

# **DHS Needs to Strengthen Its Suspension and Debarment Program**





# DHS OIG HIGHLIGHTS

## *DHS Needs to Strengthen Its Suspension and Debarment Program*

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**January 25, 2018**

### **Why We Did This Inspection**

In October 2016, Representative Bennie Thompson requested that we review the suspension and debarment practices at the Department of Homeland Security. In response, we sought to determine whether Suspension and Debarment Officials and staff throughout the Department follow policies and procedures for suspensions, debarments, and administrative agreements.

### **What We Recommend**

We are making four recommendations to improve oversight and accountability in DHS' Suspension and Debarment Program.

#### **For Further Information:**

Contact our Office of Public Affairs at (202) 254-4100, or email us at [DHS-OIG.OfficePublicAffairs@oig.dhs.gov](mailto:DHS-OIG.OfficePublicAffairs@oig.dhs.gov)

### **What We Found**

DHS needs to improve several aspects of its Suspension and Debarment Program. First, the DHS *Suspension and Debarment Instruction* is outdated and is missing needed definitions, as well as detailed requirements and procedures for documenting decisions on administrative agreements, which mandate improvements rather than suspending or debaring companies and organizations. Second, the Department did not adequately document five of seven administrative agreements approved between fiscal year 2012 and February 2017. Third, the Department does not have a centralized system to track suspension and debarment activities, which may have contributed to DHS' inaccurate FY 2016 reporting of suspensions and debarments. Fourth, for an 8-month period, Federal Emergency Management Agency suspension and debarment staff did not promptly update government-wide systems to reflect debarments and administrative agreements, but they have since uploaded this information. Finally, department-level staffing issues may be hindering efficient and effective handling of suspensions and debarments. By improving in these areas, DHS could strengthen its Suspension and Debarment Program and help ensure suspensions, debarments, and administrative agreements are in the Federal Government's best interest.

### **DHS Response**

DHS concurred with all of our recommendations and described the corrective actions it has taken and plans to take. We consider recommendations 1, 2, 3, and 4 resolved and open.



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security


Washington, DC 20528 / [www.oig.dhs.gov](http://www.oig.dhs.gov)

January 25, 2018

MEMORANDUM FOR: The Honorable Claire M. Grady  
Under Secretary for Management

The Honorable William B. Long  
Administrator  
Federal Emergency Management Agency

Thomas D. Homan  
Senior Official Performing the Duties of the Director  
U.S. Immigration and Customs Enforcement

FROM: John V. Kelly   
Acting Inspector General

SUBJECT: *DHS Needs to Strengthen Its Suspension and Debarment Program*

For your action is our final report, *DHS Needs to Strengthen Its Suspension and Debarment Program*. We incorporated the formal comments provided by your office.

The report contains four recommendations aimed to improving oversight and accountability for the Suspension and Debarment Program. Your office concurred with all four recommendations. Based on information provided in your response to the draft report, we consider recommendations 1, 2, 3, and 4 open and resolved. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence showing completion of the agreed-upon corrective actions and, if applicable, the disposition of any monetary amounts. Please send your response or closure request to [OIGInspectionsFollowup@oig.dhs.gov](mailto:OIGInspectionsFollowup@oig.dhs.gov).

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Jennifer L. Costello, Assistant Inspector General for Inspections and Evaluations or John D. Shiffer, Chief Inspector, at (202) 254-4100.



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### Background

To protect the Federal Government's interests, agencies can use a suspension or debarment to exclude individuals, companies, and organizations from receiving future contracts, subcontracts, grants, loans, and other Federal assistance. Suspension and debarment actions are not punishments; instead, they are tools to ensure the Federal Government only does business with responsible entities.

Suspension is defined as a temporary exclusion, usually limited to 12 months. A suspension is generally used when the facts about possible wrongdoing are still being developed, either through investigation or legal proceedings. Debarment is an exclusion from Federal procurement and nonprocurement programs for a specific period of time, generally not more than 3 years. Debarment is used when an investigation or legal proceedings have concluded. The legal basis required for a debarment is a civil judgment or a conviction, or in the absence of a court decision, evidence leading a person to believe it is more probable than not that the wrongdoing actually occurred.

