

Bite-Sized Videos on Hot Questions in Suspension & Debarment

===== Chapter 5 =====

The Role of the Acquisition Workforce in the Suspension & Debarment System

JOHN: Catherine Kessmeier is the U.S. Navy's Suspension & Debarment Official. She's going to describe what members of the Acquisition Workforce, including Contracting Officers, Contracting Officers' Representatives, and Project Managers can do to help the Suspension & Debarment system strengthen Government procurement.

Cathy, thank you so much for taking some time to specifically address the Federal Acquisition Workforce and how it can better help Suspension & Debarment Officials strengthen Government procurement.

CATHY: Thank you, John. I'm happy to be here!

JOHN: As we know, many Suspension & Debarment cases come from investigations conducted by the various Offices of the Inspectors General or Criminal Investigation Organizations, but the Acquisition Workforce has an important part to play, too. Can you speak about its role in the Suspension & Debarment process?

CATHY: Certainly. The Acquisition Workforce is critical to Suspension & Debarment. We need our Acquisition Workforce to report serious misconduct or performance deficiencies by contractors to the Suspending & Debarring Office, to the Office of the Inspector General, or to the Criminal Investigative Organizations. Many agencies have regulations requiring our contracting community to do that. For example, in the Department of Defense, we have regulations that encourage our Acquisition Workforce to contact the Defense Criminal Investigative Service, at the Navy, the Naval Criminal Investigative Service, the Office of the Inspector General, and they work with the Suspending & Debarring Offices.

We also encourage our contracting community, when there are issues involving terminations for cause, terminations for default, to not forget that they have an obligation to report that information to the Suspending & Debarring Offices. Within my Department, we actually have an agency regulation that asks our acquisition community to submit that information directly to the Suspension & Debarment Office.

The contracting workforce needs to also remember to enter any terminations for default, terminations for cause, in FAPIIS. That information is critical to making sure that we're aware of contractors who have not met performance expectations. And, we encourage them to refer all instances of contractor tax delinquency, convictions, indictments; that information should be referred to the Suspending & Debarring Office. We need to know that information.

JOHN: So, what happens to information referred to the agency Office of the Inspector General, Criminal Investigation Organization, or the Suspension & Debarment Office?

CATHY: Allegations referred to our office are taken very seriously. Those allegations are generally investigated by either the Inspector Generals of an agency, or investigated by the Criminal Investigative Organizations, again, specific to the agency involved. It can be the Federal Bureau of Investigation, in the Defense Department it can be the Defense Criminal Investigative Services. If those allegations, those

referrals, are substantiated, then the SDO Offices may take action against those contractors. And, at all times we make sure that the Government's stakeholders are apprised of the actions that we've taken.

JOHN: Specific to the Acquisition Workforce, again, Contracting Officers, Contracting Officers' Representatives, and Project Managers, what else can they do to help Suspension & Debarment Officials?

CATHY: The Acquisition Workforce is the group that is closest to our contract community. They're the ones with relevant, first-hand information regarding misconduct or performance of our contractors. It's important that when evaluating contractor performance, that community provides us the relevant and meaningful evaluations that we need. Those evaluations of past performance serve to help us identify, for future awards, those contractors that we think are responsible and should receive awards and also provide input to the Suspension & Debarment community, so that we know whether or not our contractors have met our performance expectations.

JOHN: I am aware of contractors being excluded from Government contracting by a Suspension & Debarment Official, but I'm not sure everyone is familiar with the effects of an exclusion. Can you explain what happens to a contractor that is excluded?

CATHY: A contractor that is excluded from Federal contracting is listed on the System for Award Management. What that means is that offers may not be solicited from that contractor, if their name is on the SAM, and they're prohibited from performing new contracts. Additionally, options may not be exercised for excluded parties and the scope of a contract already in existence may not be modified. Performance on a current contract may continue, but that performance is at the discretion of the Contracting Officer. And in certain circumstances, an excluded contractor may be awarded a contract, if the agency head determines that there is a compelling need to do so, but, again, very limited circumstances under which a contract award may be given to an excluded party.

JOHN: So, it's an understatement to say that it's very important for Contracting Officers to always check SAM to identify excluded contractors. What, exactly though, should Contracting Officers be looking for when checking SAM?

CATHY: Well, it's important that a Contracting Officer check SAM because if they don't check SAM the exclusion really has no effect. They need to keep in mind that an individual or a business that's excluded on SAM is not eligible for an award from any agency, not just their agency. They shouldn't be looking at inactive, or past exclusions, because that really should have no effect on their decision whether or not to award, but they need to check the SAM. It's critical that they check the SAM, both, when offers are received and immediately prior to award. And when I say immediately prior to award, we're talking the day of award. And the reason that's so critical, and so important to a Contracting Officer, is that many things can happen between the time an offer is received by an agency and by the time that Contracting Officer makes that decision to award to a company or to an individual. And, therefore, they need to do that check twice.

It's also important that they remember not to make an award to a business or an individual that is identified on the SAM, again, because they're excluded and they should not be receiving an award. Again, it's very critical that Contracting Officers remember that the purpose of putting that information in to SAM, from a Suspension & Debarment perspective, is to ensure that the Government does not do business with excluded parties.

JOHN. This has been really helpful, and I think we've learned a lot about ways that the Acquisition Workforce interacts with the Suspension & Debarment system. So, thank you, Cathy, for taking the time to share this information.

CATHY: Thank you, John.