



# Fiscal Year (FY) 2023 Interagency Suspension and Debarment Committee (ISDC) Section 873 Report to Congress

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## Who We Are

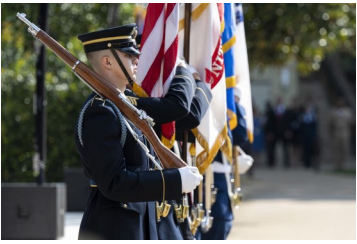
- Interagency body established by Executive Order 12549 consisting of Federal agencies that pool resources, such as experience and promising practices to provide support for Federal suspension and debarment programs
- **Mission:** To **protect** the Government's business interests from potential harm posed by individuals or entities whose conduct indicates or constitutes cause for exclusion, such as a history of poor performance or a serious or compelling lack of business honesty or integrity
- Committee work is implemented by volunteer agency representatives who share their time and talents to support ISDC efforts in addition to their regular duties.
- For more information, see [www.acquisition.gov/isdc-home](http://www.acquisition.gov/isdc-home).

## FY 2023 Summary Highlights

- Agency Suspending and Debarment Officials (SDOs) primarily rely on referrals to initiate suspension and debarment proceedings. Referrals to SDOs decreased approximately 3.6% from FY 2022 with agencies noting continuing delays in court proceedings and other challenges. Total *declinations* of referrals remained low at 2.8% when compared to the number of actions executed.
- Total suspensions, proposed debarments, and debarments increased modestly from FY 2022 by 3%, with suspensions and proposed debarments exceeding the Governmentwide average for FYs 2020-23 (the Pandemic years) as the effects of the COVID-19 Pandemic continued to subside. This trend occurred despite significant personnel changes and some agency reports of newly emerging types of actions and increasingly complex actions received that required more time and resources to evaluate.
- COVID-19 fraud matters were among the newly emerging types of cases reported in FY 2023. COVID-related suspensions, proposed debarments, and debarments increased from 13 in FYs 2021 and 2022 combined to over 230 in FY 2023.
- Based on agencies' voluntary responses, parties contested and disclosed fewer matters to suspension and debarment offices Governmentwide: the total number of proactive engagements by potential respondents decreased significantly by approximately 42%; agencies also reported an overall decrease in post-notice engagements by approximately 24% despite some agencies' reported increases.
- Agencies reported a growing number of requests by Respondents for extended or stayed administrative proceedings pending the resolution of parallel criminal proceedings and other concerns, such as movement within correctional facilities. Where such requests for extension or stays of proceedings are granted, the Government is properly protected because the exclusions remain in effect.
- While voluntary exclusions increased slightly, certain alternatives to exclusion, such as administrative agreements and pre-notice letters, decreased by approximately 40% and 37% respectively, attributable in part to diminished outreach by respondents.
- Notable FY 2023 accomplishments by the ISDC include: (1) working with the FAR Council to publish a proposed rule that better aligns the procurement regulatory coverage with the nonprocurement coverage in Title 2 of the Code of Federal Regulations; (2) partnering with the Council of Inspectors General on Integrity and Efficiency, and Pandemic Response Accountability Council to lead the bi-annual workshop on interagency collaboration with a COVID-19 fraud focus; (3) supporting the U.S. delegations to the 2023 negotiations in the Indo-Pacific Economic Framework for Prosperity; (4) working with the Department of Justice (DOJ) to increase coordination, resulting in increased notification by DOJ of convictions to help SDOs identify and assess matters impacting programmatic integrity and efficiency.

**\*SDOs are strategically situated to consider and coordinate agencies' and Governmentwide needs, missions, and business lines, such as:**

- ◇ Providing for national security and defense, including responding to national emergencies and natural disasters; and
- ◇ Promoting the progress of science and useful arts and regulating commerce with foreign nations and among the states and with Tribes, including via resource management/stewardship.



**The color guard presents the colors during a September 11 Pentagon Staff Memorial Observance in the courtyard of the Pentagon in 2023.**

Photo Credit: Navy Petty Officer 1st Class Alexander Kubitza.



**An Army CH-47 Chinook drops seawater over a perimeter surrounding the wildfires in Lahaina, Maui, on August 16, 2023. Members of the Hawaii Army and Air National Guard and of the Army (active duty and reserves) helped authorities establish immediate security and safety.**

Photo credit: U.S. Army National Guard Spc. Tonia Ciancanelli.

## **Federal Suspension, Debarment, and Related Administrative Activities: An Overview**

The Federal suspension and debarment (S&D) system is governed by the Federal Acquisition Regulation (FAR) at 48 C.F.R. Subpart 9.4 and the Nonprocurement Common Rule (NCR) at 2 C.F.R. Part 180, to help ensure the Government only conducts business with presently responsible parties. These tools are designed to protect the Government's business interests from potential harm posed by individuals or entities whose conduct indicate or constitute cause for exclusion, such as a history of poor performance or a serious or compelling lack of business honesty or integrity.

