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## INSPECTION REPORT NUMBER 21-09

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### **Review of the GPO Suspension and Debarment Program**

**July 06, 2021**

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**Date**

July 06, 2021

**To**

Director, U.S. Government Publishing Office

**From**

Inspector General

**Subject:**

Final Report - Review of the GPO Suspension and Debarment Program, Report Number 21-09

Enclosed is the subject final report. The Office of the Inspector General (OIG) conducted an inspection of GPO's Suspension and Debarment Program to understand its overall process, associated timelines, and evaluate the effectiveness of the dissemination of debarments inside and outside of GPO.

We had three findings and made five recommendations to improve GPO's Suspension and Debarment Program. The first concerned adopting federal best practices; the second addressed establishing timeframes to adjudicate suspension and debarment referrals; and the third addressed internal controls and policies to improve accuracy of disseminated debarment information.

GPO reviewed the draft report and provided comments through the Director. In accordance with the Council of the Inspectors General on Integrity and Efficiency standards, we reviewed GPO's comments for relevance and completeness and included them in their entirety in appendix D. We made changes to the report where relevant and informed by the management comments. For example, with respect to recommendation 2, we amended the report to clarify that a case management tool or commensurate system/database would be acceptable to implement the recommendation. Our office is always open to alternatives to meet the intent of the recommendations as the Agency is the best arbiter of how recommendations should be implemented.

GPO concurred with one recommendation, concurred in part with three recommendations, and nonconcurred with one recommendation. Notwithstanding their nonconcurrence and partial concurrences, GPO's proposed actions were generally responsive to the recommendations. We summarize management's comments and provide a detailed response throughout the body of the report. All recommendations remain open.

Work clearly remains in our efforts to educate the agency's senior management about the purpose and execution of my office. The opening management comments, in which

consternation with my office's process is expressed in spite of significant efforts by me and my staff, ignores common standards and practices within the IG community. As a reflection of this persistent issue, the agency's comments are regrettable but otherwise do not warrant further response. As transparency is a necessary component of the integrity of our work, the agency's comments on process and related communications are included in their entirety in appendices D and E. Our products speak for themselves and stand on their own merit. We continue to look forward to working with GPO leadership and staff on future projects to improve the agency's operations and programs.

If you have any questions or comments about this report, please do not hesitate to contact Connie Greene, Assistant Inspector General for Inspections, at (202) 512-1597 or me at (202) 512-0039.

MICHAEL P. LEARY  
Inspector General

## RESULTS IN BRIEF

### What We Did

The OIG Inspections Division assessed GPO's Suspension and Debarment Program's overall process and associated timelines, as well as the effectiveness of the notification of debarments inside and outside of GPO.

### What We Recommend

Our report contains five recommendations to improve GPO's Suspension and Debarment Program. The recommendations focus on best practices such as having trained staff and current policies, establishing S&D baseline timeframes, and using a case management tool. GPO concurred with one recommendation, partially concurred with three recommendations, and nonconcurred with one recommendation. However, overall, GPO's comments were generally responsive to the recommendations.

## Review of the GPO Suspension and Debarment Program

### What We Found

**Finding 1. GPO can improve its suspension and debarment process by adopting federal best practices.** The GPO's suspension and debarment program could be improved with updated policies and directives, by training staff on the suspension and debarment process, and using a case management tool. The appointment of a permanent Suspension and Debarment Official (SDO) was a positive step. GPO can further improve by appointing a senior accountable official to administer the day to day management of the S&D Program. In addition, while GPO is not required to follow the Federal Acquisition Regulation (FAR), adopting FAR Subpart 9.4, *Debarment, Suspension, and Ineligibility* could negate the effects of outdated directives and codify a practice to which some GPO staff already adhere. Adopting federal best practices would decrease the likelihood that GPO could be defrauded.

**Finding 2. GPO can improve its timeliness in adjudicating suspension and debarment referrals by establishing and adhering to decision point timeframes.** GPO does not adjudicate suspension and debarment referrals in a timely manner. The GPO Office of General Counsel (OGC) does not process referrals within their designated point of contact's stated goal of 60 days; instead OGC averaged 392 days to complete the suspension and debarment activity. GPO Directive 110.11C uses vague terminology when addressing suspension and debarment timeframes. Without dedicated suspension and debarment staff and without clear administrative guidance, including timeframes, GPO is vulnerable to higher prices and lower quality in procurements.

**Finding 3. GPO can improve its internal Exclusion List management and transparency, as well as the accuracy of the information provided government wide, by updating internal controls and policies to include quality control checks.** GPO disseminates its debarments inside and outside of GPO. However, there is room for GPO to improve its internal Exclusion List management and transparency as well as the accuracy of the information. When specifying the length of the suspension and debarment, and disseminating that information, GPO does not follow GPO Directive 110.11C, which states that debarment is generally not to exceed three years, and that suspension is not to exceed 18 months. Additionally, GPO staff risks working from a previous version of the Exclusion List, and may not find the contractor listed in SAM because pertinent details between the Exclusion List and SAM did not match at the time of the review. Inaccurate or outdated information increases the risk of awarding contracts to excluded contractors.

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## INTRODUCTION

The OIG Inspections Division reviewed GPO's Suspension and Debarment Program's overall process and associated timelines, as well as the effectiveness of the dissemination of debarments inside and outside of GPO. We reviewed GPO's S&D activities from January 1, 2017, to December 31, 2020. Based on the results, we made five recommendations (see appendix A); scope and methodology are presented in appendix B.

### Background

Suspension and debarment (S&D) are tools designed to protect the federal government from potential harm posed by individuals or business entities, such as vendors and contractors, whose conduct indicates a lack of honesty, integrity, or poor performance.

Suspension is an action taken by a federal agency to immediately prohibit a vendor or contractor from participating in federal procurement transactions for a temporary period, pending completion of an investigation, judicial or administrative proceeding. Debarment is an action taken by a federal agency to prohibit individuals or business entities from participating in procurement transactions. Suspended and debarred contractors are excluded from procurement activities.

#### The Difference Between Suspension and Debarment

##### Suspension

- Immediate Need
- A temporary measure; there is a twelve-month limit
- Usually used pending the completion of investigation or legal proceedings
- Based upon adequate evidence, usually an indictment

##### Debarment

- Usually three years in length
- Based upon a preponderance of the evidence, usually a conviction

- [www.gsa.gov](http://www.gsa.gov)

The System for Award Management (SAM) is a government website registry for contractors wanting to do business with the U.S. government. SAM maintains a record of entities' activities involving contracts, grants, past performance reporting and S&D, including a repository of excluded contractors that should not receive contracts.

The Federal Acquisition Regulation (FAR) establishes procedures related to procurement matters for all executive branch agencies, and therefore governs the vast majority of federal procurements.<sup>1</sup> According to the FAR, agencies shall create appropriate procedures to implement the debarment, suspension, and ineligibility procedures. The FAR also requires contracting officers to review SAM after receiving contractors' bids or proposals and prior to awarding contracts. Contractors debarred, suspended, or proposed for debarment are excluded from receiving contracts. Agencies shall not solicit offers from, award contracts to, or consent to subcontracts with these contractors, unless the agency head determines that there is a compelling reason for such action. Contractors

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<sup>1</sup> The Office of Federal Procurement Policy Act Amendments of 1979 led to the development and implementation of the FAR as a uniform procurement system for the Executive Branch. The FAR is codified in Parts 1 through 53 of Title 48 of the Code of Federal Regulations.

debarred, suspended, or proposed for debarment are also excluded from conducting business with the government as agents or representatives of other contractors.

Section 4 of Executive Order 12549, *Debarment and suspension*, directed the establishment of the Interagency Suspension and Debarment Committee (ISDC) to monitor implementation of the Order.<sup>2</sup> As a Legislative Branch Agency, GPO is not required to follow Executive Order 12549, but as a guide, Executive Order 12549 mandates that Executive departments and agencies:

- participate in a government wide system for debarment and suspension from programs and activities involving federal financial and financial assistance and benefits;
- issue regulations with government wide criteria and minimum due process procedures when debarring or suspending participants; and
- enter debarred and suspended participants' identifying information into the system that evolved into the General Services Administration Excluded Parties List System, now included in SAM. Agencies issuing the suspension or debarment are responsible for information placed on SAM.

The ISDC reports to Congress annually on the status of the federal S&D system, pursuant to section 873 of Public Law 110-417. ISDC must submit to Congress an annual report on the:

- progress and efforts to improve the S&D system;
- member agencies' active participation in the committee's work; and
- a summary of each agency's activities and accomplishments in the government wide debarment system.

#### *GAO Identified Best Practices for a Suspension and Debarment Program*

The U.S. Government Accountability Office (GAO) provides Congress and federal agencies with objective information to help the government save money and work more efficiently. In doing so, GAO previously reported that agencies that do not devote sufficient attention to S&D issues will likely risk fostering a perception that they are not serious about holding the entities they deal with accountable.<sup>3</sup> The Office of Management and Budget (OMB) oversees the implementation of the President's vision across the executive branch. OMB directed executive branch agencies to address the issues GAO reported by appointing a senior accountable official to be responsible for ensuring the agencies adopted the best practices GAO identified.<sup>4</sup> GAO later reported that adopting the best practices identified by them and OMB generally resulted in an increase in S&D actions and programs across the executive branch agencies.<sup>5</sup>

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<sup>2</sup> [Executive Order 12549](#), dated February 18, 1986.

<sup>3</sup> [GAO-11-739, \*Suspension and Debarment: Some Agency Programs Need Greater Attention, and Governmentwide Oversight Could Be Improved\*, August 2011](#)

<sup>4</sup> [M-12-02, \*Suspension and Debarment of Federal Contractors and Grantees\*, November 15, 2011](#)

<sup>5</sup> [GAO-14-513, \*Federal Contracts and Grants: Agencies Have Taken Steps to Improve Suspension and Debarment Programs\*, May 2014](#)



The best practices identified by GAO include:

- having formal policies and detailed implementing guidance;
- having trained staff dedicated to the S&D program, with defined roles and responsibilities, and consolidated S&D functions; and
- having practices that encourage an active referral process, including case management tools.

