



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

November 15, 2011

M-12-02

MEMORANDUM TO THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Jacob J. Lew 
Director

SUBJECT: Suspension and Debarment of Federal Contractors and Grantees

The Federal Government pays over a trillion dollars a year to contractors and grantees, and has an ongoing fiduciary responsibility to protect American taxpayer resources and the integrity of the processes for Federal acquisition and for discretionary assistance, loan, and benefit programs. The suspension and debarment remedy is a powerful tool for protecting taxpayer resources and the integrity of these processes from those contractors and recipients who are “non-responsible” – that is, who lack business integrity because they have engaged in dishonest or illegal conduct or are otherwise unable to satisfactorily perform their responsibilities. The basic policies and procedures governing suspension and debarment in the Federal Acquisition Regulation (addressing procurement activities) and 2 CFR Subtitle A, Part 180 (addressing non-procurement activities) is well-established and sound.

Some agencies have long-standing and robust suspension and debarment programs. However, for too long, too many Federal agencies have failed to adequately use the suspension and debarment tools that are placed at their disposal or have failed even to maintain the most basic program capabilities required to suspend or debar non-responsible parties. A recent report by the Government Accountability Office found that more than half of the 10 agencies it reviewed lacked the characteristics common among active and effective suspension and debarment programs: dedicated staff resources, well developed internal guidance, and processes for referring cases to officials for action. Clearly, these deficiencies put taxpayer resources at unnecessary risk of waste, fraud, and abuse.

To remedy these deficiencies, I am hereby directing the departments and agencies (“agencies”) that are subject to the Chief Financial Officers Act (“CFO Act”) to take the following actions:

1. Appoint a senior accountable official, if one has not already been designated, who shall be responsible for:
 - A. assessing the agency’s suspension and debarment program, including the adequacy of available training and resources (including, where appropriate, full-time staff),

- B. ensuring that the agency maintains effective internal controls and tracking capabilities, taking into consideration the agency's mission, organizational structure, and level of procurement and grant-making activities, and
- C. ensuring that the agency participates regularly on the Interagency Suspension and Debarment Committee (ISDC).

The senior accountable official may be the agency's suspension and debarment official.

2. Review internal policies, procedures, and guidance to ensure that the agency is protecting the Government's interests and taxpayer funds by effectively using suspension and debarment, when appropriate, as well as other remedies available to the agency that are designed to ensure, before an award is made, that potential contractors and recipients have the requisite business integrity.
3. Ensure that the agency's award official(s) review relevant databases and other information sources prior to the award of any Federal grants, contracts, or benefits, to prevent awards from being made to entities that are suspended or debarred or are otherwise non-responsible.
4. Take prompt corrective action, including appropriate action regarding the specific award and establishment of systemic controls and procedures to prevent recurrence, when the agency determines that it improperly made an award to a suspended or debarred entity.

These actions shall be implemented consistent with suspension and debarment policies in Subpart 9.4 of the FAR and 2 CFR Subtitle A, Part 180.

To assist the agencies in these activities, the ISDC will develop training and share best practices, ensure effective interagency coordination of suspension and debarment actions, and report on agencies' activities as required under Executive Order 12549 and section 873 of Public Law 110-417. In addition, through enhanced participation in the ISDC by the CFO Act agencies, and by other agencies with suspension and debarment officials, the ISDC can more effectively serve as a support structure for helping agencies, including smaller independent agencies, build and maintain their suspension and debarment programs.