The Government uses suspension and debarment procedures to exercise business judgment in accordance with principles of fairness and due process, through the actions of agencies' Suspending and Debarring Officials (SDOs) and their offices. These procedures both afford parties due process and equip Federal officials with the ability to exclude parties from participating in certain transactions as needed to protect Government operations and financial resources. In contrast with certain foreign governments' S&D systems, the United States' S&D system is not punitive; rather it is principled upon protection of the Government and taxpayer funds against prospective business risk, including the mitigation of fraud, waste, and abuse. Under the United States' S&D system, if sufficient corrective or remediating actions are taken, such as through an administrative agreement, present responsibility may be demonstrated and subsequently, an excluded party's eligibility to participate as a business partner or participant may be reinstated.

## **Actions Consider Specific Agency Missions, Business Lines, and the Coordinated Governmentwide Needs**

SDOs and corresponding S&D programs are strategically situated in-house with expertise on the agency's various mission, programs, and business lines. This facilitates Federal suspension and debarment programs' consideration of the business risks posed by an entity or individual<sup>2</sup> and promotes coordination with impacted programs, such as agency procurement or nonprocurement programs and activities. Agencies also assess and coordinate the need for and impact of suspension and debarment actions Governmentwide through participation in the ISDC and through its internal Lead Agency Coordination Request (LACR) process.

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<sup>1</sup> For the definitions and counting conventions of suspensions, debarments, and related remedies, see Appendix 1.

<sup>2</sup> Agency SDOs consider S&D related actions against entities and individuals. When business entities are considered for SDO action, individuals are routinely and appropriately subject to related SDO actions because of their participation or other involvement in the misconduct: entities ultimately act through individuals. A significant portion of persons subject to a debarment action were first convicted and afforded due process through the criminal justice system by the time of administrative S&D action.

**Agency missions and business lines (continued):**



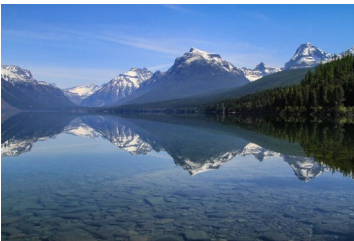
**Artist's rendition of Geostationary Operational Environmental Satellites (GOES-R) orbiting Earth.**

Photo credits: NOAA/NESDIS.



**A luminescent jellyfish - Order Limnomedusae.**

Photo credits: National Oceanic and Atmospheric Administration (NOAA) Okeanos Explorer Program.



**Lake McDonald at Glacier National Park.**

Photo credits: David Restivo/ National Park Service (NPS).

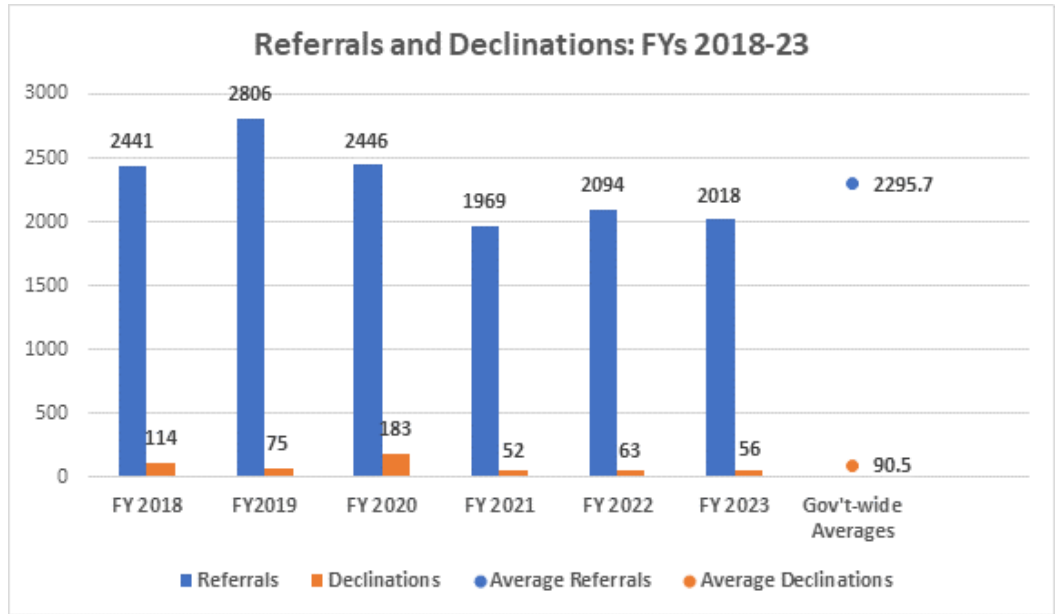
**FY 2023 in context:**

- ◆ Total referrals decreased approximately 3.6% from FY 2022, with agencies noting varied ebbs and flows of referrals and declinations.
- ◆ Agencies noted new and complex types of cases as well as sources of referrals.
- ◆ Despite significant turnover in S&D programs and decreases in many agencies' total referrals received, overall, agencies declined fewer matters in FY 2023 than in FY 2022.

