconduct warranting **immediate** action;
 - (c) The suspension is for a temporary period pending the completion of an investigation (if suspension is based on an indictment, there is no time limit);
 - (d) The cause(s) relied upon for imposing the suspension;
 - (e) The effect of the suspension (including scope of ineligibility);
 - (f) That the respondent has **thirty (30) calendar days** from the receipt of the notice to respond with its Presentation of Matters in Opposition (PMIO) in person, in writing, or through a representative with information and argument in opposition to the suspension; and
 - (g) That a fact-finding proceeding may be conducted by PBGC.

11. **OPPORTUNITY TO CONTEST SUSPENSION AND DEBARMENT ACTION:**

- a. **Presentation of Matters in Opposition (PMIO).** After receipt of the Notice of Suspension or Notice of Proposed Debarment, the respondent has **thirty (30) calendar days, unless otherwise provided by the SDO**, to submit or schedule its PMIO with the SDO Admin. The PMIO may be accomplished through any combination of the following, as permitted by the SDO: in-person meeting, conference call, or written response. The respondent may be represented or assisted by counsel. The SDO shall decide whether to transcribe meetings and conference calls on a case-by-case basis. The PMIO should raise all defenses, contested facts, admissions, remedial actions taken, and mitigating factors.

- (1) **Mitigating Factors** include whether the respondent:
 - (a) Had effective standards of conduct and internal control systems in place at the time of the misconduct or had adopted such procedures prior to any PBGC investigation of the misconduct;
 - (b) Brought the misconduct to the attention of the PBGC in a timely manner;
 - (c) Investigated the circumstances surrounding misconduct and, if so, made the result of the investigation available to the SDO;
 - (d) Cooperated fully with PBGC during the investigation;
 - (e) Paid or agreed to pay full restitution, as well as any investigative or administrative costs incurred by PBGC;
 - (f) Took appropriate disciplinary action against the individuals responsible for the misconduct;
 - (g) Implemented or agreed to implement remedial measures;
 - (h) Instituted or agreed to institute new or revised review and control procedures and ethics training programs;
 - (i) Has had adequate time to eliminate the circumstances within the respondent's organization that led to the misconduct; and
 - (j) Recognized and understood the seriousness of the misconduct and has implemented programs to prevent recurrence.

- b. **Fact-Finding Proceeding.** After the PMIO, if there are material facts in genuine dispute, the SDO may grant a fact-finding proceeding. The SDO shall attempt to schedule this proceeding **within sixty (60) calendar days** of the PMIO. The disposition of the fact-finding proceeding shall be documented in the SDO Decision.
 - (1) **Granting a Fact-Finding Proceeding.** The SDO may grant a fact-finding if he/she determines that there is a *material fact in genuine dispute*. The SDO shall not grant a fact-finding proceeding for conviction-based debarment actions. When there are contested facts and multiple grounds for suspension and debarment, the SDO may deny a fact-finding proceeding by dismissing the grounds based on contested facts, and move forward with the action(s) based on the grounds not in dispute. Note: The SDO may deny a fact-finding proceeding because of parallel proceedings.

 - (2) **Fact-Finding Procedures.** The fact-finding proceeding is an informal meeting, adjudicated by the SDO or a fact finder appointed by the SDO. During this proceeding, the respondent may be represented by counsel. The respondent shall be given an opportunity to present evidence to support or contest the material facts in dispute.
 - (a) **Standard of Proof.** Disputed facts are determined based on a preponderance of the evidence. The SDO may accept or reject the determination of the fact finder.

- (b) **Witnesses.** The respondent may present and confront witnesses, including the agency's investigating agent(s).
- (c) **Transcript.** The fact-finding proceeding shall be transcribed, unless the respondent and the agency agree otherwise. The respondent may request a copy of the transcript, which the agency shall provide at the respondent's cost.

12. **THE ADMINISTRATIVE RECORD:**

During the course of the suspension and debarment process, PBGC must maintain and document all information that will be considered by the SDO. This information will form the Administrative Record. Information not considered or relied upon by the SDO should not be included in the Administrative Record. For example, if the agency pursues multiple grounds of suspension and debarment and drops all but one, only information relating to the one action should be included in the Administrative Record.

- a. **Contents.** The Administrative Record will be based on the ARM, the PMIO, and the fact-finding proceedings. The following should be included in the Administrative Record, if considered by the SDO: notes, emails, contract documents, newspaper articles, summaries of oral briefings, contractor submissions (including mitigating factors), and a transcript of the fact-finding proceeding.
- b. **Access to Administrative Record.** Once the SDO issues a final decision, the respondent may request a copy of the Administrative Record. The respondent's request may be denied if the SDO places the record "in camera" due to parallel proceedings. Third parties may also gain access to the Administrative Record through the FOIA process.