Additionally, GAO identified following the FAR Subpart 9.4 - *Debarment, Suspension, and Ineligibility* as a best practice. GAO adopted it as their S&D practice in 2012. GAO, a legislative branch agency like GPO, does not have to follow the FAR but elected to do so. GAO formally and explicitly adopted FAR Subpart 9.4 to make it clear that it applies to their procurement policy.

### ***The Issue***

The GPO Office of the Inspector General initiated this inspection based on a referral from its own Investigations Division. The referral identified possible systematic delays in issuing suspensions and debarments. Delays in processing S&D actions could place GPO at risk of doing business with irresponsible parties ultimately risking increased fraud, waste and/or abuse.

We examined similar efforts by other OIGs. For example, the Small Business Administration (SBA) OIG report on S&D controls determined that SBA did not establish sufficient S&D controls to prevent ineligible contractors from participating in small business programs.<sup>6</sup> Further, SBA did not document the basis for S&D referrals and subsequent declinations. As a result, Suspension and Debarring Officials could expose SBA to adverse legal action. In another example, the Export-Import Bank of the United States (EXIM) OIG reported on whether EXIM's S&D program complied with applicable laws, rules, and regulations.<sup>7</sup> EXIM OIG found that the EXIM program effectively suspended and/or debarred contractors. However, EXIM's S&D referrals were not processed in a timely manner, procedures weren't updated nor formalized, and record keeping needed improvement. In a final example, the Department of Health and Human Services (HHS) OIG is currently conducting an effectiveness review of the HHS S&D program and expects to issue their report in fiscal year 2021.<sup>8</sup>

### **Objectives**

Our objective was to understand GPO's S&D process, timelines associated with that process, and its effectiveness in disseminating notice of debarments inside and outside of GPO.

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<sup>6</sup> [Report Number 19-18, Audit of SBA's Suspension and Debarment Process, September 18, 2019](#)

<sup>7</sup> [OIG-AR-20-06, Audit of EXIM's Suspension and Debarment Program, September 30, 2020](#)

<sup>8</sup> [HHS OIG Work Plan, April 2020 Monthly Update](#)

## Criteria

- GPO Directive 110.11C, *Contractor Suspension and Debarment Procedures*, January 10, 2013
- GPO Directive 001.1C, *GPO Directives System*, April 5, 2016
- GPO Instruction 110.5D, *Acquisition Authority, Policies, and Responsibilities*, March 19, 2004
- GPO Publication 805.33, *Materials Management Acquisition Regulation (MMAR)*, May 15, 2003
- GPO Publication 305.3, *Printing Procurement Regulation (PPR)*, April 2014
- FAR, Subpart 9.4 – *Debarment, Suspension, and Ineligibility*
- 77 Federal Register 7579, February 13, 2012
- GAO-11-739, *Suspension and Debarment: Some Agency Programs Need Greater Attention, and Governmentwide Oversight Could Be Improved*, August 2011
- GAO-14-513, *Federal Contracts and Grants: Agencies Have Taken Steps to Improve Suspension and Debarment Programs*, May 2014
- OMB M-12-02, *Suspension and Debarment of Federal Contractors and Grantees*, November 15, 2011
- DOT Order 4200.5G, *Suspension and Debarment, and Ineligibility Policies*, March 28, 2019

## GPO's Suspension and Debarment Process

GPO's S&D process is described in GPO directive 110.11C, *Contractor Suspension and Debarment Procedures*, dated January 10, 2013. The S&D process, depicted below in figure 1, starts with a referral to the Suspending Official and/or the Debarring Official. For the purposes of the report, we refer to these positions as the Suspension and Debarment Official (SDO). The SDO then conducts an initial review of the allegations in the referral. If the SDO decides there is sufficient basis, the contractor is sent a Notice of Suspension and/or a Notice of Proposal to Debar, to which the contractor has 30 days to respond. A Notice of Suspension and a Notice of Proposal to Debar are generally one notice, wherein the contractor is told that they have been suspended based on adequate evidence of irregularities in business dealings with the government, and that debarment is being considered. Additionally, the GPO List of Parties Excluded from Procurement Programs (Exclusion List) is updated to reflect the suspension/proposed debarment. The Exclusion List contains the companies and individuals suspended or debarred, to whom

**Debarring Official** - means the Public Printer [GPO Director] or the Public Printer's designee; the Debarring Official may exclude a contractor from GPO contracting and GPO-approved subcontracting for a reasonable, specified period. A contractor so excluded is "debarred."

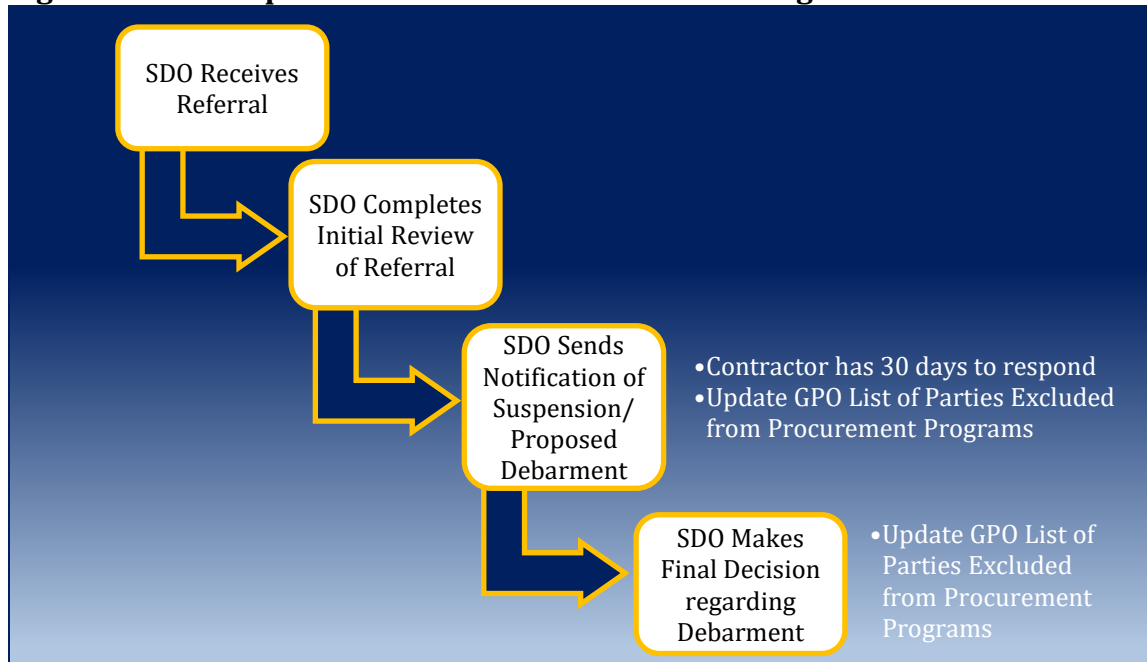
**Suspending Official** - means the Public Printer [GPO Director] or the Public Printer's designee.

**Suspension** - means action taken by a Suspending Official to disqualify a contractor temporarily from GPO contracting and GPO-approved subcontracting. A contractor so disqualified is "suspended."

-GPO Directive 110.11C

contract awards will not be made, or from whom bids or proposals will not be solicited. Following the allowed 30 days for the contractor to respond, the SDO makes a final decision to modify or terminate the suspension, leave the suspension in force, or to debar the contractor. Finally, the SDO provides the contractor with prompt notice of the suspension and/or debarment decision, and the Exclusion List is updated.

**Figure 1: SDO Suspension and Debarment Process Diagram**



Source: OIG analysis of GPO Directive 110.11C

## INSPECTION RESULTS

### **Finding 1. GPO can improve its suspension and debarment process by adopting federal best practices.**

The GPO's suspension and debarment program could be improved with updated policies and directives, by training staff on the suspension and debarment process, and using a case management tool. The appointment of a permanent SDO was a positive step. The appointment of a senior accountable official to administer the S&D Program would further improve program results. In addition, although GPO is not legally bound to follow the FAR, adopting FAR Subpart 9.4, *Debarment, Suspension, and Ineligibility* could negate the effects of outdated directives and codify a practice to which some GPO staff claim to already informally adhere. Adopting federal best practices would decrease the likelihood that GPO could be defrauded, and promote the message that GPO is serious about holding its contractors accountable.

#### **Criteria**

- GPO Directive 110.11C, *Contractor Suspension and Debarment Procedures*, January 10, 2013
- GPO Directive 001.1C, *GPO Directives System*, April 5, 2016
- GPO Instruction 110.5D, *Acquisition Authority, Policies, and Responsibilities*, March 19, 2004
- GPO Publication 805.33, *Materials Management Acquisition Regulation (MMAR)*, May 15, 2003
- GPO Publication 305.3, *Printing Procurement Regulation (PPR)*, April 2014
- FAR, Subpart 9.4 – *Debarment, Suspension, and Ineligibility*
- 77 Federal Regulation 7579, February 13, 2012
- GAO-11-739, *Suspension and Debarment: Some Agency Programs Need Greater Attention, and Governmentwide Oversight Could Be Improved*, August 2011
- GAO-14-513, *Federal Contracts and Grants: Agencies Have Taken Steps to Improve Suspension and Debarment Programs*, May 2014
- OMB M-12-02, *Suspension and Debarment of Federal Contractors and Grantees*, November 15, 2011

#### **GPO Does Not Regularly Review and Update its S&D Policy**

While GPO's S&D process is outlined in Directive 110.11C, it has not been updated in seven years. GPO Directive 001.1C, *GPO Directive System*, dated April 5, 2016, states that all active GPO directives shall be reviewed for applicability by the directive's originating office at least once every two years. The GPO Office of General Counsel (OGC), the originating office for GPO Directive 110.11C, stated they had not been asked to review the directive, and the attorneys working on S&D saw no need to update the directive. Updating GPO directives is an ongoing challenge for GPO. Our previous review of GPO's directive system found that 86 percent of the directives were more than 2 years old, and

74 percent of the directives were more than 5 years old.<sup>9</sup> The age of GPO Directive 110.11C evidences a program management weakness.