The Federal Acquisition Regulation (FAR)<sup>1</sup> outlines government-wide policies and procedures for Federal agencies to suspend and debar contractors for given causes. The Nonprocurement Common Rule (NCR) in the Code of Federal Regulations (CFR)<sup>2</sup> provides government-wide guidance to Federal agencies on suspensions and debarments related to nonprocurement program activities of individuals, companies, and organizations. A suspension or debarment under either FAR or NCR has a government-wide effect, preventing the individual, company, or organization from receiving contracts, subcontracts, grants, cooperative agreements, loans, or other Federal assistance.

Individuals, companies, and organizations may be referred for suspension and debarment to a Suspension and Debarment Official (SDO) for various reasons. These reasons could include commission of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, and failure to perform under the terms of a Federal contract. Cases may be referred to the SDO from many sources, including the Office of Inspector General (OIG).

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<sup>1</sup> FAR, Subpart 9.4 – *Debarment, Suspension, and Ineligibility*

<sup>2</sup> Title 2, CFR, Part 180 – *OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)*



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### Department of Homeland Security

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Rather than imposing a suspension or debarment, an SDO may decide it is in the best interest of the Federal Government to enter into an administrative agreement with the company or organization under consideration for suspension or debarment. An administrative agreement typically mandates implementing provisions to improve the ethical culture and corporate governance processes of the company or organization. An administrative agreement is more likely when the company has already undertaken remedial action to correct deficiencies or the Government has a special need requiring continued business with that particular company or organization.

The Department's and all other Federal agencies' yearly statistics on suspensions and debarments activities are submitted to Congress through the Interagency Suspension and Debarment Committee's (ISDC) annual report.

### **Results of Review**

On October 19, 2016, Representative Bennie Thompson requested that we review the suspension and debarment practices at DHS. Specifically, he asked us to review the process used for considering whether a company should be referred to the SDO. He also asked that we provide the number of suspensions and debarments administered by the SDO, as well as the number of administrative agreements executed by the SDO and whether they were proper. Lastly, he requested that we review the number of times the SDO decided not to suspend or debar despite a component's recommendation to do so. Appendix C contains the factual information we compiled in response to this request.

In gathering the information for our response, we determined that DHS needs to improve several aspects of its Suspension and Debarment Program. First, the DHS *Suspension and Debarment Instruction* is outdated and is missing needed definitions, as well as detailed requirements and procedures for documenting decisions on administrative agreements. Second, the Department did not adequately document five of seven administrative agreements approved between FY 2012 and February 2017. Third, the Department does not have a centralized system to track suspension and debarment activities, which may have contributed to DHS' inaccurate FY 2016 reporting of suspensions and debarments. Fourth, for an 8-month period, Federal Emergency Management Agency (FEMA) suspension and debarment staff did not promptly update government-wide systems to reflect debarments and administrative agreements, but they have since uploaded this information. Finally, staffing issues related to the DHS SDO may be hindering efficient and effective handling of suspensions and debarments. By improving in these areas, DHS could strengthen its



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Suspension and Debarment Program and help ensure suspensions, debarments, and administrative agreements are in the Federal Government's best interest. Appendix A contains detailed information about our objective, scope, and methodology.

### **DHS Has Not Updated or Added Needed Details to Its *Suspension and Debarment Instruction***

The DHS *Suspension and Debarment Instruction* (Instruction) describes DHS' process for referring an individual, company, or organization to the appropriate SDO for potential suspension or debarment. (Appendix C contains more detailed information on the Instruction). The Instruction should be a valuable resource for employees handling suspensions and debarments; however, DHS has not updated the Instruction since it was issued in May 2012, and it lacks:

- detailed requirements and procedures for documenting decisions to use an administrative agreement in lieu of suspension or debarment;
- current information about where data on suspensions, debarments, and proposed debarments is entered, tracked, and used for reporting; and
- definitions for all terms used in DHS' Suspension and Debarment Program, such as "petition," "show cause notice," "voluntary exclusion," "determined responsible," and "no action."

As described in this report, the lack of definitions, current information on data entry and tracking, and detailed requirements and procedures causes confusion and may have contributed to inaccurate reporting and insufficient documentation. DHS could mitigate these issues by periodically reviewing, updating, and adding needed detail to the Instruction.

### **DHS Does Not Adequately Document Decisions on Administrative Agreements**

Rather than impose a suspension or debarment, an SDO may enter into an administrative agreement with a company or organization. Although the Instruction requires the DHS SDO to retain documentation on suspension and debarment cases for 6 years and 3 months, it does not include requirements for documenting the decisions to use administrative agreements in lieu of a suspension or debarment. As a result of inadequately documented decisions, we could not always determine the facts taken into consideration when deciding to use an administrative remedy.