**FY 2023 Governmentwide Activities and Accomplishments: Year in Review**

In FY 2023, agencies continued to receive and assess referrals of S&D matters impacting programmatic integrity. Agency SDOs primarily rely upon referrals received to initiate suspension and debarment related actions. Overall, agencies reported the receipt of 3.6% fewer total referrals than in the prior year. Total declinations of referred matters remained relatively low in FY 2023 at 2.8%.<sup>3</sup> Some S&D programs reported outreach efforts to facilitate referrals, such as training personnel on indicators of fraud to promote awareness and effectiveness. Agencies also reported the receipt of referrals from new sources and of complex matters. However, Governmentwide, total referrals and declinations fell below their corresponding averages for FYs 2018-23 as well as for FYs 2020-23 (*the Pandemic years*).

**Figure 1**



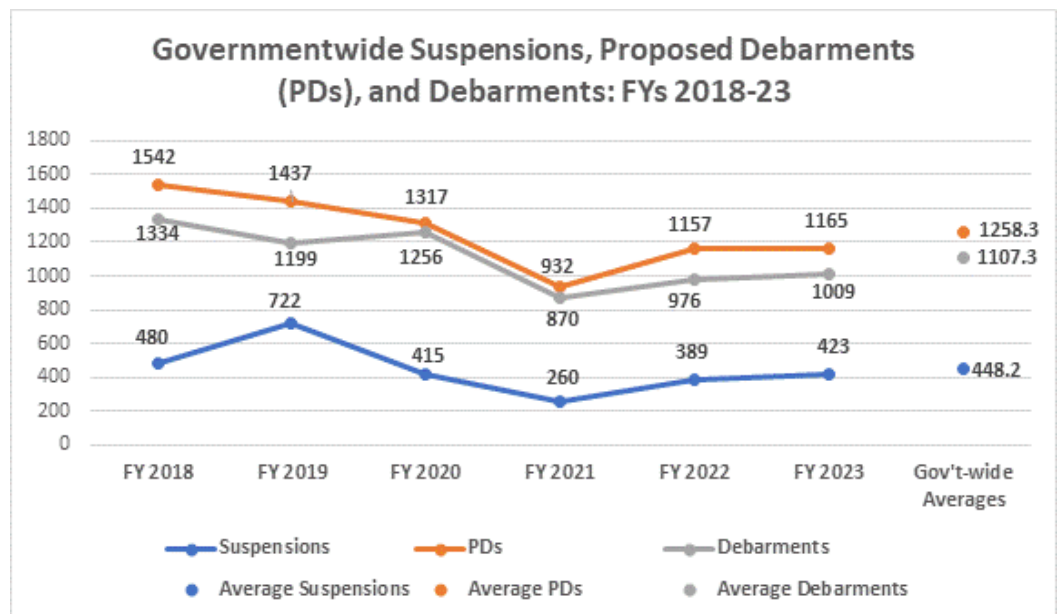
<sup>3</sup> Because the receipt of referrals and issuance of declination of matters can cross fiscal years, the total referrals received and declined matters in a given fiscal year will not be an exact comparison.

**FY 2023 in context (continued):**

- ◆ Total debarments, suspensions, and proposed debarments slightly increased by 3% from FY 2022 in support of protecting agencies' missions, supply chains, and business lines.
- ◆ Potential or actual respondents' outreach to agencies decreased in FY 2023: Total proactive engagements by potential respondents decreased by approximately 42%. Post-notice engagements by respondents decreased by approximately 24%. In FY 2023, a smaller number of agencies reported the receipt of pre-notice engagements than in FY 2022; however, a minimally larger number of agencies reported post-notice engagements.
- ◆ The total number of administrative agreements decreased by 48% from FY 2022 in part due to the decrease in the number of proactive engagements by contractors and government participants.

Agencies also reported their continued use of flexibilities adopted in response to the COVID-19 Pandemic and noted continuing delays in court proceedings and other challenges. As the effects of the Pandemic continued to subside, Governmentwide total actions in Figure 2 stabilized with a slight increase in FY 2023 of 3%, despite significant personnel changes. The FY 2023 total suspensions and proposed debarments exceeded averages for FYs 2020-23, the years spanning the Pandemic, thus, signaling the process of returning to pre-COVID levels. The extent of agencies' activities varied from FY 2022, with at least one agency noting decreases in total suspensions, proposed debarments, and debarments; four agencies reporting increases in all three types of actions; and several agencies reporting varied shifts in types of actions taken ranging from double to ten-fold, including one agency that increased its FY 2023 proposed debarment and debarment totals each by more than 150 actions. Such variation, when considered with an agency's alternatives to exclusion, reflect the agency's case-by-case evaluation and application of S&D remedies.

**Figure 2**



Some agencies reported significant increases in requests by respondents for extensions or stays of their administrative proceedings pending the conclusion of parallel criminal proceedings, movement within correctional facilities, or other concerns. Where such requests for extension or stays of proceedings are granted, the Government is properly protected because the exclusions remain in effect. However, flexibilities granted for respondents' submissions contributed to delayed final determinations and actions. As court proceedings started to return to pre-pandemic levels, agencies reported a corresponding Governmentwide increase in actions based on indictments, convictions, and civil judgments.