### **GPO Directive 110.11C Does Not Provide Detailed Enough Guidance to Instruct S&D**

GPO Directive 110.11C provides detailed guidance, but is not sufficient to instruct GPO staff on how to complete certain activities, such as how to make an S&D referral, or where to find the Exclusion List. Further S&D instructional guidance is needed. When a contractor is suspended or debarred, and for the duration of the S&D period, GPO must not award them contracts unless there is a compelling reason. To ensure that no award is made to an excluded contractor, contracting staff are supposed to review both the Exclusion List and SAM. However, half of the contracting staff interviewed were not aware of the applicable directives and policies. Multiple staff stated there were no standard operating procedures for S&D activities, and their teams relied on common knowledge to complete associated tasks. In an email exchange, one contracting officer stated they did not know how to check SAM for excluded contractors. This is another ongoing challenge, as our previous review of Acquisition Services found that the workforce was unaware of applicable policies.<sup>10</sup>

### **Other Policies Conflict GPO Directive 110.11C**

Other GPO policies on S&D activities conflict with GPO Directive 110.11C. As shown in the three examples listed below, the recent SDO designation conflicts with a current directive; reasons for suspension or debarment are not consistent across all the documents; and instructions differ on when to review the Exclusion List. Without clear instruction, GPO cannot reasonably expect contracting staff to understand and execute S&D actions.

#### *Example 1. GPO Directive 110.5D, Acquisition Authority, Policies, and Responsibilities*

GPO Directive 110.5D, *Acquisition Authority, Policies, and Responsibilities*, dated March 19, 2004, clearly identifies the “Debarring/Suspension Official” as the Chief Acquisition Officer. The current Chief Acquisition Officer stated that they have never served as the GPO SDO. This is also evidenced by a June 2020 notice of debarment letter where the Acting Chief Administrative Officer signed it as the Acting SDO. In an August 2020 memorandum, the GPO Director designated the GPO Deputy Director as the SDO, but that designation change from the Chief Acquisition Officer to Deputy Director has not been updated in GPO Directive 110.5D, and had not been distributed to the requisite contracting professionals throughout the agency.

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<sup>9</sup> [GPO OIG Report No. 20-08, Review of U.S. Government Publishing Office \(GPO\) Directives System, June 8, 2020](#)

<sup>10</sup> [GPO OIG Inspection Report Number 21-03, Inspection of Acquisition Services Procedures for Procuring Supplies and Services, October 30, 2020](#)

### *Example 2. GPO Publication 305.3, Printing Procurement Regulation*

GPO Publication 305.3, *Printing Procurement Regulation (PPR)*, revised April 2014, provides the policies and procedures for procuring printing, binding, related supplies, and related services. The PPR repeats much of the information contained in GPO Directive 110.11C, but does not include all of the causes for S&D. Specifically, the PPR does not include delinquent federal taxes, knowing failure by a principal to disclose certain information, and non-compliance with the *Immigration and Nationality Act* as causes for S&D, which are included in GPO Directive 110.11C. Finally, the PPR states that the contractors can be included on the Exclusion List based on a determination by the Public Printer, now known as the Director of GPO, while GPO Directive 110.11C states it is the Suspending Official and the Debarring Official that makes that determination. Contractors are expected to adhere to both GPO Publication 305.3 and GPO Directive 110.11C. Conflicting or inconsistent information between the documents can lead to confusion for GPO staff and GPO contractors.

### *Example 3. GPO Publication 805.33, Materials Management Acquisition Regulation*

GPO Publication 805.33, *Materials Management Acquisition Regulation (MMAR)*, issued May 15, 2003, purportedly provides the policies and procedures necessary to efficiently and effectively conduct GPO procurements of supplies, computer equipment, maintenance support, and other services. While there are references throughout the MMAR about debarment activity, including that bids from debarred contractors are to be rejected, the MMAR specifies only one time that the Exclusion List must be reviewed before awarding a contract *i.e.* when there is a request to subcontract. In comparison, GPO Directive 110.11C requires contracting officers to review the Exclusion List after opening the bids or receiving the proposals, and immediately prior to making an award.

## **SDOs Used Options Not Specified in GPO Directive 110.11C**

During the four years (2017-2020) of information we reviewed, the SDOs took actions that are not specified in GPO Directive 110.11C. Specifically, the SDO engaged in less restrictive options, such as show cause letters or administrative agreements.<sup>11</sup> Neither are identified as options for referral outcomes in GPO Directive 110.11C. Because GPO does not include these outcome options in GPO Directive 110.11C, some contractors may not obtain full and complete information regarding their options and how GPO is applying S&D considerations, such as the standards GPO uses to determine its actions.

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<sup>11</sup> Show cause letters are used to inform a contractor that they are being reviewed for potential SDO action, and allows the contractor to response prior to formal SDO action. These letters help determine what measures are necessary to protect the government's interest without immediately imposing an exclusion action. Administrative agreements are used as an alternative to S&D and typically mandate the implementation of several provisions to improve the ethical, culture, and corporate governance processes of a contractor. Agreement terms are tailored to the nature of the issues the SDO is concerned about.

As discussed above, GPO does not have an overarching S&D training program for all staff. A staff member would not be able to use GPO Directive 110.11C as detailed training guidance to successfully complete an S&D action, from making a referral to ensuring a suspended or debarred contractor is not awarded a contract. Further, other GPO policies on S&D activities conflict with GPO Directive 110.11C. Finally, the SDO has taken actions that are not specified in GPO Directive 110.11C. An overarching S&D training program for all staff, a best practice identified by GAO and OMB, in addition to updating directives, would help ensure staff are properly completing S&D actions.

### **GPO Does Not Process Suspension and Debarment Referrals Using a Case Management Tool**

GPO has not used a case management tool, or commensurate tracking system/database, to track referral activity and retain documentation. Instead, staff working on S&D matters rely on email. GPO has only three staff officially assigned to S&D activities, who are, and have historically been, located in separate offices. These three officials are the SDO and two OGC staff. A previous SDO stated that OGC was the gatekeeper for S&D information, so the SDO did not retain any files or documents associated with S&D. Instead, they deferred to OGC for S&D information and historic records. Of note, when requested by OIG, OGC was not able to locate documents, such as records of disputes from contractors and internal decision memoranda. While OGC is the originator of GPO Directive 110.11C, the SDO is the only official assigned responsibilities for the S&D program.<sup>12</sup> GPO Directive 110.11C does not explicitly allow the SDO to further delegate SDO authority to any other official or person within GPO.

The proper management and maintenance of records provides evidence to confirm that appropriate processes and controls are in place for S&D determinations. Having a dedicated case management tool or commensurate system/database for S&D documentation will assist those responsible with collecting, using, and retaining S&D information that is complete and categorized. Absent a complete record, there is an increased risk that the SDO did not consider all relevant information in the decision-making process. Additionally, insufficient record keeping makes it difficult for GPO to provide a basis for its actions or inactions. Ultimately, we assess that using a case management tool, system, or database, would help GPO S&D staff have a complete historical record and increase their efficiency in processing S&D actions.

### **GPO's Appointment of a Permanent SDO was a Positive Step; the Program can be Further Improved with a Senior Administrative Program Manager**

During the timeframe we reviewed (2017-2020), GPO had three different permanent SDOs, and one acting SDO. GPO's acting SDO served from April 2019 until August 2020, for more than a year before the new Deputy Director was designated as the permanent SDO. As GAO previously reported, acting leadership may generally feel they are expected

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<sup>12</sup> Contracting Officers are tasked with reviewing the Exclusion List and other contract management activities.

to maintain the status quo, which may delay implementation of needed changes until the position is filled in a permanent capacity. Therefore, the person in the acting position may not feel empowered to make those changes.<sup>13</sup> Thus the Agency's appointment of a permanent SDO was a positive step.

*The Program Would Benefit from Senior Administration and Program Management Functions not Assigned to the SDO*

GPO Directive 110.11C addresses policies and procedures governing the suspension and debarment of organizations and individuals participating in GPO contracts. The SDO's responsibilities are to determine if debarment is in the government's interest and to compile, maintain, revise, and distribute the Exclusion List. Additionally, the SDO may, in the public interest, suspend a contractor. While the current SDO is the Deputy Director, and could be considered a senior accountable official, neither the SDO nor another senior accountable official have been tasked with S&D program management activities. Further, GPO Directive 110.11C does not include any program management tasks, as identified in OMB Memorandum M-12-02.<sup>14</sup>

A permanent senior accountable official, responsible for S&D program management, can address each of the GAO best practices by following the OMB Memorandum M-12-02 direction:

- a) assessing the agency's suspension and debarment program and the adequacy of available resources, such as staffing;
- b) ensuring that the agency maintains effective internal controls and tracking capabilities;
- c) ensuring that the agency participates regularly on the ISDC; and
- d) reviewing internal policies, procedures, and guidance to ensure that suspension and debarment are being considered and used effectively.

With the addition of a senior accountable official administering its S&D program, GPO can improve S&D activity, mitigate the risk of fraud, and hold contracted "bad actors" accountable.

**GPO Should Adopt FAR Subpart 9.4 as GPO's Standard for Suspension and Debarment**

In addition to appointing a senior accountable official with S&D program management responsibilities, GPO could fully adopt the FAR Subpart 9.4 – *Debarment, Suspension, and Ineligibility* as its S&D practice. The FAR Subpart 9.4 is applicable to executive agencies, that is, the majority of the federal government. In reality, GPO largely follows FAR Subpart 9.4, but with some differences, as described below. Officially adopting FAR Subpart 9.4, in full, as GPO's S&D practice will negate the variations in outdated directives

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<sup>13</sup> [GAO-18-270, Inspectors General: Information on Vacancies and IG Community Views on Their Impact, March 9, 2018](#)

<sup>14</sup> [M-12-02, Suspension and Debarment of Federal Contractors and Grantees, November 15, 2011](#)



and codify a practice to which some GPO staff claim to already informally adhere and result in a consistent administration of the program.