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Department of Homeland Security

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Specifically, we reviewed the five administrative agreements and one addendum to an administrative agreement approved by the DHS SDO between FY 2012 and February 28, 2017. We also reviewed an administrative agreement signed by the ICE SDO during the same time period. We were able to validate support for the decision to use an administrative remedy in just two of these cases — the agreement signed by the ICE SDO and one of the five signed by the DHS SDO. We concluded these two administrative agreements were proper because the documented decision appeared objective, unbiased, and based on facts. In addition, the risks of future occurrences were addressed with sound approaches, indicating that an administrative agreement was the optimal outcome. Furthermore, in these two cases, the decision to pursue an administrative agreement aligned with the component’s recommendation not to suspend or debar the company.

In contrast, the remaining administrative agreements and the addendum were missing documentation (e.g., a written record of verbal discussions and decisions), and we could not determine whether the decisions were objective and unbiased. In the case of the addendum, the DHS SDO’s decision to use an administrative agreement did not align with the component’s recommendation. Specifically, a Transportation Security Administration (TSA) official told us TSA had recommended debarment of the company for failure to comply with the original administrative agreement, rather than add an addendum. Also, according to the TSA suspension and debarment coordinator, the then-DHS SDO did not provide written justification for the decision.

### **DHS and Its Components Do Not Adequately Track and Maintain Records Related to Suspension and Debarment Activities**

During our review, we identified the following issues related to inadequate tracking and record retention. These issues may have affected the accuracy of DHS’ annual reporting of suspensions and debarments, as well as its ability to verify the actual number of suspensions and debarments.

**Lack of a Centralized Database:** The Instruction states that DHS uses a single database for tracking suspensions and debarments. In reality, the components track their own suspensions and debarments on spreadsheets. These spreadsheets showed that the components differ in how they interpret and report suspensions and debarments, which may have led to errors in ISDC reporting. For example, the Instruction notes that a suspension or debarment is considered effective on the date the SDO signs the notice of a final decision, but in its spreadsheets, U.S. Customs and Border Protection (CBP) reported



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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suspensions and debarments closed (i.e., effective) when the signed final notice was delivered to the company or organization, rather than upon the DHS SDO's signature. In another case, the DHS Office of Procurement Operations (OPO) reported a suspension in September 2016 when it sent an action referral memorandum and notice of proposed debarment to the DHS SDO for approval. The SDO did not approve the documents until October 2016, a new fiscal year. So, OPO reported a suspension in FY 2016 that should have been reported in FY 2017.

**Lack of Documentation:** The Instruction requires components to maintain records on suspension and debarment cases for 3 years after the effective date (when the SDO signs the notice of a final decision to suspend or debar). Yet, some components could not provide signed notices of final decisions on suspensions and debarments they had reported in FY 2016. Without signed notices, DHS cannot verify these suspensions and debarments.

Moreover, the failure to retain documentation may have led to errors in the ISDC suspension and debarment report submitted to Congress. For example, DHS did not have supporting documentation for five of the nine suspension cases reported in FY 2016. Specifically, staff could not provide signed notices of final decisions for five suspensions — four from FEMA and one from DHS OPO. As a result, DHS may have over reported the number of suspensions for FY 2016 by five.

There were also errors in reporting debarments. The FY 2016 ISDC report contained 57 debarments reported by FEMA, but staff at FEMA could only give us 20 signed notices of final decisions. They could not provide signed notices of final decisions for the remaining 37 debarments. In contrast, although the FY 2016 report did not include any debarments from U.S. Citizenship and Immigration Services (USCIS), the USCIS coordinator gave us signed notices of final decisions for nine debarments from FY 2016. FEMA's over reporting of 37 debarments and USCIS' under reporting of 9 means that, in total, DHS may have over reported the number of debarments in FY 2016 by 28.

Table 1 summarizes the number of suspension and debarment actions reported in FY 2016 and the number of final decisions for which DHS was able to provide documentation.





