DFARS Procedures, Guidance, and Information

PGI 209.4--DEBARMENT, SUSPENSION, AND INELIGIBILITY

PGI 209.406 Debarment.

PGI 209.406-3 Procedures.

(a) Use the following format when referring a matter to the agency debarring and suspending official for consideration. To the extent practicable, provide all specified information.

    (1) Name, address, and telephone number of the point of contact for the activity making the report.

    (2) Name, contractor and Government entity (CAGE) code, and address of the contractor.

    (3) Name and addresses of the members of the board, principal officers, partners, owners, and managers.

    (4) Name and addresses of all known affiliates, subsidiaries, or parent firms, and the nature of the business relationship.

    (5) For each contract affected by the conduct being reported—

        (i) The contract number;

        (ii) All office identifying numbers or symbols;

        (iii) Description of supplies or services;

        (iv) The amount;

        (v) The percentage of completion;

        (vi) The amount paid the contractor;

        (vii) Whether the contract is assigned under the Assignment of Claims Act and, if so, to whom; and

        (viii) The amount due the contractor.

    (6) For any other contracts outstanding with the contractor or any of its affiliates—

        (i) The contract number;

(ii) The amount;

(iii) The amounts paid the contractor;

(iv) Whether the contract is assigned under the Assignment of Claims Act and, if so, to whom; and

(v) The amount due the contractor.

(7) A complete summary of all pertinent evidence and the status of any legal proceedings involving the contractor.

(8) An estimate of any damages sustained by the Government as a result of the contractor's action (explain how the estimate was calculated).

(9) If a contracting office initiates the report, the comments and recommendations of the contracting officer and of each higher-level contracting review authority regarding—

(i) Whether to suspend or debar the contractor;

(ii) Whether to apply limitations to the suspension or debarment;

(iii) The period of any recommended debarment; and

(iv) Whether to continue any current contracts with the contractor (or explain why a recommendation regarding current contracts is not included).

(10) When appropriate, as an enclosure to the report—

(i) A copy or pertinent extracts of each pertinent contract;

(ii) Witness statements or affidavits;

(iii) Copies of investigative reports when authorized by the investigative agency;

(iv) Certified copies of indictments, judgments, and sentencing actions;

(v) A copy of any available determinations of nonresponsibility in accordance with FAR 9.105-2(a)(1); and

(vi) Any other appropriate exhibits or documentation.

(b) Send three copies of each report, including enclosures, to the appropriate debarring and suspending official.

(c) If a referral lacks sufficient evidence of a cause for debarment, the debarring and suspending official may initiate a review or investigation, as appropriate, by reporting the referral to the appropriate Government entity, e.g., contracting activity, inspector general, or criminal investigative agency.

(d) Decisionmaking process.

(1) The agency debarring and suspending official may initiate the debarment process by issuing a notice of proposed debarment in accordance with FAR 9.406-3(c) when the debarring and suspending official finds that the administrative record contains sufficient evidence of one or more of the causes for debarment stated in FAR 9.406-2 or DFARS 209.406-2.

(i) The absence of a referral in accordance with DFARS 209.406-3, or the absence of any information specified in the report format in PGI 209.406-3(a), will not preclude the debarring and suspending official from making such a finding.

(ii) The signature of the debarring and suspending official on the notice of proposed debarment is sufficient evidence that the debarring and suspending official has made such a finding.

(2) The agency debarring and suspending official must use the decisionmaking process stated in FAR 9.406-3(b), DFARS Appendix H, and any agency-specific procedures that were provided to the contractor in advance of the decision.

PGI 209.407 Suspension.

PGI 209.407-3 Procedures.

(a) Use the format at PGI 209.406-3(a) when referring a matter to the agency debarring and suspending official for consideration. To the extent practicable, provide all information specified in the format.

(b) If a referral lacks sufficient evidence of a cause for suspension, the debarring and suspending official may initiate a review or investigation, as appropriate, by reporting the referral to the appropriate Government entity, e.g., contracting activity, inspector general, or criminal investigative agency.

(c) Decisionmaking process.

(1) The agency debarring and suspending official may initiate the suspension process by issuing a notice of suspension in accordance with FAR 9.407-3(c) when the debarring and suspending official finds that the administrative record contains sufficient evidence of one or more of the causes for suspension stated in FAR 9.407-2.

    (i) The absence of a referral in accordance with DFARS 209.407-3, or the absence of any information specified in the report format at PGI 209.406-3(a), will not preclude the debarring and suspending official from making such a finding.

    (ii) The signature of the debarring and suspending official on the notice of suspension is sufficient evidence that the debarring and suspending official has made such a finding.

(2) In deciding whether to terminate a suspension following a submission of matters in opposition, the agency debarring and suspending official must use the decisionmaking process stated in FAR 9.407-3(b), DFARS Appendix H, and any agency-specific procedures that were provided to the contractor in advance of the decision.