As discussed above, GPO, as a legislative branch agency, does not have to follow the FAR. However, in 2012, GAO adopted FAR Subpart 9.4 as its S&D practice. GAO adds the names of all contractors they debarred, suspended, or proposed for debarment, to SAM. Although debarment, suspension, or proposed debarment of a contractor taken by GAO would have mandatory application only to GAO, excluding a contractor in SAM provides an indication to other federal agencies that they need to thoroughly assess whether the contractor is sufficiently responsible to be solicited or awarded a contract. Additionally, when GAO reviewed the Architect of the Capitol's contracting practices and shared its experience with adopting the FAR Subpart 9.4, officials at the Architect of the Capitol, (another legislative branch agency), identified nothing to prevent a similar S&D approach at their agency.<sup>1516</sup>

As stated, GPO already largely follows FAR Subpart 9.4, and we previously reported that GPO's Acquisition Services personnel use the FAR as a best business practice.<sup>17</sup> However, there are some differences between FAR Subpart 9.4 and GPO Directive 110.11C. For example, FAR Subpart 9.4 specifies violations of a Drug-Free Workplace and falsely affixing a "Made in America" inscription as reasons for suspension or debarment, but GPO Directive 110.11C does not. Further, GPO Directive 110.11C specifies suspension or debarment for delinquent Federal taxes exceeding \$3,000, but FAR Subpart 9.4 allows contractors more leeway by specifying suspension or debarment for delinquent Federal taxes exceeding \$10,000.<sup>18</sup> Even with these differences, GPO Directive 110.11C generally follows FAR Subpart 9.4. Adopting FAR Subpart 9.4 as GPO's official S&D practice will negate the differences in outdated directives and codify a practice to which some GPO staff already informally adhere.

## Recommendations

For the Director, GPO:

**Recommendation 1.** As recommended by OMB Memorandum M-12-02, appoint a senior accountable official who shall be responsible for program management activities including:

- a) assessing the agency's suspension and debarment program and the adequacy of available resources, such as staffing;

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<sup>15</sup> [GAO-16-348, Architect of the Capitol: Contracting Function Generally Follows Key Practices, but Certain Improvements Are Needed, April 2016](#)

<sup>16</sup> GAO declared that the Architect of the Capitol subsequently established an S&D process that is suitable for their mission and organizational structure.

<sup>17</sup> [GPO OIG Inspection Report Number 21-03, Inspection of Acquisition Services Procedures for Procuring Supplies and Services, October 30, 2020](#)

<sup>18</sup> Federal Acquisition Circular update effective November 23, 2020. In the October 2019 version of the FAR Subpart 9.4, the amount was \$3,500.

- b) ensuring that the agency maintains effective internal controls and tracking capabilities;
- c) ensuring that the agency participates regularly on the ISDC, as appropriate; and
- d) reviewing internal policies, procedures, and guidance to ensure that suspension and debarment are being considered and used effectively.

*These program management activities are not currently assigned to the SDO, or any official.*

### ***Management Comments***

GPO does not concur with this recommendation. GPO stated they now have two attorneys dedicated to handling procurement issues, including suspension and debarments. Further, GPO stated they were unclear whether the intention of this recommendation is to require GPO to hire someone to solely fill this function or assign the functions to someone else who already has significant executive responsibilities. In either case, GPO does not see the benefit of this approach. Finally, GPO stated they will ensure that the recommended items are regularly reviewed by existing senior personnel.

### ***OIG Response***

Although GPO does not concur with the specific recommendation on record, its statement that they will “ensure that the recommended items are regularly reviewed by existing senior personnel” is partially responsive to the recommendation. GPO agrees that the actions listed should be completed, but misses the key point stated in the OMB memorandum to identify/appoint someone to be accountable for the oversight and management of program activities. The current S&D program structure does not provide for program accountability or strategic level oversight. For clarification, the intent of this recommendation is not to hire someone solely for this function. This appointee could, and most likely should be someone already familiar with the program. The OMB memorandum states that the senior accountable official could be the SDO. The benefit to this recommended approach is accountability and oversight for S&D program management activities. To close this recommendation, assign an individual(s) to be responsible for the accountability and oversight of the S&D program and accomplishment of the program management activities identified in recommendation 1 above.

**Recommendation 2.** Implement a case management tool or commensurate system/data base to process and monitor suspension and debarment referrals, including maintaining complete official records for each referral.

### ***Management Comments***

GPO concurs in part with this recommendation. GPO stated they are not agreeing to implement such a system, but will investigate tools that will assist in processing and tracking referrals, with a preference for solutions centered around applications already available to GPO (e.g., Microsoft SharePoint).

### ***OIG Response***

GPO's partial concurrence and planned actions are responsive to the recommendation. While GPO is not agreeing to implement a "case management tool" as recommended, its response acknowledges the current absence and subsequent need to have a mechanism to assist with processing and tracking S&D referrals. A tool to manage cases could be a simple excel file to track pertinent dates and file locations, or a robust system or program. The ultimate goal is to ensure timely review and processing of S&D referrals and retention of associated documentation. As a result of GPO's comments, we amended the report to clarify that a case management tool or commensurate system or database would be acceptable. To close this recommendation, implement the preferred solution, and provide associated documentary evidence of that solution.

**Recommendation 3.** Adopt the FAR Subpart 9.4 – *Debarment, Suspension, and Ineligibility* as GPO's suspension and debarment practice.

### ***Management Comments***

GPO concurs in part with this recommendation. While GPO stated they will not adopt FAR Subpart 9.4 merely by reference as that would delegate to an executive branch official the authority to set GPO policy, GPO will update its debarment regulation to include those minor revisions to FAR Subpart 9.4 that have occurred in the eight years since GPO Directive 110.11C was implemented.

### ***OIG Response***

GPO's partial concurrence and planned action is responsive to the recommendation. The agreement to update its debarment regulation to include FAR Subpart 9.4 revisions from over the past eight years meets the intent of the recommendation; however, we stand by our assessment that adopting the FAR Subpart 9.4 by reference would avoid the need to regularly update the GPO Directive, and other internal S&D directives, policies, procedures, guidance, and controls, to match with the FAR Subpart 9.4 future updates.

Further, GPO has precedence with following executive branch policy. In GPO Directive 815, *GPO Travel Procedures*, dated September 21, 2006, GPO adopted as its policy the requirement to follow the Federal Travel Regulations as set for by the U.S. General Services Administration, except in the most unusual of circumstances. Additionally, GPO's policy identified that there may be reasons to deviate from following the Federal Travel Regulations, and allowed that deviations may be granted when appropriate and in the best interest of the agency. As such, GPO has allowed an executive branch official to set GPO policy, but retained the ability to deviate from that policy when appropriate. This same precedence is repeated in various other GPO policies to include

following OPM's guidance with respect to human resources activities.<sup>19</sup> To close this recommendation, update and publish the debarment regulation to include revisions to FAR Subpart 9.4, and identify the process to ensure the debarment regulation remains current with revisions to the FAR Subpart 9.4.

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<sup>19</sup> Examples include GPO Directive 615.2C, *Federal Merit Promotion Plan*, April 11, 2011; GPO Directive 645.1D, *Closure, Delayed Arrival, and Early Dismissal Policy for Inclement Weather Conditions and Similar Emergency Situations*, January 14, 2004; GPO Directive 645-367, *Supervisory and Employee Responsibilities During Severe Weather Conditions*, December 4, 2004.

## **Finding 2. GPO can improve its timeliness in adjudicating suspension and debarment referrals by establishing and adhering to decision point timeframes.**

GPO has not adjudicated S&D referrals in a timely manner. The time GPO took to provide a Notice of Suspension and/or Proposed Debarment to a contractor, following the referral to the SDO, varied greatly from case to case. Of the referrals we reviewed, OGC never processed them within their designated point of contact's stated goal of 60 days, from referral receipt through final decision.<sup>20</sup> GPO Directive 110.11C uses vague terminology when addressing S&D timeframes. GPO also has not had a senior accountable official nor a dedicated staff tasked with administering the S&D program. Without dedicated S&D staff and without clear administrative guidance, including timeframes, GPO is vulnerable to higher prices and lower quality in procurements and cases will likely continue to require inordinate time to be adjudicated.

### **Criteria**

- GPO Directive 110.11C, *Contractor Suspension and Debarment Procedures*, January 10, 2013
- DOT Order 4200.5G, *Suspension and Debarment, and Ineligibility Policies*, March 28, 2019
- FAR Subpart 9.4 – *Debarment, Suspension, and Ineligibility*

### **GPO Does Not Process Suspension and Debarment Referrals in a Timely Manner**

Since January 1, 2017, GPO received 18 S&D referrals which averaged 392 days to make a final decision. A final decision could include a modified or terminated suspension, a suspension left in force, or a debarred contractor. The time to make a final S&D decision ranged from 104-827 days, including time for contractor disputes.

GPO averaged 262 days to complete the initial review and to notify a contractor of a proposed debarment. The number of days for the initial review ranged from 1-523. This 262-day average is not consistent with available data from other federal agencies. For example, the Export-Import Bank of the United States (EXIM) OIG reported the EXIM SDO averaged 173 days to complete the initial review and notify the contractor of the suspension and proposed debarment.<sup>21</sup> In comparison, the Department of Transportation (DOT), requires initial S&D referral decisions be issued within 90 calendar days of receipt of the referral.<sup>22</sup>

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<sup>20</sup> The 60-day goal was provided during an interview with the GPO OGC designated point of contact, who was also their S&D subject matter expert. Our inspectors found no written evidence for this standard.