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Table 1 – FY 2016 Suspension and Debarment Activity DHS Reported Through the ISDC Annual Report and Documentation Provided for Final Decisions

Action	DHS Reported Through ISDC	Documentation Provided	Difference
Suspension	9	4	5
Debarment	280	252	28

Source: OIG analysis of suspension and debarment data from spreadsheets and signed notices of final decisions provided by components

**FEMA Suspension and Debarment Staff Did Not Promptly Update Databases**

From August 2016 through March 2017, FEMA employees did not update the government-wide databases used to inform other agencies and the public about individuals, companies, and organizations excluded from doing business with the Federal Government. Federal agencies use two databases, the System of Award Management (SAM) and the Federal Awardee Performance and Integrity Information System (FAPIIS), to track contractor misconduct and performance.<sup>3</sup> According to the Instruction, component staff must update SAM within 3 workdays of the effective date of a suspension and proposed debarment under the FAR and within 5 workdays of suspensions and debarments under NCR. The FAR requires agencies to upload administrative agreements into FAPIIS within 3 workdays of their effective date.

Although required, in that 8-month period, FEMA suspension and debarment staff did not promptly update SAM to reflect 35 debarment actions, all of which were approved by the DHS and FEMA SDOs between August 2016 and March 2017. FEMA staff uploaded all 35 debarments on April 4, 2017, from 25 to 236 days after the debarments went into effect. Table 2 shows the time that elapsed between the effective date and when staff uploaded the information into SAM.

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<sup>3</sup> The General Services Administration maintains SAM and FAPIIS and makes them available for Federal agency and public access. SAM was previously known as the Excluded Parties List System, which contained a list of individuals, companies, and organizations excluded from doing business with the Federal Government. FAPIIS was established to track contractor misconduct and performance; it contains Federal contractor criminal, civil, and administrative proceedings in connection with Federal awards; administrative agreements issued in lieu of suspension or debarment; contracts terminated for fault; defective pricing determinations; and past performance evaluations.



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Department of Homeland Security

Table 2 - Length of Time Between Effective Date of 35 Debarments and FEMA Staff Uploading into SAM			
Number of debarments	Effective date of debarment	Uploaded into SAM	Elapsed time
4	August 2016	April 2017	222–236 days
1	October 2016	April 2017	179 days
27	December 2016	April 2017	95–105 days
1	February 2017	April 2017	47 days
2	March 2017	April 2017	25 days

Source: OIG analysis of debarment data provided by FEMA

In addition, two administrative agreements, both of which the DHS SDO approved in FY 2016 and FY 2017, were in place for 307 and 551 days, respectively, before FEMA staff uploaded them into FAPIIS in May 2017.

According to FEMA, the databases were not updated for two reasons. First, the previous FEMA suspension and debarment coordinator did not upload 5 of the 35 debarments and the 2 administrative agreements. Second, current FEMA suspension and debarment staff were supposed to upload the remaining 30 debarments, but did not gain access to SAM until March 2017 and uploaded the debarments shortly thereafter. Once we drew attention to this issue, staff gained access to FAPIIS and in May 2017 updated the system to add the two administrative agreements.

During fieldwork, the DHS OIG team and FEMA staff searched government-wide systems to determine whether any of the 35 debarred individuals, companies, and organizations had received Federal funds, grants, or assistance. None of the 35 had received any Federal funds since the effective debarment date. Nonetheless, delays in uploading could mean the entire Federal Government risks doing business with debarred companies and individuals and those subject to an administrative agreement.

**Staffing Issues May Be Hindering Efficient and Effective Handling of Suspensions and Debarments**

When DHS OIG reported on DHS' suspension and debarment activities in 2010,<sup>4</sup> the Department had initiated 1 suspension and 23 debarments between FY 2004

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<sup>4</sup> *DHS' Use of Suspension and Debarment Actions for Poorly Performing Contractors*, OIG-10-50, February 2010



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### Department of Homeland Security

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and FY 2008. In comparison, during the first 5 months of FY 2017, DHS had tracked final decisions on 85 debarments and 1 administrative agreement. The lack of staff supporting the DHS SDO may hinder efficient and effective handling of an increasing number of suspensions and debarments.

The DHS SDO works alone and does not have staff to help carry out a wide array of responsibilities related to suspension and debarment. The SDO is responsible for maintaining, supervising, and overseeing the Suspension and Debarment Program, including making suspension, debarment, and related administrative decisions; establishing policy, process, and procedures; and establishing training, professional development, and certification requirements for suspension and debarment personnel. The SDO also serves as the Department's representative and sole voting member of the ISDC. In addition to the specified duties, the DHS SDO makes the final decision on ICE procurement-based suspension and debarment referrals, as well as the referrals from all other components. Having staff could help the DHS SDO carry out these tasks and ensure continuity in the Department's Suspension and Debarment Program.