**FY 2023 in context**  
**(continued):**

- ◆ Although the number of negotiated voluntary exclusion agreements increased minimally, total pre-notice letters decreased by 40% from FY 2022.
- ◆ Agencies noted increased requests by respondents for additional due process, such as stayed S&D proceedings, pending the resolution of other parallel matters, the grant of which likely contributed to the decreased use of alternatives to exclusion.
- ◆ Agencies also reported that a greater number of S&D actions were based on judicial filings, such as convictions and civil judgments, than in FY 2022, indicating that S&D respondents are receiving due process through both the judiciary and administrative proceedings on the facts constituting cause.
- ◆ On a voluntary basis, 8 agencies reported issuing over 230 COVID-19 fraud related S&D actions, signifying an approximately 17-fold increase as compared to the Governmentwide totals identified for FYs 2021-22.

In contrast to the increased exclusions in FY 2023, agencies reported significant Governmentwide decreases in the communications by respondents, both before and after agencies' issuance of notices as compared with FY 2022. Proactive engagements occur when a potential respondent is the first to initiate contact with S&D program officials before an SDO issues any notice. The ISDC remains committed to encouraging individuals and entities to proactively reach out to SDOs. The ISDC maintains and updates the SDOs points of contact through the ISDC's website. In FY 2023, some members of the ISDC even engaged in outreach through private bar panel discussions, such as on individual agency suspension and debarment programs' coordination of remedies and proactive engagement with SDOs.

Based on voluntary responses for FY 2023, 9 agencies reported 37 potential respondents proactively engaged with S&D offices, which is a decrease of approximately 42% from the reported FY 2022 total. The FY 2023 total also is significantly less than the FY 2021 total and approximates the FY 2020 reported sum. Only 7 agencies reported such engagements for each of FYs 2021, 2022, and 2023. For FY 2023, 19 agencies, on a voluntary basis, reported post-notice engagements or communications contesting suspension or debarment actions, by 318 respondents. The FY 2023 total represents an approximately 24% decrease from FY 2022 and a 25% decrease from FY 2021, despite some agencies reporting increased interactions. The total number of agencies reporting such interactions in FY 2023 increased by one.

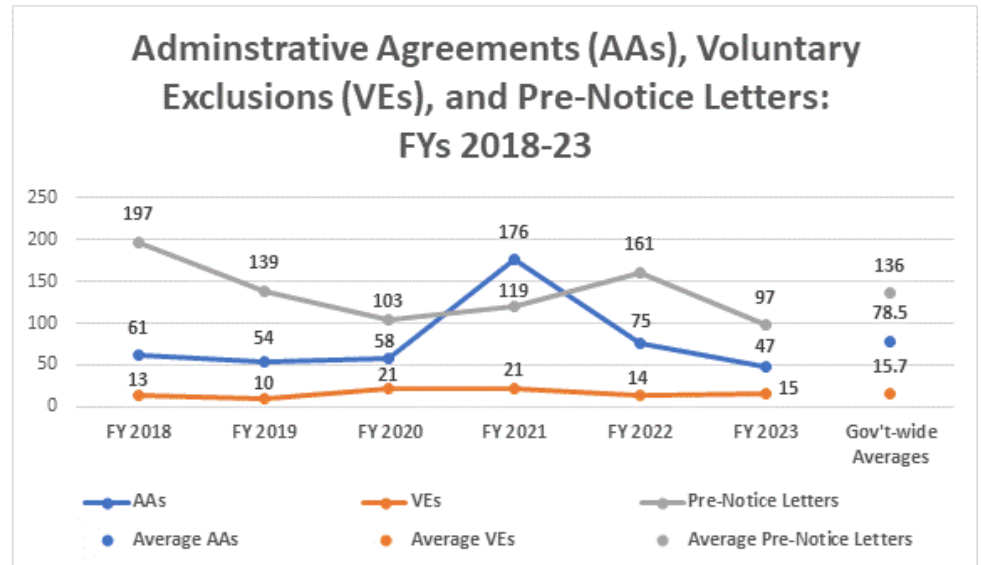
In tandem with the decreased proactive and post-notice engagements, agencies reported fewer negotiated administrative agreements<sup>4</sup>, which address SDO concerns in lieu of suspension or debarment. In FY 2023, 10 agencies entered into 47 administrative agreements, which is a 37% decrease from the prior year's reported total and a more than 70 percent drop from FY 2021. Comparing FYs 2022 and 2023, five agencies issued administrative agreements in only one but not both fiscal years as a result of interactions with respondents. Of the agencies with administrative agreements in FY 2023, five entered such agreements for each of FYs 2021, 2022, and 2023.

Voluntary exclusions are where respondents voluntarily agree to refrain from Federal opportunities in lieu of suspension and debarment. Seven agencies reported voluntary exclusions with 15 respondents in FY 2023. Comparing FYs 2022 and 2023, six agencies that reported voluntary exclusions did not negotiate such agreements in both years; however, four agencies reported voluntary exclusions for each of FYs 2021 through 2023. For FY 2023, 13 agencies issued 97 pre-notice letters or a decrease of approximately 40% from FY 2022. Of the agencies reporting pre-notice letters, eight reported actions in FYs 2021 through 2023.

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<sup>4</sup> Administrative agreements typically include tailored provisions to improve the ethical culture and corporate governance processes of a respondent, such as the use of independent third-party monitors or the removal of individuals associated with a violation from positions of responsibility within a company.