<sup>21</sup> [OIG-AR-20-06, Audit of EXIM's Suspension and Debarment Program, September 30, 2020](#)

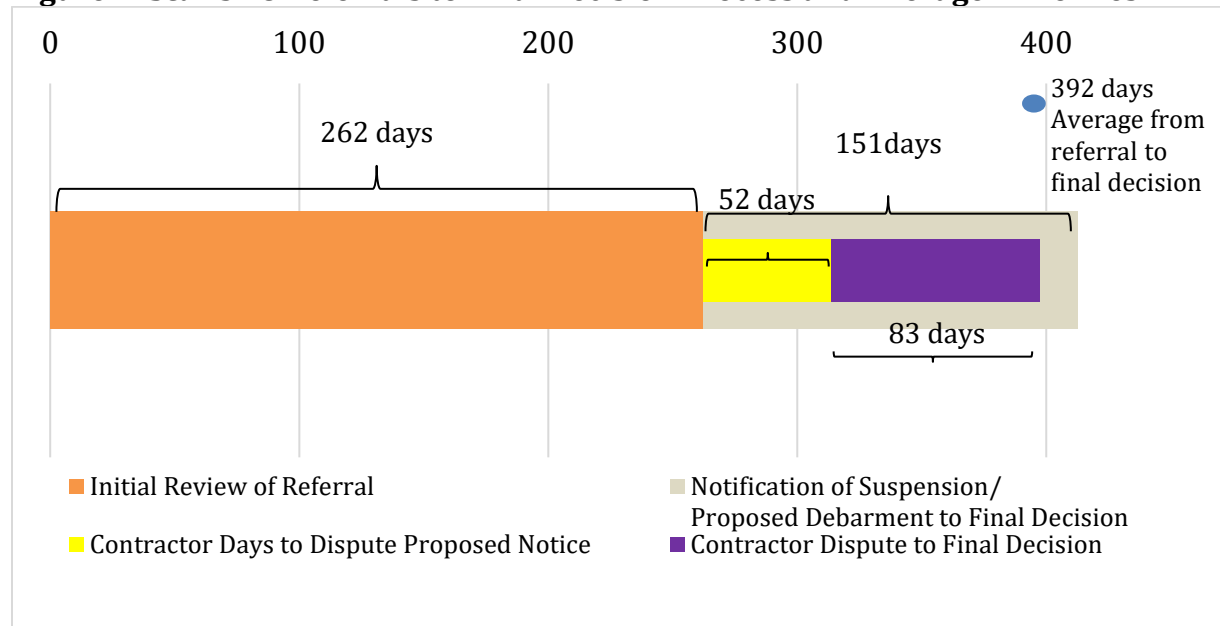
<sup>22</sup> [DOT Order 4200.5G, Suspension and Debarment, and Ineligibility Policies, March 28, 2019](#)

After GPO sends the contractor the notification of proposed action, the contractor is allowed 30 days to dispute the allegation.<sup>23</sup> GPO allowed contractors an average of 52 days to dispute the allegation. The number of days ranged from 8 to 259 days. In the 10 cases when the contractor disputed, GPO averaged 83 days to make the final decision. The number of days ranged from 6-275 days.

Ultimately, GPO averaged 151 days to make its final decision after sending the notification of proposed action to the contractor, which includes the days allowed for a contractor to dispute the proposed action. The number of days ranged from 14-430. In comparison, the EXIM OIG reported the EXIM SDO averaged 124 days to make their final decision after sending the notice of proposed action.<sup>24</sup>

See figure 2 for an outline of the S&D process and GPO's averaged number of days to complete the steps. See figure 3 for the range of days to complete the steps of the S&D process.

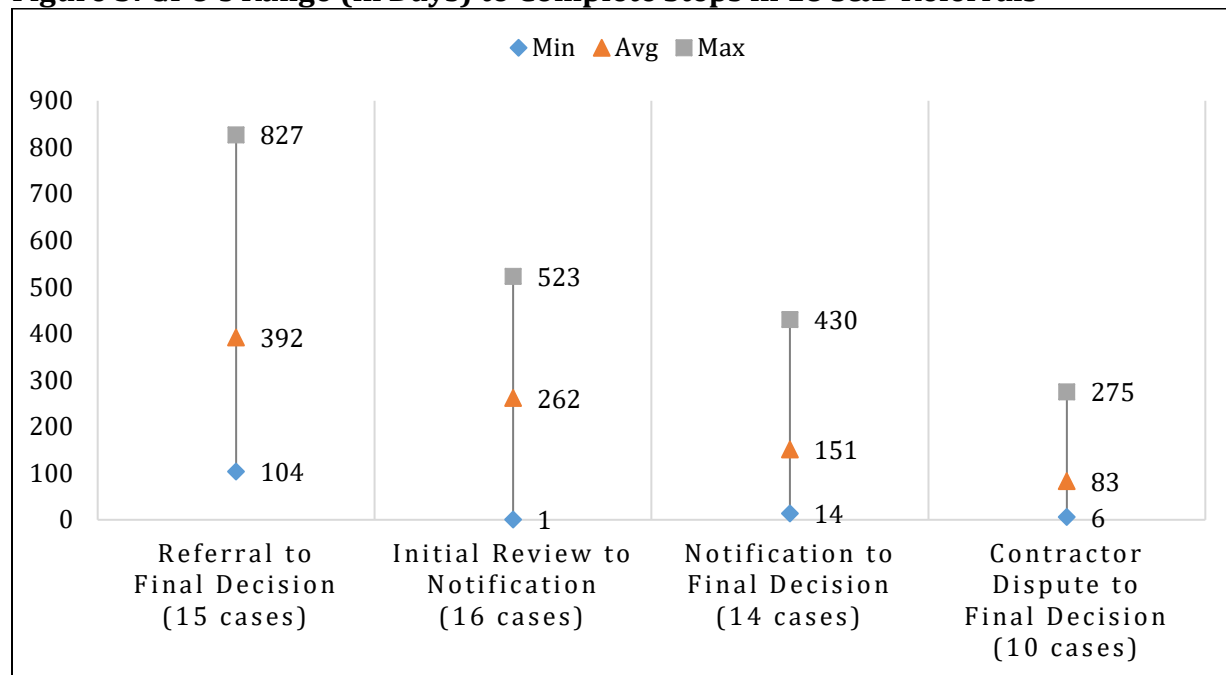
**Figure 2: S&D's 18 Referrals to Final Decision Process and Average Timelines**



<sup>23</sup> GPO Directive 110.11C does not specify working or calendar days for these 30 days. Unless otherwise stated, our numbers are based on calendar days.

<sup>24</sup> [OIG-AR-20-06, Audit of EXIM's Suspension and Debarment Program, September 30, 2020](#)

**Figure 3: GPO's Range (in Days) to Complete Steps in 18 S&D Referrals\***



\* Not all referrals went through all steps.

A contractor is allowed 30 days to dispute S&D actions if they so choose. In the four cases where the contractor did not dispute the allegation, GPO still averaged 189 days to make its final decision (after notifying the contractor), see table 1.

**Table 1: GPO's Range (in Days) for Final Decision in Undisputed Cases**

Contractor	GPO's Decision Time (days)	Result
Contractor 1	98	Debarred
Contractor 2	103	Debarred
Contractor 3	126	Debarred
Contractor 4	430	Not debarred
<b>Average</b>	<b>189</b>	

While we assess GPO could make the final determination on day 31 after not receiving a contractor dispute, OGC stated that the SDO could take additional time to further evaluate the situation, even if the contractor did not dispute the proposed action and the 30 days had expired. For the four cases that were not disputed, GPO was unable to provide documentation to support taking additional time to make their final decision.

The disposition of the remaining four cases was as follows:

- two cases were still pending an outcome;
- in one case the SDO declined to debar based solely on the referral from the OIG Investigations Division, and therefore did not send a notice of proposed debarment to the contractor; and

- in the final case, the contractor filed for bankruptcy in 2019 and ceased to exist. This contractor was placed on the Exclusion List in 2018 and remained on the Exclusion List as of the end of our fieldwork.

### *The Timeliness of GPO's Suspension and Debarment Referral Process Can Be Improved*

During our interviews, OGC acknowledged that S&D actions take longer than planned due to competing priorities, such as litigation. OGC's designated point of contact and subject matter expert stated the goal was to complete S&D actions within 60 days of the referral, but admitted being unable to spend the requisite time upfront to research and review the referral.<sup>25</sup> We were told that this included the time needed to contact the associated contracting officer and impacted customer. OGC estimated that since 2017, they spent on average about 10 hours processing each debarment referral.<sup>26</sup>

Processing referrals includes the following steps: 1) reviewing the referral, 2) drafting the proposed action, 3) reviewing the contractor response, 4) drafting the final decision, and 5) negotiating and drafting an agreement, when applicable. GPO could benefit from establishing timeframes for each step in the S&D process in order to meet the stated 60-day goal. In addition to timeframes being a basic program management tool, exceeding the timeframes could be used to identify resource limitations and support the need for additional resources to ensure the completion of S&D actions in a timely manner.

Based on interviews and research, including benchmarking across other agencies, we developed a range of potential timeframes for processing GPO's S&D referrals that GPO could adopt; figure 4. These are suggested timeframes.

#### *A Note on Management Comments.*

*Management mischaracterizes our position on establishing timelines to improve the S&D program. They state that "[t]he establishment of mandatory timelines as recommended in the draft report for processing actions is ill-advised..." We must correct the notion that we are mandating timelines or recommending mandatory timelines. Rather, we are making a recommendation in accordance with sound program management principles. Moreover, the notional timelines we suggest below were informed through benchmarking with other federal agencies. GPO is encouraged to establish their own timeframes; however, dismissing the need to establish any sort of timeframe metric would run counter to basic program management principles.*