### Recommendations

**Recommendation 1:** We recommend that the DHS Suspension and Debarment Official update the DHS *Suspension and Debarment Instruction*, including ensuring it contains definitions for all terms used in DHS' Suspension and Debarment Program, detailed requirements and procedures for documenting decisions to use an administrative agreement, and current information about tracking of suspensions, debarments, and proposed debarments.

**Recommendation 2:** We recommend that the Under Secretary for Management implement a centralized department-wide suspension and debarment tracking system to document justification for decisions, capture suspension and debarment activity, show compliance with policies and procedures, and enhance information sharing among Suspension and Debarment Officials and components.

**Recommendation 3:** We recommend that the Under Secretary for Management and heads of components with suspension and debarment staff implement performance measures in employee performance plans that require uploading suspensions, debarments, and administrative agreements into SAM and FAPIIS within the required timeframes.



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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**Recommendation 4:** We recommend that the Under Secretary for Management examine suspension and debarment staffing levels to determine whether the DHS Suspension and Debarment Official needs staff to handle the workload.

### Management Comments and OIG Analysis

DHS concurred with our recommendations and is taking steps to address them. Appendix B contains a copy of DHS' management comments in their entirety. We also received and incorporated technical comments as appropriate. We consider recommendations 1, 2, 3, and 4 to be resolved and open. A summary of DHS' responses and our analysis follows.

**DHS Response to Recommendation 1:** DHS concurred with the recommendation. The DHS SDO has drafted a revision of the DHS *Suspension and Debarment Directive and Instruction*, which is expected to be circulated for Department comment by the end of January 2018. DHS anticipates this will be completed by March 31, 2018.

**OIG Analysis:** We consider DHS' planned action responsive to recommendation 1. We consider the recommendation resolved and open. We will close this recommendation when DHS issues the updated DHS *Suspension and Debarment Directive and Instruction*, ensuring it contains definitions for all terms used in DHS' Suspension and Debarment Program, detailed requirements and procedures for documenting decisions to use an administrative agreement, and current information about tracking of suspensions, debarments, and proposed debarments.

**DHS Response to Recommendation 2:** DHS concurred with the recommendation. Funding for a case management system has been secured and the DHS Office of the Chief Information Officer will begin development by the end of January 2018. Additionally, to enhance information sharing, in August 2017 the DHS SDO implemented a SharePoint site for DHS Suspension and Debarment personnel to refer to for templates, policies, procedures, and guidance. DHS anticipates this will be completed by September 30, 2018.

**OIG Analysis:** We consider DHS' planned action responsive to recommendation 2. We consider the recommendation resolved and open. We will close this recommendation when DHS implements a centralized department-wide suspension and debarment tracking system to document justification for decisions, capture suspension and debarment activity, show compliance with policies and procedures, and enhance information sharing among Suspension and Debarment Officials and components.



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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**DHS Response to Recommendation 3:** DHS concurred with the recommendation. U.S. Immigration and Customs Enforcement already has performance measures in employee performance plans regarding uploading the required information into SAM and FAPIIS within the required timeframes. The DHS SDO will begin working on this effort with management at other components by the end of January 2018. DHS anticipates this will be completed by September 30, 2018.

**OIG Analysis:** We consider DHS' planned action responsive to recommendation 3. We consider the recommendation resolved and open. We will close this recommendation when DHS implements performance measures in employee performance plans that require suspension, debarment, and administrative agreements be uploaded into SAM and FAPIIS within the required timeframes.

**DHS Response to Recommendation 4:** DHS concurred with the recommendation. The Office of the Under Secretary for Management will initiate a review of the DHS SDO workload by the end of January 2018. DHS anticipates this will be completed by March 31, 2018.

**OIG Analysis:** We consider DHS' planned action responsive to recommendation 4. We consider the recommendation resolved and open. We will close this recommendation when DHS completes its examination of suspension and debarment staffing levels to determine whether the DHS SDO needs additional staff to handle the workload.