13. **DISPOSITION OF THE SUSPENSION AND DEBARMENT ACTION:**

At any time during a suspension and debarment proceeding, the SDO may negotiate an Administrative Agreement with the respondent. An Administrative Agreement has government-wide effect and is published in FAPIIS. If entered into, this Agreement, along with the Administrative Record, forms the basis of the SDO Decision. Within the decision, the SDO may decide to: (1) not debar, (2) terminate the suspension, (3) continue or modify the suspension, or (4) debar the respondent.

- a. **Administrative Agreement.** The SDO should direct OGC to consult with other agencies before negotiating and executing an Administrative Agreement. The SDO Admin shall enter the Administrative Agreement into FAPIIS **within three (3) working days**. The SDO Admin shall also remove or modify entries in EPLS **within three (3) working days** if such information is affected by the execution of the Administrative Agreement. This Agreement shall include the following, as applicable:

- (1) Name of the parties entering into the agreement;
- (2) Factual summary of the matter;
- (3) Admission of wrongdoing;
- (4) Provision of restitution;
- (5) Voluntary exclusion;
- (6) Contractor responsibilities (e.g., new code of conduct and ethics training);
- (7) Contractor progress and compliance reports to PBGC;
- (8) General terms and conditions (e.g., right to audit books and records);
- (9) Effective date and termination of the Agreement;
- (10) Scope and survival of the Agreement;
- (11) Violations and consequences for breach;
- (12) Special conditions (e.g., indentifying specific constraints on individuals); and
- (13) Administration of the Agreement (e.g., where to send documents, points of contact).

b. **SDO's Decision**. The SDO shall issue a written decision memorandum, based on the Administrative Record. The SDO's Decision shall include an assessment of the respondent's present responsibility, as well as other determinations such as the identities of affiliates, imputed conduct, appropriate length of debarment or continued suspension, the effect of mitigating factors on present responsibility. The SDO shall issue a conviction-based debarment decision **within thirty (30) working days** after closing of the Administrative Record. The SDO shall issue a fact-based suspension and debarment decision **within forty-five (45) working days**. The SDO may extend these deadlines for good cause. Such extensions must be documented in the Record.

- (1) **Decision not to Debar**. The SDO may decide not to debar the respondent. The decision not to debar shall have no prejudicial effect on another agency's imposition of a suspension and debarment proceeding against the respondent. This decision shall include, if applicable:
 - (a) Referral to the Notice of Proposed Debarment;
 - (b) Summary of proceedings (e.g., dates of submissions and proceedings, persons involved, information considered by the SDO);
 - (c) Reason for not debarring (e.g., execution of an Administrative Agreement, mitigating factors or remedial measures taken by the respondent);
 - (d) That respondent may request a copy of the Administrative Record; and
 - (e) Effective date of decision (Please note: the SDO Admin shall remove the respondent from EPLS **within three (3) working days**).
- (2) **Decision to Terminate Suspension**. The SDO may decide to terminate a suspension. The decision to terminate a suspension shall have no prejudicial effect on another agency's imposition of a suspension and debarment proceeding against the respondent. This decision shall include, if applicable:

- (a) Referral to the Notice of Suspension;
 - (b) Summary of proceedings (e.g., dates of submissions and proceedings, persons involved, information considered by the SDO);
 - (c) Reason for terminating the suspension (e.g., execution of an Administrative Agreement, mitigating factors or remedial measures taken by the respondent);
 - (d) That respondent may request a copy of the Administrative Record; and
 - (e) Effective date of decision (Please note: the SDO Admin shall remove the respondent from EPLS **within three (3) working days**).
- (3) **Decision to Modify or Continue Suspension.** The SDO may decide to modify or leave the current suspension in place. For instance, if parallel proceedings are not initiated by DOJ within twelve (12) months, the SDO may issue a decision to continue the suspension for an additional six (6) months at the request of an Assistant Attorney General. This decision shall include, if applicable:
- (a) Referral to the Notice of Suspension;
 - (b) Summary of proceedings (e.g., dates of submissions and proceedings, persons involved, information considered by the SDO);
 - (c) Outcome of fact-finding proceeding (e.g., whether the SDO agreed with the determinations of the fact-finder);
 - (d) Reasons for modifying or continuing the suspension;
 - (e) Scope of Ineligibility;
 - (f) Consequences of continued suspension (i.e. government-wide effect);
 - (g) Whether respondent may request a copy of the Administrative Record; and
 - (h) Effective dates of continued suspension (Please note: the SDO Admin shall modify the EPLS record **within three (3) working days**).
- (4) **Decision to Debar.** The SDO may decide to debar the respondent. All debarment determinations should be based on a preponderance of the evidence. This decision shall include, if applicable:
- (a) Referral to the Notice of Proposed Debarment;
 - (b) Summary of proceedings (e.g., dates of submissions and proceedings, persons involved, information considered by the SDO);
 - (c) Outcome of fact-finding proceeding (e.g., whether the SDO agreed with the determinations of the fact-finder);
 - (d) Reasons for debarment;
 - (e) Scope of Ineligibility;
 - (f) Consequences of debarment (i.e. government-wide effect); and
 - (g) That respondent may request a copy of the Administrative Record; and
 - (h) Effective dates of debarment (Please note: the SDO Admin shall modify the EPLS record **within three (3) working days**).