**Figure 3**



In FY 2023, agencies also reported increasingly complex and/or newly emerging types of actions referred. For example, based on voluntary responses, 8 agencies (some different from the previous year) reported receipt of referrals related to COVID-19 fraud and the issuance of over 230 administrative actions. Those agencies voluntarily reporting did not decline any referral associated with pandemic fraud. These actions represent a substantial increase from the previous total of 13 COVID-19 fraud actions voluntarily reported for FYs 2021-22 as well as a changing mix of agencies receiving referrals and implementing actions across FYs 2021-23. Such activities reflect the ongoing coordination of the ISDC and Federal law enforcement communities in this and other emerging areas to steward taxpayer resources as well as mitigate against fraud and further business risks.

### **FY 2023 Governmentwide Activities and Accomplishments**

During FY 2023, the ISDC<sup>6</sup> continued to focus on four strategic objectives:

- (1) promoting the fundamental fairness of the suspension and debarment process;
- (2) increasing transparency and consistency through training, engagement, and outreach;

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<sup>6</sup> Committee work is implemented by volunteer agency representatives who share their time and talents to support ISDC efforts in addition to their regular duties.

- (3) enhancing Federal suspension and debarment practices, including alternatives to exclusion, by identifying and developing resources available to the ISDC community; and
- (4) encouraging the development of more effective compliance and ethics programs by Government contractors and nonprocurement participants to address and balance business risks with opportunity costs and needs.

Notable examples of the ISDC leadership and members' past and ongoing efforts include:

- providing technical advice and support to the United States delegations to the 2023 negotiations relating to the Indo-Pacific Economic Framework for Prosperity;
- increasing coordination with DOJ, resulting in increased notification (on a quarterly basis) by DOJ of convictions to help SDOs identify and assess matters impacting programmatic integrity and efficiency;
- engaging in outreach through private bar panel discussions, such as on individual agency suspension and debarment programs' coordination of remedies and proactive engagement with SDOs;
- continued support of member agencies by:
  - ◊ providing instructors to train Federal practitioners;
  - ◊ providing timely updates regarding S&D related legislative, regulatory, and case law updates and developments as well as notable Governmentwide trends or initiatives, such as revisions to the GSA System for Award Management;
  - ◊ co-hosting with the Council of Inspectors General on Integrity and Efficiency (CIGIE) and the Pandemic Response Accountability Council (PRAC) a bi-annual workshop on interagency collaboration, with a COVID-19 fraud focus, for over 500 Government registrants;
  - ◊ facilitating lead agency coordination and the implementation of potential actions with the PRAC and DOJ; and
- continuing technical support of efforts to harmonize procurement and nonprocurement suspension and debarment regulations; and
- continued support of guidance related to emerging trends, such as COVID-19 fraud and foreign affiliation fraud matters, as well as coordination reference requirements for research integrity and disclosures.

Additional data regarding the FY 2023 activities are available in the enclosed appendices. The ISDC looks forward to its continued work with agencies to better protect taxpayer programs and operations from fraud, waste, and abuse through effective Governmentwide suspension and debarment programs.

## Appendix 1

### Glossary and Counting Conventions

For consistency and clarity, the ISDC used the following in preparing the Appendices to this report.

#### Glossary

*“Administrative Agreement”* - also known as an administrative compliance agreement, refers to a document that resolves an exclusion or potential exclusion matter. The election to enter into an administrative agreement is solely within the discretion of the SDO and is used only if the administrative agreement appropriately furthers the Government’s interest. Agreements may be entered into with any respondent, whether an individual person or organization when it is appropriate to do so. While administrative agreements vary according to the SDO’s concerns regarding each respondent, these agreements typically mandate the implementation of several provisions to improve the ethical culture and corporate governance processes of a respondent in a suspension or debarment-related proceeding. Agreements may also call for the use of independent third-party monitors or the removal of individuals associated with a violation from positions of responsibility within a company. Administrative agreements are made publicly available online in the General Services Administration’s System for Award Management (SAM) under the Responsibility/Qualification section.

*“Agency Pre-Notice Letters”* - includes show cause letters, requests for information, and similar types of letters used to inform the recipient that the agency debarment program is reviewing matters for potential SDO action, identify the alleged misconduct, and give the recipient an opportunity to respond prior to formal SDO action. This is a discretionary tool employed when appropriate to the circumstances of the matter under consideration and does not include show cause letters issued by contracting officers.

*“Debarment”* - an exclusion or ineligibility of an individual or entity from participating in new procurements and nonprocurement transactions upon an SDO’s finding of a preponderance of the evidence of cause in accordance with the agency’s regulations implementing and/or supplementing 2 C.F.R. § 180.800, *et seq.*, or 48 C.F.R. § 9.406, *et seq.*

*“Declination”* - an SDO’s determination after receiving a referral that issuing a suspension or debarment notice is not necessary to protect the Government’s interests. Placing a referral on hold in anticipation of additional evidence for future action is not a declination.

*“Proactive Engagements”* - written communications or documented in-person or oral discussions and/or meetings that occur when a potential respondent is the first to initiate contact with S&D program officials. Proactive engagements are reported herein by the number of respondents and occur before an SDO issues a notice.