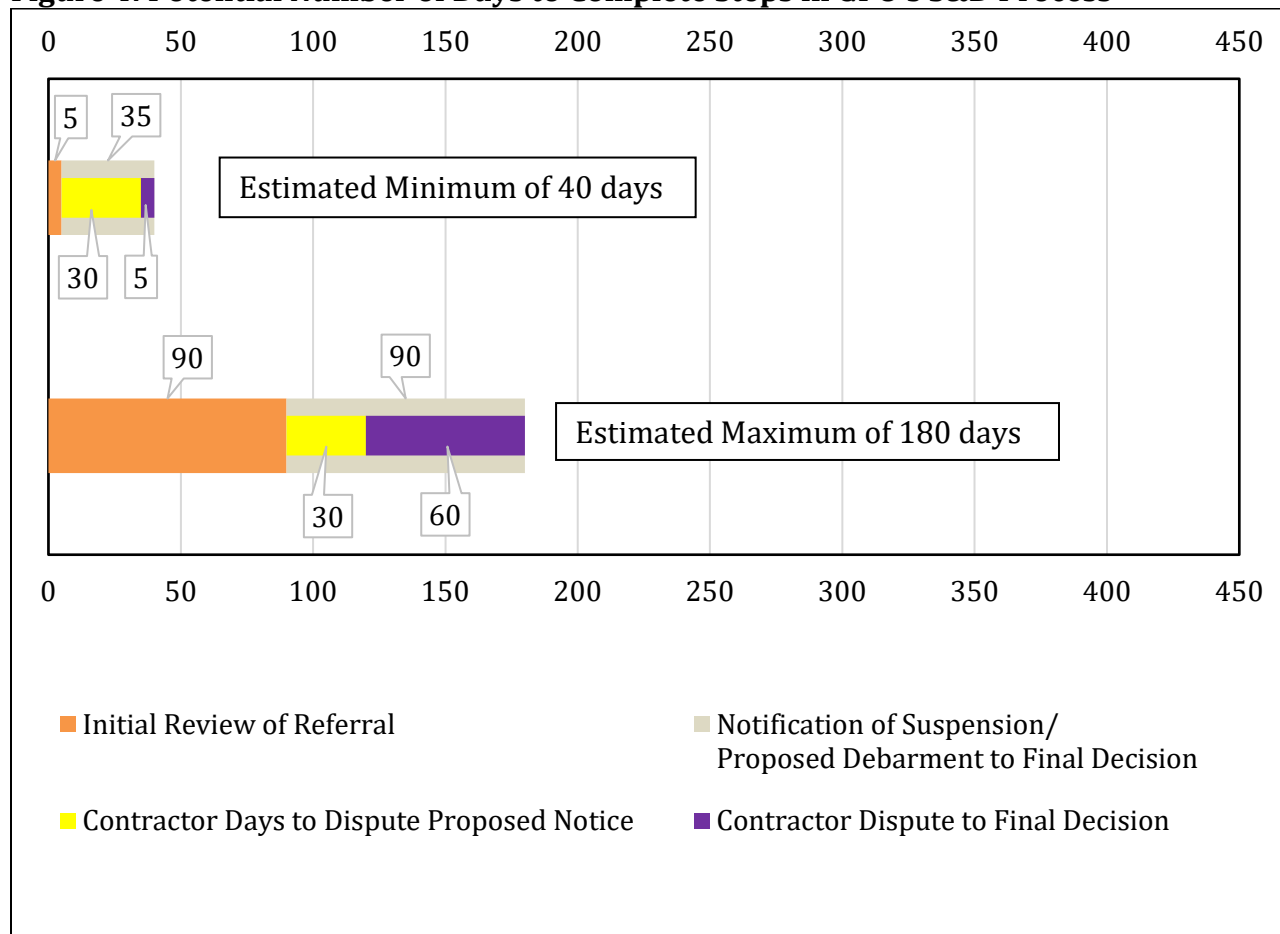
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<sup>25</sup> The 60-day goal was provided during an interview with the GPO OGC designated point of contact, who was also their S&D subject matter expert. Our inspectors found no written evidence for this standard.

<sup>26</sup> General Counsel email, October 29, 2020.



**Figure 4: Potential Number of Days to Complete Steps in GPO's S&D Process**



For the estimated minimum of 40 days, we based the five-day Initial Review on the 16 of 18 S&D referrals in which the Notice of Suspension/Proposed Debarment concurred with the referral. We estimated five days for Final Decision with the understanding that absent a dispute, the contractor agrees with the Suspension/Proposed Debarment.

For the estimated maximum of 180 days, we based the 90 days for Initial Review on DOT's requirement that initial referral decisions are made within 90 calendar days. We based the 60 days for Final Decision on the 10 cases that were disputed by the contractor; in 5 of the cases, GPO took less than 60 days to make the Final Decision, and in the other 5 cases, GPO took more than 60 days.

### The Consequences of Extended Timelines

GPO's S&D program could potentially see higher prices and lower quality in procurements if cases continue to take a substantial amount of time to be adjudicated. Of the 18 S&D cases reviewed, eight of those contractors were not debarred. In those eight cases, GPO averaged 483 days from the referral to make a final decision. Within that time,

after notifying the contractor of the proposed debarment, GPO averaged 154 days to make their final decision not to debar the contractors.

As a consequence, the contractors were unable to compete for contracts for over five months. Moreover, two contractors were not allowed to compete for more than 10 months and 14 months. Six of the eight contractors that were not debarred were identified as small businesses, including the one that was not allowed to compete for more than 14 months. Being unable to compete for contracts for an extended length of time could be fatal to small businesses. When we interviewed OGC personnel, they stated that, one tool used to preserve the integrity of the procurement process is a healthy competitive pool.<sup>27</sup> A healthy competitive pool is expected to keep prices low, keep quality high, and ensure best value to the government. They continued and stated that if the already small competitive printing pool is further reduced due to slow S&D activity, the remaining contractors can exert extraordinary influence on prices. By taking a substantial amount of time to adjudicate S&D referrals, GPO could be negatively impacting the competitive pool by removing competitors during the adjudication process.

*A Note on Management Comments.*

*We take this opportunity to clarify a misconception. Management states that the draft report speculates that reducing the vendor pool “...would allow the remaining contractors to ‘exert extraordinary influence on prices.’ (draft report at page 19.)”*

*In point of fact, the referenced “speculation” was provided by GPO’s own subject matter expert, who was also their assigned point of contact, for S&D matters. The employee provided the above context as reasoning for why it was important to consider the impact on the competitive pool by completing market research as one of their S&D referral review steps.<sup>28</sup> Further, management comments stated that “GPO has approximately 10,000 registered printing contractors. It is unclear how the temporary suspension of eight of them, even for an extended period of time, would exert extraordinary influence on the pricing or quality offered by the remaining 99.9 percent of the vendor pool.”*

*The above quote does not represent the OIG’s position and we make no opinion or assertion regarding the vendor pool or the impact of suspending eight contractors. Instead, the report points out that GPO’s own S&D employees described their consideration of the vendor pool as part of their S&D review calculus.*

## **GPO Directive 110.11C Uses Vague Terminology When Addressing S&D Timeframes**

GPO Directive 110.11C provides only two specific timeframes associated with the S&D process. The first being that contractors are allowed 30 days to submit information and argument in opposition to a notice of a suspension or proposed debarment; and second, if

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<sup>27</sup> Interview, September 9, 2020, 9:00 a.m. – 11:15 a.m.

<sup>28</sup> Interview, September 9, 2020, 9:00 a.m. – 11:15 a.m.

there is no genuine dispute over material facts, and there is no suspension in effect, the final decision shall be made within 30 working days. Other than the two specific timeframes previously mentioned, GPO Directive 110.11C uses vague timeframes, such as “promptly,” or “in a timely manner,” and does not define the length of time that would be considered “prompt” or “timely” to ensure the completion of S&D actions in a suitable manner.

Regarding the 30 days contractors are allowed to submit a response to the proposed action, GPO allowed contractors up to 259 days to respond, and allowed an average of 52 days. OGC stated that they were more likely to be flexible on timeframes to demonstrate that GPO gave the contractor a full opportunity to respond. OGC believes being flexible with timeframes reflects more favorably on GPO if the debarment ends up being appealed in a federal claims court. OGC stated that they “go to great lengths to get more complete information,” to include contractor responses. OGC does this to ensure their final decision is not arbitrary and capricious, that it is deemed reasonable and consistent with the law, and would not be overturned in court. However, we were unable to obtain consistent documentation from GPO to explain why a contractor was allowed more than 30 days to respond. Earlier in this report we discussed the lack of a case management tool that centrally retains S&D documentation. Both GPO Directive 110.11C and the FAR Subpart 9.4 state that the debarring official shall make decisions based on all the information in the administrative record, including any submission made by the contractor. GPO has not adhered to its own guidance to allow contractors up to 30 days to respond, and does not document variances from that guidance in an administrative record. In comparison, DOT requires an Administrative Record, or Official Record containing all documents and records that identify the allegations, facts, process, and determination for each potential suspension or debarment referral.

By using ambiguous terminology in GPO Directive 110.11C, GPO does not have specific timeframes to adhere to, and contractors may be in a suspended status, unable to compete, for an excessive amount of time while GPO reviews the details of the case. And without a complete administrative, or official, record, GPO will be less able to defend its final debarment decisions should the contractor appeal the decision.

### **GPO Does Not Have Sufficient Staff Dedicated to Timely Process Suspension and Debarment Referrals**

An OGC official stated that the biggest obstacle regarding the S&D process is having only one attorney assigned to work S&D cases. In addition to working S&D cases, the S&D attorney also prepares for litigation matters on non-S&D cases. OGC previously had two attorneys working S&D matters. However, since January 2, 2019, only one attorney and one paralegal have been working these cases. Of note, OGC stated that the plan is to hire an additional attorney to assist in procurement matters.

Adopting the GAO best practice of having staff dedicated to the S&D program, including addressing staffing issues by defining roles and responsibilities, adding positions, and consolidating S&D functions should help administer the S&D process more efficiently.

Also, having a senior accountable official tasked with administering the S&D program should give the program the appropriate level of attention, as well as ensuring the attorneys address S&D referrals in a timely manner.

### **Recommendation**

*The recommendation for this finding is combined with the Finding 3 recommendations below.*

**Finding 3. GPO can improve its internal Exclusion List management and transparency, as well as the accuracy of the information provided government wide, by updating internal controls and policies to include quality control checks.**

Proper dissemination of suspensions and debarments ensures that excluded contractors cannot compete or be awarded government contracts. GPO disseminates its debarments inside and outside of GPO. However, there is room for GPO to improve its internal Exclusion List management and transparency as well as the accuracy of the information provided government wide. Dissemination includes identifying the suspended or debarred contractor and the length of their suspension or debarment. When specifying the length of the suspension and debarment, and disseminating that information, GPO does not follow GPO Directive 110.11C, which states that debarment is generally not to exceed 3 years, and that suspension is not to exceed 18 months. Additionally, GPO staff risks working from a previous version of the Exclusion List, and may not find the contractor listed in SAM because pertinent details between the Exclusion List and SAM do not match. Ultimately, if S&D information is not accurately disseminated government wide, the risk of awarding contracts to excluded contractors increases as does the accompanying risk of fraud, waste, or abuse from that contractor.

**Criteria**

- GPO Directive 110.11C, *Contractor Suspension and Debarment Procedures*, January 10, 2013
- FAR Subpart 9.4 – *Debarment, Suspension, and Ineligibility*

**GPO Does Not Follow GPO Directive 110.11C Regarding S&D Exclusion Timeframes**

GPO has not followed the suspension timeframe (GPO Directive 110.11C) that states suspensions are not to exceed 18 months, unless legal proceedings have been initiated within that period, and that debarments are generally not to exceed 3 years.

On the October 2020 Exclusion List, 19 of the 43 (44%) contractors showed as proposed for debarment, meaning they were suspended from bidding on or being awarded new contracts. Of those 19 contractors, 17 (89%) had been proposed for debarment, or effectively suspended, for more than 18 months. Four of which have been suspended since March 1997, nearly 25 years. Two of them since March 2006 (15 years). The remaining 11 were suspended in August 2018 (2.5 years).

