

9.104-5 Representation and certifications regarding responsibility matters.

(a) When an *offeror* provides an affirmative response in paragraph (a)(1) of the provision at 52.209-5, Certification Regarding Responsibility Matters, or paragraph (h) of provision 52.212-3, the *contracting officer shall*-

(1) Promptly, upon receipt of *offers*, request such additional information from the *offeror* as the *offeror* deems necessary in order to demonstrate the *offeror's* responsibility to the *contracting officer* (but see 9.405); and

(2) Notify, prior to proceeding with award, in accordance with agency procedures (see 9.406-3(a) and 9.407-3(a)), the agency official responsible for initiating *debarment* or *suspension* action, where an *offeror* indicates the existence of an indictment, charge, *conviction*, or civil judgment, or Federal tax delinquency in an amount that exceeds \$10,000.

(b) The provision at 52.209-11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony *Conviction* under any Federal Law, implements sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) (and similar provisions in subsequent appropriations acts). When an *offeror* provides an affirmative response in paragraph (b)(1) or (2) of the provision at 52.209-11 or paragraph (q)(2)(i) or (ii) of provision 52.212-3, the *contracting officer shall*-

(1) Promptly, upon receipt of *offers*, request such additional information from the *offeror* as the *offeror* deems necessary in order to demonstrate the *offeror's* responsibility to the *contracting officer* (but see 9.405);

(2) Notify, in accordance with agency procedures (see 9.406-3(a) and 9.407-3(a)), the agency official responsible for initiating *debarment* or *suspension* action; and

(3) Not award to the corporation unless an agency *suspending and debarring official* has considered *suspension* or *debarment* of the corporation and made a determination that *suspension* or *debarment* is not necessary to protect the interests of the Government.

(c) If the provision at 52.209-12, Certification Regarding Tax Matters, is applicable (see 9.104-7(e)), then the *contracting officer shall* not award any contract in an amount greater than \$5.5 million, unless the *offeror* affirmatively certified in its *offer*, as required by paragraph (b)(1), (2), and (3) of the provision.

(d) *Offerors* who do not furnish the representation or certifications or such information as *may* be requested by the *contracting officer shall* be given an opportunity to remedy the deficiency. Failure to furnish the representation or certifications or such information *may* render the *offeror* nonresponsible.

Parent topic: 9.104 Standards.