*“Post-Notice Engagements”* - the contested suspension or debarment actions, counted and reported herein by the number of respondents. A contest includes any written and/or oral submission by a respondent challenging a notice of suspension, a notice of proposed debarment, or a debarment decision.

*“Referral”* - a written request prepared in accordance with agency procedures and guidelines, supported by documentary evidence, presented to the SDO for issuance of a notice of suspension or notice of proposed debarment as appropriate under FAR Subpart 9.4 and 2 C.F.R. Part 180.

Note: This definition of Referral is designed to eliminate potential variations due to differences in agency tracking practices and organizational structures. For example, agency debarment programs organized as coordination of fraud remedies divisions (responsible for the coordination of the full spectrum of fraud remedies: criminal, civil, contractual, and administrative) may not have a common starting point for tracking case referrals as agency programs exclusively performing suspension and debarment functions.



## Appendix 1

### Glossary and Counting Conventions (continued)

#### **Glossary (continued)**

*“Suspension”* - an exclusion or ineligibility of an individual or entity from participating in new procurements and nonprocurement transactions upon an SDO’s finding of adequate evidence of cause and the immediate need for action in accordance with the agency’s regulations implementing and/or supplementing 2 C.F.R. § 180.700 *et seq.* or 48 C.F.R. § 9.407 *et seq.*

*“Voluntary Exclusion”* - a term used under 2 C.F.R. Part 180 referring to the authority of an agency to enter into a voluntary exclusion with a respondent in lieu of suspension or debarment. A voluntary exclusion, like a debarment, carries the same Governmentwide reciprocal effect and, generally, bars the respondent from participating in procurement and nonprocurement transactions with the Government. Agencies must enter all voluntary exclusions in the General Services Administration’s System for Award Management (SAM).

#### **Counting Conventions**

Consistent with previous years’ Section 873 reports, the number of suspensions, proposed debarments, and debarment actions are broken out as separate exclusion actions even if they relate to the same respondents. With each of these exclusion actions, both FAR Subpart 9.4 and 2 C.F.R. Part 180 require an analysis performed by program personnel involving separate procedural and evidentiary considerations. Furthermore, a suspension may resolve without proceeding to a notice of proposed debarment, a notice of proposed debarment may resolve without a prior suspension action, and a proposed debarment may resolve without an agency SDO imposing a debarment. Moreover, separate “referrals” are typically generated for suspensions and proposed debarments. Finally, suspension and debarment actions trigger separate notice and other due process requirements by the agency.

Agencies were instructed to count referrals or actions regarding individuals as one action per individual regardless of the number of associated pseudonyms and AKAs (“also known as”) associated with the individual. Businesses operating under different names or that have multiple DBAs (“doing business as”) are counted separately as separate business entities or units for counting suspensions and debarments.

If one administrative agreement resolved potential suspension or debarment actions for multiple individuals and/or entities, agencies are instructed to count administrative agreements for each individual and/or entity to accurately reflect the legal obligations of each party.

The data in the appendices focus on the suspension and debarment activities of the 24 agencies and departments subject to the CFO Act. These are the agencies and departments with the highest activity levels in procurement and nonprocurement awards.

The report addresses the discretionary suspension and debarment actions taken under the Governmentwide regulations at FAR Subpart 9.4 and 2 C.F.R. Part 180. The Report does not track statutory or other nondiscretionary debarments outside of the scope of these regulations.

**Appendix 2**  
**Suspension and Debarment Actions in FY 2023**

Agency/Department	Suspensions	Proposed Debarments	Debarments
Agency for International Development	10	12	15
Department of Agriculture	6	23	24
Department of Commerce	2	3	2
Department of Defense			
Department of the Air Force	22	40	45
Department of the Army	11	123	80
Fourth Estate*	50	81	54
Department of the Navy	13	39	32
Department of Education	9	11	6
Department of Energy	7	6	6
Department of Health and Human Services	4	38	37
Department of Homeland Security	2	364	315
Department of Housing and Urban Development	24	16	22
Department of the Interior	1	6	13
Department of Justice	1	7	9
Department of Labor	12	61	88
Department of State	6	10	9
Department of Transportation	22	24	9
Department of the Treasury	38	38	53
Department of Veterans Affairs	8	6	12
AmeriCorps	8	5	5
Environmental Protection Agency	83	117	73
Export-Import Bank	18	18	0
General Services Administration	0	30	16
National Aeronautics and Space Administration	4	10	8
National Nuclear Security Administration	0	6	54
National Science Foundation	2	1	3
Nuclear Regulatory Commission	1	1	1
Office of Personnel Management	0	0	0
Small Business Administration	59	69	18
Social Security Administration	0	0	0
<b>Total Actions</b>	<b>423</b>	<b>1165</b>	<b>1009</b>

*\*The Department of Defense Fourth Estate includes other Defense subcomponents, such as the Defense Logistics Agency, Defense Health Agency, and National Geospatial-Intelligence Agency.*