**GPO's Debarment Exclusion Timeframes**

Of the 24 debarred contractors on the Exclusion List, four (17%) had specific, 3-year long debarment periods. The remaining 20 did not show specific debarment end dates. Five of these records note the contractor voluntarily withdrew or excluded themselves from GPO, and four were marked as not to register "without the concurrence of the Debarring

and Suspension Official.”<sup>29</sup> The remaining 11 were marked either as “Debarred (Indefinite)” (7) or “Debarred (Will consider upon reapplication)” (4). The debarment start date was not included in GPO records, so we were unable to confirm if the debarment already exceeded the 3-year timeframe. Debarring a contractor indefinitely is not explicitly allowed in the directive, and suggests that the period has or may exceed the 3-year timeframe specified in the directive.

Notwithstanding issues of due process, transparency and fundamental fairness, exceeding the 18 months for a suspension or the 3 years for a debarment may damage GPO’s abilities to procure necessary products from a responsible contractor. In addition, the contractor may also experience damages during the time suspended or debarred, as the contractor would not be able to bid on or be awarded new contracts.

In addition, exceeding suspension or debarment timeframes means GPO has to maintain records for longer than necessary. For the older S&D records, such as those marked as not to register “without the concurrence of the Debarring and Suspension Official” and “Debarred (Indefinite),” GPO was not able to provide records. This means GPO is unable to defend keeping a contractor suspended or debarred longer than the established timeframes set in the directive.

The above issues may be caused by a lack of centralized ownership of the Exclusion List. According to the GPO Directive 110.11C, the SDO is responsible for the Exclusion List. However, the actual ownership of the Exclusion List in GPO is not clear. OGC gives instruction to update the Exclusion List, and Customer Services updates the Exclusion List, although neither have been delegated these tasks by the SDO. Earlier in this report, we discussed the issues with OGC being considered the gatekeeper for S&D information even though GPO Directive 110.11C does not explicitly allow for further delegation of SDO authority to any other official or person within GPO.

### **GPO Can Improve Its Internal and External Distribution of Debarment Information**

GPO distributes its debarments inside and outside of GPO. Internally, GPO distributes its Exclusion List via email to Customer Services’ Contracting Officers and various staff, and to Acquisition Services’ Chief Acquisition Officer and the Post-Award Team Manager. The distribution email includes a link to an intranet site where the updated Exclusion List is posted. Only 28 percent of the Customer Services staff interviewed were aware they could locate the Exclusion List on the intranet page, but generally used the last emailed version of the Exclusion List. Acquisition Services staff interviewed were unaware of the central intranet location of the Exclusion List. Further, while the Chief Acquisition Officer would forward the Exclusion List email to their staff, not being aware of the centrally located list could be a problem if the Chief Acquisition Officer was unable to forward the updated Exclusion List to their staff in a timely manner. Without reviewing the most up-

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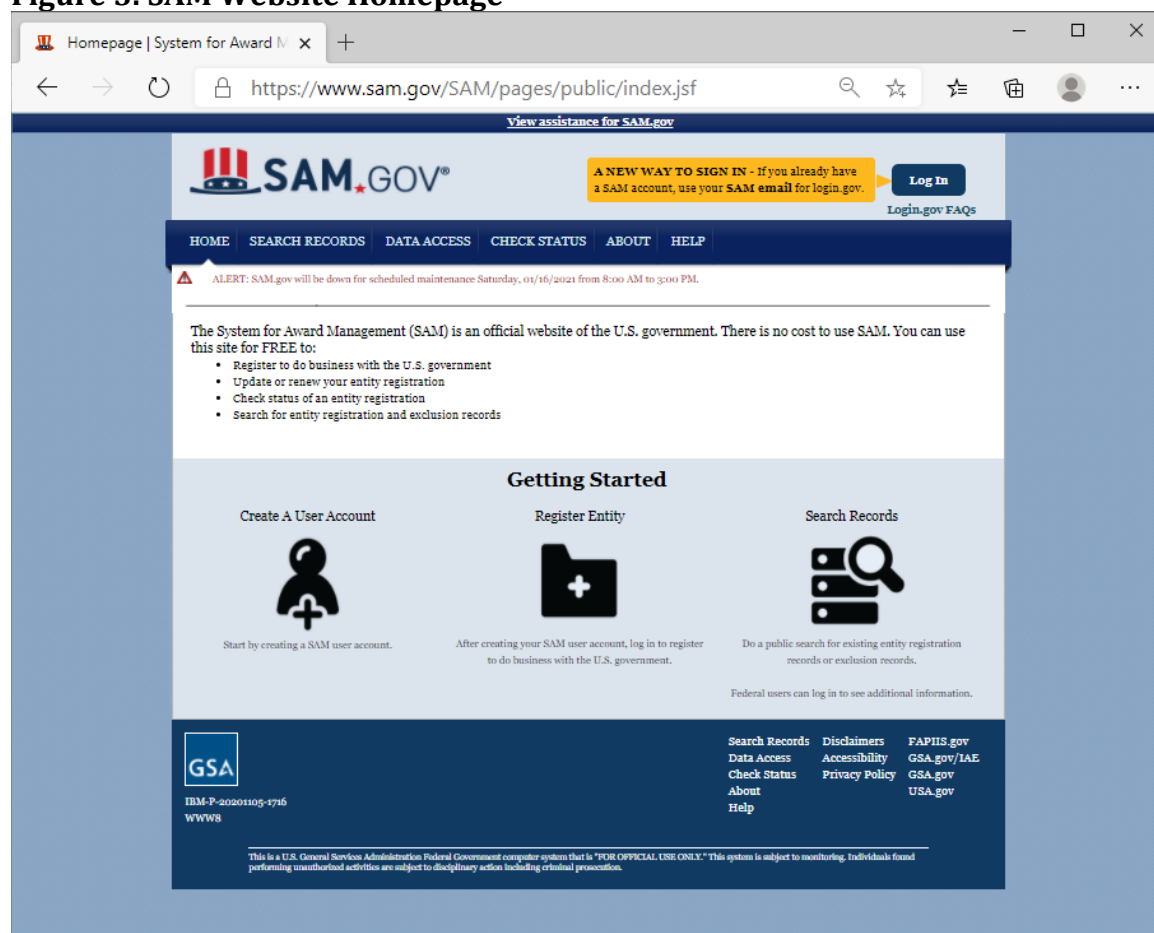
<sup>29</sup> Registration refers to the process contractors intending to bid for printing and publishing contracts may go through before submitting bids. Contractors may register through GPO’s [Contractor Connection](#) system, and GPO reviews the contractor’s registration information before finalizing the registration.

to-date Exclusion List, staff may erroneously complete the work to award an excluded contractor and duplicate efforts to award an eligible contractor.

In addition to reviewing the internal Exclusion List, several contracting staff stated they reviewed the external SAM website to determine if the contractor was excluded. Neither GPO Directive 110.11C, the MMAR, nor the PPR mention SAM. Both Customer Services and Acquisition Services have policies that include reviewing SAM before awarding a contract. However, the Acquisition Services' policies reference the MMAR for further guidance, which does not mention SAM.

Externally, GPO distributes the Exclusion List through the SAM website; figure 5.

**Figure 5: SAM Website Homepage**



Source: [www.sam.gov](https://www.sam.gov), on February 2, 2021.<sup>30</sup>

The Exclusion List and SAM should match. According to the GPO procedures for updating the Exclusion List, SAM should be updated concurrently with the Exclusion List debarments. However, SAM records did not match with the October 2020 Exclusion List.

<sup>30</sup> In May 2021, the SAM homepage was updated.

Specifically, SAM did not include five of the debarred contractors on the Exclusion List, and one contractor was not cross referenced with the associated debarred company in SAM.<sup>31</sup> Differences between the Exclusion List and SAM could mean that GPO staff has to take additional time to resolve the discrepancy. While other federal agencies are not bound by the suspensions and debarments from GPO, listing a contractor on SAM informs other federal agencies that they need to thoroughly assess whether the contractor is sufficiently responsible to be solicited or awarded a contract. Differences between the Exclusion List and SAM could mean the other federal agencies do not have up-to-date information about the present responsibility of potential contractors.

Our review also revealed that the Exclusion List did not have enough detail to quickly and easily confirm if the contractor's debarment information was in SAM. For example, although the Exclusion List included an internally assigned GPO Contractor Code, it did not include a Data Universal Number System (DUNS) number, which is a unique number used to identify an organization. The DUNS number is used by the federal government to track how federal money is allocated, and is searchable by others. Additionally, there were no exact matches with the names of two of the contractors. The variations in company name were minor, such as using "&" versus the word "and," however, the variations did prevent locating one contractor and required using an address to confirm the other contractor. Without enough detail, and accurate detail on the Exclusion List, someone may not be able to find the excluded contractor in SAM. We previously recommended that GPO adopt FAR Subpart 9.4 as its S&D practice. Within the FAR Subpart 9.4, SAM is the federal repository of S&D actions. Since GAO adopted the FAR Subpart 9.4, they use SAM to track their exclusions. Additionally, the Architect of the Capitol adopted SAM as its exclusion repository.<sup>32</sup>

Working from previous versions of the Exclusion List or not finding contractors on SAM because of variations in pertinent details means that GPO staff may wrongly exclude eligible contractors, or may wrongly include excluded contractors. Further, contracting activities may take longer while the contracting staff takes additional time to resolve the differences between the Exclusion List and SAM. Finally, differences between these lists could mean that other federal agencies do not have up-to-date information about a potential contractor's responsibility. Ultimately, if S&D information is not accurately disseminated government wide, the risk of awarding contracts to suspended and debarred contractors increases, as does the accompanying risk of fraud, waste, or abuse from that contractor.

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<sup>31</sup> Cross references allow one to identify and connect active exclusion records when more than one party is involved in the same exclusion, or when a party is operating under more than one name and/or address.

<sup>32</sup> [Architect of the Capitol, Order 34-1, Contracting Manual, dated March 7, 2019](#)



## **Recommendations**

For Director, GPO:

**Recommendation 4.** Update internal S&D directives, policies, procedures, guidance, and controls to include:

- a) Timeframes for the various steps in processing suspension and debarment referrals, including, but not limited to, timeframes for the initial review and the final decision, and a requirement to document deviations from the established timeframes.
- b) Quality control checks for the various steps in the suspension and debarment process, including, but not limited to, the complete official record, reconciliation of exclusion information, and duration of suspension and debarment periods.
- c) Reviewing SAM (and the Exclusion List, if FAR Subpart 9.4 is not adopted) both after opening bids or proposals and immediately before awarding contracts.