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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### **Appendix A**

#### **Objective, Scope, and Methodology**

DHS OIG was established by the *Homeland Security Act of 2002* (Public Law 107-269) by amendment to the *Inspector General Act of 1978*. In response to a request from U.S. Representative Bennie G. Thompson, Chairman of the House Committee on Homeland Security, we sought to determine whether Suspension and Debarment Officials (SDO) and staff throughout the Department follow applicable policies and procedures for executing suspensions, debarments, and other administrative remedies. Our review focused on the:

- process that is employed when considering whether a company should be referred to the SDO;
- number of suspensions and debarments administered by the SDO, as well as the administrative agreements executed by the SDO and whether these administrative agreements were proper; and
- number of times the SDO has decided not to suspend or debar despite a component's recommendation that the entity be suspended or debarred; and
- number of times entities have been recommended during a term of an administrative agreement, but were not debarred, and whether the SDO's actions should have aligned with the component's recommendation.

To understand the Suspension and Debarment Program, we reviewed DHS' suspension and debarment delegations, policies, and procedures. We met with the DHS, U.S. Immigration and Customs Enforcement, and FEMA SDOs, as well as suspension and debarment coordinators from CBP, Federal Law Enforcement Training Center, OPO, TSA, United States Coast Guard, USCIS, and United States Secret Service. These meetings were held to discuss staff roles and responsibilities in executing suspensions, debarments, and other administrative remedies; referral and determination processes; program communications and oversight, management, staffing and training; statistics reported; systems used; and approaches to protect the Government's interest. We also reviewed prior reports and assessments from other Federal agencies that address some aspect of the Suspension and Debarment Program at DHS.

In response to the request, we reviewed the administrative records and evaluated the justification of the decisions to use administrative agreements executed between October 1, 2011, and February 28, 2017. DHS had a total of six administrative agreements and one addendum to an administrative agreement in which the SDO



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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decided not to suspend or debar. In addition, we reviewed program information and statistics on other administrative remedies completed from October 1, 2015, to February 28, 2017.

We conducted this review from March 2017 to July 2017 under the authority of the *Inspector General Act 1978*, as amended, and in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our objective.

Major contributors to this report are: John Shiffer, Chief Inspector; Inez Jordan, Lead Inspector; Donna Ruth, Program Analyst; Ian Stumpf, Program Analyst; Kelly Herberger, Communications and Policy Analyst; and Jason Wahl, Independent Reference Reviewer.



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**Appendix B**  
**Comments to the Draft Report**


U.S. Department of Homeland Security  
Washington, DC 20528



**Homeland  
Security**

January 5, 2018

MEMORANDUM FOR: John V. Kelly  
Acting Inspector General

FROM: Jim H. Crumacker, CIA, CFE  
Director  
Departmental GAO-OIG Liaison Office 

SUBJECT: Management Response to OIG Draft Report: "DHS Needs to  
Strengthen Its Suspension and Debarment Program"  
(Project No. 17-054-ISP-ICE, DHS)

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

DHS remains committed to the integrity and continual improvement of its Suspension and Debarment Program. Since the initiation of OIG's audit, several efforts have been taken to strengthen the program, many which align with the recommendations in this report. Specifically, funding has been identified for a department-wide suspension and debarment case tracker, with full implementation expected by September 30, 2018. Additionally, a Suspension and Debarment Community of Practice has been established, with periodic meetings to address training, program management, and data consistency. A draft update to the directive and instruction for the program is also being developed and will soon be placed into Departmental clearance.

The draft report contained four recommendations with which the Department concurs. Attached find our detailed response to each recommendation.

Again, thank you for the opportunity to review and comment on this draft report. Technical comments were previously provided under separate cover. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Attachment





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### Attachment: Management Response to Recommendations Contained in 17-054-ISP-ICE, DHS

The OIG recommended that the DHS Suspension and Debarment Official (SDO):

**Recommendation 1:** Update the DHS *Suspension and Debarment Instruction*, including ensuring it contains definitions for all terms used in DHS' Suspension and Debarment Program, detailed requirements and procedures for documenting decisions to use an administrative agreement, and current information about tracking of suspensions, debarments, and proposed debarments.

**Response:** Concur. A revision to the DHS *Suspension and Debarment Directive and Instruction* has been drafted by the DHS SDO and is expected to be circulated for Agency comment by the end of January 2018. Estimated Completion Date (ECD): March 31, 2018.

The OIG recommended that the Under Secretary for Management:

**Recommendation 2:** Implement a centralized department-wide suspension and debarment tracking system to document justification for decisions, capture suspension and debarment activity, show compliance with policies and procedures, and enhance information sharing among Suspension and Debarment Officials and components.