**Appendix 3**  
**Other Actions Related to Suspension and Debarment in FY 2023**

Agency/Department	Show Cause/ Pre-Notice Letters	Referrals	Declinations	Administrative Agreements	Voluntary Exclusions
Agency for International Development	0	27	0	0	0
Department of Agriculture	0	205	25	0	0
Department of Commerce	4	7	3	2	1
Department of Defense					
Department of the Air Force	4	62	0	3	1
Department of the Army	23	218	4	3	0
Fourth Estate*	2	139	0	7	0
Department of the Navy	26	271	0	11	0
Department of Education	0	19	0	0	0
Department of Energy	1	27	1	1	0
Department of Health and Human Services	1	19	1	0	4
Department of Homeland Security	4	435	0	2	0
Department of Housing and Urban Development	0	85	0	3	1
Department of the Interior	0	9	2	0	0
Department of Justice	0	8	0	0	0
Department of Labor	7	78	0	0	0
Department of State	3	16	0	0	0
Department of Transportation	1	62	0	5	2
Department of the Treasury	0	12	0	0	0
Department of Veterans Affairs	0	26	0	0	0
AmeriCorps	-	15	0	0	0
Environmental Protection Agency	8	209	18	5	0
Export-Import Bank	3	22	2	1	0
General Services Administration	8	10	0	0	0
National Aeronautics and Space Administration	1	12	0	1	4
National Nuclear Security Administration	0	3	0	0	0
National Science Foundation	0	5	0	0	0
Nuclear Regulatory Commission	1	1	0	0	0
Office of Personnel Management	0	0	0	0	0
Small Business Administration	0	16	0	3	2
Social Security Administration	0	0	0	0	0
<b>Total Actions</b>	<b>97</b>	<b>2018</b>	<b>56</b>	<b>47</b>	<b>15</b>

\*The Department of Defense Fourth Estate includes other Defense subcomponents, such as the Defense Logistics Agency, Defense Health Agency, and National Geospatial-Intelligence Agency.

## **Common Misconceptions about Suspension and Debarment Frequently Asked Questions (Part 3) (Page 1 of 2)**



For Common Misconceptions Part 1, refer to: [https://www.acquisition.gov/sites/default/files/page\\_file\\_uploads/ISDC\\_FY\\_2020\\_Common\\_Misconceptions\\_about\\_Suspension\\_and\\_Debarment.pdf](https://www.acquisition.gov/sites/default/files/page_file_uploads/ISDC_FY_2020_Common_Misconceptions_about_Suspension_and_Debarment.pdf)  
For Common Misconceptions Part 2, refer to: [https://www.acquisition.gov/sites/default/files/page\\_file\\_uploads/Common\\_Misconceptions\\_Part\\_2\\_%28ISDC\\_Section\\_873\\_Joint\\_FY\\_2021-22\\_Report%29.pdf](https://www.acquisition.gov/sites/default/files/page_file_uploads/Common_Misconceptions_Part_2_%28ISDC_Section_873_Joint_FY_2021-22_Report%29.pdf)

### **How does the Government determine which agency Suspending and Debarment Officials (SDOs) issue administrative suspension and debarment (S&D) related actions?**

Upon the receipt of referrals from awarding officials, law enforcement officials, and others, including disclosures by potential respondents and/or substantiated referrals from the general public, agencies considering S&D action will coordinate within the Interagency Suspension and Debarment Committee (ISDC) to identify the SDO best situated to implement administrative remedies to protect the Government against identified business risks and misconduct of individuals and entities. This process is called lead agency coordination. On occasion, SDOs may act jointly given the substantial interests of the agencies.

### **Can an Agency take suspension or debarment action against an individual?**

Yes. An Agency may take a suspension against an individual when there is cause, adequate evidence, and immediate need to protect the Government; and debarment when there is a preponderance of evidence of cause.

### **What should be provided to an SDO when requesting reconsideration of an exclusion?**

Reconsideration requests must be based on more than mere assertions of present responsibility. A debarment official may reduce or terminate an exclusion based on newly discovered material evidence, a reversal of a conviction or civil judgment upon which a debarment was based, a bona fide change in ownership or management, an elimination of other cause(s) for which an exclusion was imposed, or other reason(s) for which the debarment official finds appropriate.

### **Why do agencies separately count SDO actions in the Report to Congress such as suspensions, proposed debarments, debarments, agreements, etc., when two or more actions address a common respondent?**

Each action taken against a Respondent (irrespective of whether the Respondent is an individual or an entity) represents a separate decision by an SDO, subject to different notice requirements and/or other due process or evidentiary standards, which may have differing results. Unlike the report to Congress, which is bound by fiscal year, SDO actions are fluid and may transpire across fiscal years. For example, a suspension of a particular party may occur in one year, followed by a proposed debarment during the next year.

### **Do agencies separately count and report the exclusion of an individual's alternate name or alias in SAM.gov as multiple actions in the suspension and debarment reports to Congress?**

No; agencies do not separately count and report the exclusion entries of an individual's alternate names or alias as multiple actions in its suspension and debarment reports to Congress. For example, where John Doe, also known as Jeremy Doe, has been suspended and listed under both names in SAM.gov, the reporting agency only counts one exclusion for the individual.