14. **POST-DECISIONAL POINTS AND PROCEDURES:**

If the SDO decides to debar or continue the suspension of a contractor, the agency must take steps to ensure that the contractor does not receive any new contracts. PD should review any current contracts held by the contractor and decide whether to terminate or void those contracts.

- a. **Awarding new contracts.** Upon debarring or continuing the suspension of a contractor, PD shall not solicit offers from, award contracts to, or consent to subcontracts with the ineligible contractor.
- b. **Modifying current contracts.** Suspended or debarred contractors shall continue performing current contracts (unless PBGC terminates or voids the contract). However, PD may not:
 - (1) Add new work, exercise options, or otherwise extend the duration of current contracts or orders;
 - (2) Issue task orders exceeding the guaranteed minimum under indefinite quantity contracts; and
 - (3) Place orders under blanket purchase agreements or basic ordering agreements.
- c. **Terminating or voiding current contracts.** The Director of PD shall review all current contracts held by the suspended or debarred contractor to determine whether a termination for convenience or default is appropriate. If suspension or debarment was imposed on the basis of a final conviction for bribery, conflict of interest, or Procurement Integrity Act violation, PBGC may void contracts held by the contractor. *See* FAR Subpart 3.6. The Director of PD shall obtain legal advice from OGC prior to making a decision.
- d. **Preparing for judicial review.** A suspended or debarred contractor may seek judicial review after exhausting all administrative remedies (i.e., receiving a final decision from the SDO). Suspension and debarment decisions are reviewed under the Administrative Procedures Act in Federal District Court and, in some instances, before the Court of Federal Claims. In preparing for litigation, OGC will work with the SDO, OIG, PD and any other concerned parties within the agency.

Appendix A: Intradepartmental Suspension and Debarment Referral Form

Please complete the following form and attach any relevant documentation you have. Documents that should be attached to this form include contract documents (e.g., proposal, solicitation, award, performance evaluations), invoices and other cost/pricing data, and emails and other communications between the contractor and PBGC. Please bring the complete referral file (including this form and the attached documents) to the OIG suite located on the fourth (4th) floor.

Name of Person Referring Matter:	Department:
Date report submitted to OIG:	Date misconduct first discovered:
Name and address(es) of all potential respondent(s) (individuals, businesses, affiliates):	
Identifying Information of respondent(s) (SSN, DUNS number, CAGE code, TIN):	
Contracts currently held by respondent(s) (contract name and number, COTR and CO information):	
Please describe the behavior/misconduct you are reporting to OIG for further investigation:	
Upcoming time critical events (new contract award pending, option year to be exercised):	

Signature: _____

Date: _____

Title: _____

Appendix B: Action Referral Memorandum (ARM) Template

- I. **Identity of respondents**
 - (a) Position held by individuals within the business entity;
 - (b) Fictitious names or aliases;
 - (c) Mailing address/contact information for each proposed respondent;
 - (d) DUNs number(s) and CAGE code;
 - (e) CCR registration information;
 - (f) Social security numbers and date of birth for individuals; and
 - (g) Listing of subsidiaries and parent companies.

- II. **Business activity of contractor**

- III. **Narrative statement**

- IV. **Grounds for suspension and debarment** (FAR Subpart 9.4)

- V. **Time-Critical Events (if any)**

- VI. **Recommended Course of Action**

- VII. **Supporting Documentation (as applicable)**

Instructions:

Relevant documentation should be attached, as needed. The ARM should be accompanied by a signed cover memorandum, which should include the following information:

1. Name of OIG Investigators;
2. Referring Department and Individual (if any);
3. List of Attachments included in ARM;
4. Date misconduct was first discovered; and
5. Date ARM was submitted to OGC.

Submit the complete ARM to OGC for legal review before submission to the SDO Admin. The following categories of submission represent the minimum requirements for a complete ARM.