

## Bite-Sized Videos on Hot Questions in Suspension & Debarment

### ===== Chapter 4 =====

#### An Explanation of Non-Exclusionary SDO Actions

**JOHN:** Monica Aquino-Thieman is the Director of the Acquisition Integrity Program at the National Aeronautics and Space Administration. She's going to detail the various non-exclusionary actions that Suspension & Debarment Officials routinely take, and contrast those with the limited number of exclusionary actions available to a Suspension & Debarment Official – those being, suspensions, proposals for debarment, and debarments.

Monica, we really appreciate you being here.

**MONICA:** Thank you, John!

**JOHN:** Before we discuss the non-exclusionary and exclusionary actions that Suspension & Debarment Officials routinely take, can you dig into what a Suspension & Debarment Official's goal is when engaging contractors?

**MONICA:** Sure. Really, the role of Suspension & Debarment is to protect the Government. It's not to punish contractors and so what we're really trying to do here is to make sure that we protect the fiscal funds and ensure that we have the integrity of the acquisition process.

**JOHN:** Great! Now let's get into the non-exclusionary actions available to Suspension & Debarment Officials. Can you please explain what those are?

**MONICA:** Oh sure! So, non-exclusionary actions are really those actions that are not on the excluded parties list on SAM.gov, which is the System for Award Management, and these are tools that the Suspending & Debarring Official uses to make sure that the Government is properly protected, but short of preventing them from actually contracting with the Federal Government.

So, there are a number of examples that I could give. Some that people use, my personal favorite, is education and outreach, certainly. If we can prevent any acquisition integrity issues from the get-go, it's always better to do that. So, we're a big fan of that. Some of the others that we use that are excellent tools that the Suspending & Debarring Official can use are the use of Show Cause Letters and Requests for Information. Those are what I call, pre-engagement letters, and, basically, these pre-engagement letters allow an opportunity for us to learn a little bit more about some of the misconduct that had potentially occurred, and some of the corrective measures that they have done, prior to engaging in an active proceeding. And, probably what's being used more now today are the use of the Administrative Compliance Agreements. Those are effective ways for, when contractors have had some sort of misconduct but they're working towards present responsibility and really correcting and adding corrective measures, and this really keeps everything in place to make sure that they continue to do the right thing and be honest contractors.

**JOHN:** So Suspension & Debarment Officials have a lot of non-exclusionary options at their disposal. Now, what exclusionary actions do Suspension & Debarment Officials utilize?

**MONICA:** Sure. There are three, basically, and the first are suspensions, which are typically done when an investigation is still ongoing. And we also have, for the Suspending & Debarring Officials, notice of proposed debarments, as well as debarments, and those usually happen towards the end of a legal proceeding.

**JOHN:** So how are those actions limited?

**MONICA:** The Suspending & Debarring Official has quite a bit of discretion. And, so certainly, it could be at the onset – a Suspending & Debarring Official can determine what he or she would like to propose from the get-go. The Regulations typically provide no more than 3 years for debarments, but it's certainly within the discretion of the SDO. Also, if new evidence comes in to play, a conviction gets reversed; certainly, it can be reduced or terminated, depending on the appropriate circumstances.

**JOHN:** I understand that it's not always in the Government's best interest to take an exclusionary action and that non-exclusionary actions are sometimes better. What are the benefits of non-exclusionary actions?

**MONICA:** Well certainly from the side of the contractor, the benefit is actually not being included on the excluded parties list and they are able to contract with the Federal Government. Also, there are some side detrimental effects that, if you're an individual, it's hard to get financing; it also hurts your business reputation. Certainly there are times when it is appropriate to exclude.

What folks don't always realize is that there is actually a benefit to the Government as well. If we're able to help bring contractors to present responsibility, as opposed to completely excluding them, we increase the competitive process of the acquisition process. Some of the other benefits of doing that is for those contractors we actually help them develop a culture of ethics that can then be modeled by other contractors, and they become a model, and we've seen that happen in numerous instances throughout the Federal Government with contractors, and so, positive reinforcement, might I say.

**JOHN.** Well, Monica, I'm sure our conversation has really helped our viewers to understand the various non-exclusionary actions Suspension & Debarment Officials take and the limited number of exclusionary actions available. Suspension & Debarment Officials do seem to have a good many tools in their tool box, and only a few of them result in an actual exclusion of a contractor.

So, thank you again you for your time, Monica!

**MONICA:** Thank you so much, John. I appreciate it!