Aliases are identified in SAM.gov to inform awarding officials of an excluded party's identity by listing all known alternate name(s), to mitigate against the risks of an excluded party's attempted circumvention of an exclusion. Where some individuals incorporate or list themselves as legal entities, an SDO's action and corresponding SAM.gov entries may also identify the incorporated persona of the individual for the purpose of protecting against business risks by the excluded individual. Exclusions of businesses are separately counted from exclusions of any individuals acting through those entities.

### **Do the Governmentwide numbers reported in the suspension and debarment reports to Congress include actions designated in SAM as prohibitions/restrictions?**

No; this report is limited to addressing discretionary suspensions and debarments as well as other related administrative remedies, such as voluntary exclusions and administrative agreements issued pursuant to 2 C.F.R. Part 180, as implemented by agencies, and 48 C.F.R. Subpart 9.4, as supplemented by agencies. This report to Congress does not include actions designated in SAM as prohibitions/ restrictions. For example, some agencies are statutorily required to impose restrictions or prohibitions, which result in parties being ineligible for fixed periods under limited circumstances and limited in scope as required under laws, Executive Orders, or regulations. Those non-discretionary actions are not covered by this report.



December 31, 2024

The Honorable Gary C. Peters  
Chairman  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

The Interagency Suspension and Debarment Committee (ISDC) provides reports to Congress on the activities and progress of the Federal suspension and debarment system, pursuant to Section 873 of the Duncan Hunter National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2009 (Public Law 110-417).<sup>1</sup> This report describes the status of the Federal suspension and debarment and the related activities of each member agency during FY 2023.<sup>2</sup>

Suspension and debarment-related actions are administrative remedies designed to protect the public interest from potential harm posed by individuals or entities whose conduct indicates or constitutes cause for exclusion, such as serious poor performance, evidence of fraud, or other indicia of a serious or compelling lack of business honesty or integrity. Agency Suspending and Debarring Officials (SDOs) consider action against business entities and individuals alike, as appropriate, to ensure that Federal contractors and participants of nonprocurement transactions are presently responsible. In coordination with the implementation of other remedies, SDOs promote the Government's interests and present responsibility by excluding parties that engage in serious misconduct and fail to demonstrate an appropriately remediated approach and commitment to business honesty, integrity, and performance. As the purpose of suspension and

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<sup>1</sup> Established by Executive Order (E.O.) 12549, the ISDC is an unfunded interagency body, consisting chiefly of representatives from executive branch organizations working together to improve and provide support for suspension and debarment programs throughout the Government. The 24 agencies covered by the Chief Financial Officers Act (CFO Act), as amended, are standing members of the ISDC. ISDC membership also includes independent Federal agencies and corporations. ISDC member agencies are collectively responsible for helping to ensure the integrity of nearly all Federal procurement and discretionary assistance, loan, and benefit (nonprocurement) transactions. In conducting their work, ISDC is an interagency body that collaborates with the federal law enforcement community legislative agencies, and other stakeholders.

<sup>2</sup> In accordance with E.O. 12549, the ISDC is responsible for the discretionary suspension and debarment system, which is governed by the Federal Acquisition Regulation (FAR) at 48 C.F.R. Subpart 9.4 and the Nonprocurement Common Rule (NCR) at 2 C.F.R. Part 180. The information collected for this report reflects activities related only to use of the discretionary suspension and debarment remedy. However, the Federal database for listing exclusions, System for Award Management (SAM), includes additional types of exclusions distinct in scope or application from discretionary actions reported here. This report does not address prohibitions and restrictions mandated by, or imposed as an automatic consequence of, violations of various statutes and/or regulatory compliance regimes, such as agency-specific prohibitions and restrictions.



debarment is the protection of Government interests rather than punishment, SDOs are also vested with an array of tools, such as alternate resolutions through which business entities and individuals may demonstrate that, prior problematic conduct notwithstanding, a present risk does not exist and corrective measures have been adopted to prevent any recurrence. SDOs are thus equipped to exercise business judgment, make appropriate assessments, and encourage Federal participants to implement solutions reducing risks to public programs, missions, and fisc.

This report addresses the ISDC's strategic objectives and activities, outreach, and member agencies' reported discretionary implementation of suspension and debarment-related remedies. During FY 2023, ISDC members collectively reported increases in total exclusions from the prior year including a substantial increase in the number of actions related to COVID-19 fraud referrals and other increasingly complex cases. Agencies reported fewer administrative agreements, proactive engagements with respondents and responses following SDOs' issuance of notices, despite greater outreach efforts by ISDC members to explore alternatives to suspension and debarment. Progress to improve the Federal suspension and debarment system included advancements to launch a new lead agency coordination request portal and ongoing efforts to better harmonize and align the FAR and NCR. Additional data regarding the FY 2023 activities are enclosed in the attached appendices, summary highlights, and common misconceptions document. For more information on the ISDC, please see its homepage at <https://www.acquisition.gov/isdc-home>.

The ISDC looks forward to its continued work with agencies to better protect taxpayer programs and operations from business risks through effective suspension and debarment programs.

Sincerely,

Jennifer L. Ward, Chair  
ISDC

Monica Aquino-Thieman, Vice-Chair  
ISDC

James S. Latoff, Vice-Chair  
ISDC

Enclosures

Identical Letter Sent to: The Honorable Rand Paul, The Honorable James Comer, and The Honorable Jamie Raskin