**Response:** Concur. Funding for a case management system has been secured and the DHS Office of Chief Information Officer will begin development by the end of January 2018. Additionally, in order to enhance information sharing, in August 2017, the DHS SDO implemented a SharePoint site for DHS Suspension and Debarment personnel to refer to for templates, policies, procedures and guidance. ECD: September 30, 2018.

**Recommendation 3:** (and heads of components with suspension and debarment staff) Implement performance measures in employee performance plans that require uploading suspensions, debarments, and administrative agreements into [System of Award Management] SAM and [Federal Awardee Performance and Integrity Information System] FAPIIS within the required timeframes.

**Response:** Concur. U.S. Immigration and Customs Enforcement already has performance measures in employee performance plans regarding uploading the required information into SAM and FAPIIS within the required timeframes. The DHS SDO will begin working on this effort with management at other Components by the end of January 2018. ECD: September 30, 2018.

**Recommendation 4:** Examine suspension and debarment staffing levels to determine whether the DHS SDO needs staff to handle the workload.

**Response:** Concur. The Office of the Under Secretary for Management will initiate a review of the DHS SDO workload by the end of January 2018. ECD: March 31, 2018.



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### **Appendix C**

#### **Response to Congressional Request**

On October 19, 2016, Representative Bennie Thompson requested that we review the suspension and debarment practices at DHS. Specifically, he asked us to review the process used for considering whether a company should be referred to the SDO. He also asked that we provide the number of suspensions and debarments administered by the SDO, as well as the number of administrative agreements executed by the SDO and whether they were proper. Lastly, he requested that we review the number of times the SDO decided not to suspend or debar despite a component's recommendation to do so.

#### DHS Suspension and Debarment Referral Process

At DHS, the Under Secretary for Management directs the Suspension and Debarment Program and has delegated the authority to establish, maintain, supervise, and oversee the Department's Suspension and Debarment Program to the DHS SDO. The DHS SDO has subsequently delegated SDO authority to FEMA and ICE, each of which has its own SDOs to carry out suspension and debarment activities for their respective components. CBP was recently given SDO authority and named an SDO at the end of our fieldwork. All other DHS components refer suspension and debarment cases to the DHS SDO. In components that do not have a SDO, a suspension and debarment coordinator carries out these responsibilities as a collateral duty.

DHS' process for considering whether an individual, company, or organization should be referred to the appropriate SDO is in DHS' *Suspension and Debarment Instruction*, which the Chief of Staff for Management issued on May 31, 2012. The instruction explains the referral process, including identifying who can submit referrals for potential suspension and debarment; some causes for suspension and debarment; who is responsible for gathering relevant facts and preparing a referral with a recommendation for SDO action; actions components can recommend to the SDO; who is responsible for tracking the referral; and who must maintain documentation throughout the process to final determination.

The *Suspension and Debarment Instruction* also contains some definitions; describes responsibilities at the Department and component level; and covers procedures for processing, staffing and training, tracking and reporting, and documenting administrative records. According to the Instruction, components are responsible for submitting a recommendation along with the referral, tracking referrals to final



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determination, and documenting the process from receipt of the referral and gathering of all relevant facts to the final decision. Also according to the delegation authorities, the SDO is to review referrals to determine the appropriate outcome on behalf of the Department.

### DHS Suspension and Debarment Statistics

The Department's and all other Federal agencies' yearly statistics are submitted to Congress through the ISDC annual report. From FY 2009 through FY 2016, DHS reported debarment 1,843 individuals and companies from doing business or receiving awards from the Federal Government. Table 3 shows the number of suspension and debarment actions and administrative agreements reported through ISDC for DHS by fiscal year from FY 2009 through FY 2016.

Action	2009	2010	2011	2012	2013	2014	2015	2016	Total
Suspension	1	9	13	16	32	10	19	9	109
Debarments	64	154	222	260	281	339	243	280	1,843
Administrative Agreements	3	1	2	0	3	1	1	1	12

Source: ISDC fiscal year reports on Federal agency suspension and debarment activities

Table 4 shows the FY 2017 debarments tracked as final decisions by DHS components as of February 28, 2017.

Component	Individuals	Companies	Total
CBP	1	0	1
FEMA	23	3	26
ICE	23	33	56
OPO	0	1	1
USCIS	1	0	1
Total	48	37	85

Source: OIG analysis of debarment data from spreadsheets provided by components



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