## ***Management Comments***

GPO concurs with parts b and c of this recommendation. GPO stated they will review its internal guidance to both Acquisitions Services and Customer Services, to ensure consistency of approach by all contracting personnel and to ensure that all contracting personnel know how and when to access both SAM and the GPO Exclusion List. GPO stated they will ensure that an official administrative record is retained by the OGC for each S&D referral. GPO stated they will review the Exclusion List and SAM to confirm the validity of all listed contractors' status, and will recommend to the SDO appropriate action to add or remove contractors as applicable. Further, GPO stated it was pleased to note that the draft report identified no instances of GPO making contract awards to ineligible contractors.

GPO disagrees with the recommendation to adopt rigid, difficult to move timelines for consideration of suspension and debarment matters (part a), and stated neither GPO nor OGC have a goal to complete S&D actions within 60 days of the referral. GPO stated the vague terminology in the current GPO Directive 110.11C was based on the vague terminology in FAR Subpart 9.4. Each S&D referral is unique, and may have a different outcome, impacting the time it takes to make a final decision. For example, in the 18 referrals reviewed for this report, two referrals were challenged in Federal court, one was stayed at the request of the Department of Justice, and several resulted in negotiated administrative agreements. Setting mandatory time limits would be inconsistent with the informal nature of the process and provide no particular benefit to either the GPO or the contractors involved. With the recent hiring of another attorney versed in procurement matters, GPO anticipates that such referrals will be handled with less delay in the future.

GPO stated that it is difficult to understand the finding that GPO's current administration of the S&D regulation means the potential for higher prices and lower quality in procurements. GPO further states it is unclear how the suspension of eight contractors would exert an extraordinary influence on the remaining vendor pool.

## ***OIG Response***

GPO's partial concurrence to parts b and c and planned actions are responsive to the recommendation. Of note, in response to GPO's statement that we identified no instances of GPO making contract awards to ineligible contractors, our review did not assess that information and this report cannot be used to validate that claim.

GPO's disagreement with part a is not responsive to the intent of the recommendation. First, management mischaracterizes our recommendation as "[t]he establishment of mandatory timelines..." as stated earlier in the report. While GPO interpreted our recommendation to establish timeframes as "rigid, difficult to move timelines," timeframes as recommended allow for guideposts to complete required activities. We also identified the possibility for deviations by recommending a requirement to document deviations from the established timeframes. The stated goal of 60 days to complete S&D actions was provided by the OGC point of contact, the subject matter expert identified at the onset of the inspection. While we acknowledge that the current OGC staff does not recognize the previously reported 60- day goal, the fact remains that the average time from SDO receipt of an S&D referral to the final decision averaged 392 days, and can be improved.

We also acknowledge the origin of the "timely manner" and "promptly" vague terminology. However, the lack of specificity in the FAR Subpart 9.4. does not prevent GPO from identifying/defining what those terms mean to the agency in relation to the S&D process. We continue to recommend that establishing timeframes is a key aspect of clear administrative guidance, and would benefit both GPO and the contractors involved by providing a clear expectation of when an activity should occur, and allow for variations from the established timeframe. Further, having an identified timeframe, albeit flexible, to process S&D referrals may assist GPO in determining if a newly hired attorney is helping to handle S&D referrals with less delay.

Although we requested all GPO response documents and reporting decisions for S&D referrals, we were not provided documentation to support GPO's comment that the referrals resulted in being challenged in Federal court or being stayed at the request of the Department of Justice. Additionally, while GPO asserts that several referrals resulted in negotiated administrative agreements, documentation provided to the OIG identified only one referral resulting in an administrative agreement. Further, as discussed earlier in this report, GPO's current Directive 110.11C does not identify administrative agreements as a possible referral outcome, although it is a possibility under the FAR Subpart 9.4.

While GPO has difficulty in understanding that extended times to adjudicate referrals could result in the potential for higher prices and lower quality in procurements, and is unclear how the suspension of eight contractors would exert an extraordinary influence on the remaining vendor pool, this language came from OGC's identified point of contact, their subject matter expert. Addressing this overall recommendation to update internal

S&D directives, policies, procedures, and controls could help ensure that all of OGC, and GPO, adhere to the same interpretation of S&D impacts as they are reviewing and processing S&D referrals. To close this recommendation, update and publish applicable S&D directives, policies, procedures, guidance and controls that address timeframes, quality control checks, and reviewing SAM and the Exclusion List as outlined in recommendation 4 above.

**Recommendation 5.** Review the Exclusion List and SAM records to confirm the validity of all listed contractors' status, and take appropriate action to add or remove contractors as applicable.

### ***Management Comments***

GPO concurs with this recommendation. GPO stated the OGC will review the GPO Exclusion List and SAM to confirm the validity of all listed contractors' status and will recommend that the S&D official take appropriate action to add or remove contractors as applicable. GPO stated they will also reexamine the rationale for maintaining its own Exclusion List instead of relying exclusively on SAM.

### ***OIG Response***

GPO's planned actions are responsive to the recommendation. To close this recommendation, provide evidence of the outcome of the validity review, and of the reexamination of the rationale regarding the Exclusion List and SAM.

## Appendix A. Table of Recommendations

Recommendation	Management Response	Status	Return on Investment
<b>Director, GPO</b>			
<p><b>1.</b> As recommended by OMB Memorandum M-12-02, appoint a senior accountable official who shall be responsible for program management activities including:</p> <ul style="list-style-type: none"> <li>a) assessing the agency's suspension and debarment program and the adequacy of available resources, such as staffing;</li> <li>b) ensuring that the agency maintains effective internal controls and tracking capabilities;</li> <li>c) ensuring that the agency participates regularly on the ISDC, as appropriate; and</li> <li>d) reviewing internal policies, procedures, and guidance to ensure that suspension and debarment are being considered and used effectively.</li> </ul>	<p>GPO does not concur with this recommendation. GPO stated they now have two attorneys dedicated to handling procurement issues, including suspension and debarments. However, GPO stated they will ensure that the recommended items are regularly reviewed by existing senior personnel.</p>	Open	<p>Nonmonetary – Improve program results &amp; initiate best business practices</p> <p><i>Appointing a senior accountable official accountable for suspension and debarment program management responsibilities will provide oversight and can promote program continuity and continuous review and improvement.</i></p>
<p><b>2.</b> Implement a case management tool or commensurate system/data base to process and monitor suspension and debarment referrals, including maintaining complete official records for each referral.</p>	<p>GPO concurred in part with this recommendation. GPO stated they are not agreeing to implement such a system, but will investigate tools that will assist in processing and tracking referrals, with a preference for solutions centered around applications already available to GPO (e.g. Microsoft SharePoint).</p>	Open	<p>Nonmonetary – Improve management controls and improve systems/processes</p> <p><i>Implementing a case management tool or other system will help improve the timeliness of suspension and debarment activities and maintain associated records to document decisions.</i></p>
<p><b>3.</b> Adopt the FAR Subpart 9.4 – <i>Debarment, Suspension, and Ineligibility</i> as GPO's suspension and debarment practice.</p>	<p>GPO concurred in part with this recommendation. While GPO stated they will not adopt FAR Subpart 9.4 merely by reference as that would delegate to an executive branch official the authority to set GPO policy, GPO will update its debarment regulation to include those minor revisions to FAR Subpart 9.4 that have</p>	Open	<p>Nonmonetary – Initiate best business practices</p> <p><i>Adopting the FAR Subpart 9.4 will align GPO's suspension and debarment program with the majority of the federal government.</i></p>

Recommendation	Management Response	Status	Return on Investment
<b>Director, GPO</b>			
	occurred in the eight years since GPO Directive 110.11C was implemented.		
<p><b>4. Update internal S&amp;D directives, policies, procedures, guidance, and controls to include:</b></p> <ul style="list-style-type: none"> <li>a) Timeframes for various steps in processing suspension and debarment referrals, including, but not limited to, timeframes for the initial review and the final decision, and a requirement to document deviations from the established timeframes.</li> <li>b) Quality control checks for the various steps in the suspension and debarment process, including, but not limited to, the complete official record, reconciliation of exclusion information, and duration of suspension and debarment periods.</li> <li>c) Reviewing SAM (and the Exclusion List, if FAR Subpart 9.4 is not adopted) both after opening bids or proposals and immediately before awarding contracts.</li> </ul>	<p>GPO non-concurred with part a and concurred with parts b and c.</p> <ul style="list-style-type: none"> <li>a) GPO disagrees with the recommendation to adopt rigid, difficult to move timelines for consideration of suspension and debarment matters.</li> <li>b) GPO stated they will review its internal guidance to both Acquisitions Services and Customer Services, to ensure consistency of approach by all contracting personnel and to ensure that all contracting personnel know how and when to access both SAM and the GPO Exclusion List. GPO stated they will ensure that an official administrative record is retained by the OGC for each S&amp;D referral.</li> <li>c) GPO stated they will review the Exclusion List and SAM to confirm the validity of all listed contractors' status, and will recommend to the SDO appropriate action to add or remove contractors as applicable.</li> </ul>	Open	<p>Nonmonetary – Improve systems/processes and initiate best business practices</p> <p><i>Establishing timeframes for processing suspension and debarment activities will set a standard from which to identify variations, and encourage timely review of information to protect the government from potential harm posed by individuals or business entities whose conduct indicates a lack of honesty, integrity, or poor performance.</i></p> <p><i>Performing quality control activities will ensure issues are identified early, and information is accurate for all users of the information.</i></p> <p><i>Updating guidance to ensure that SAM and the Exclusion List are reviewed both after opening bids or proposals and immediately before awarding contracts will help protect the government from potential harm posed by individuals or business entities whose conduct indicates a lack of honesty, integrity, or poor performance.</i></p>
<p><b>5. Review the Exclusion List and SAM records to confirm the validity of all listed contractors' status, and take appropriate action to add or remove contractors as applicable.</b></p>	<p>GPO concurred with this recommendation. GPO stated the OGC will review the GPO Exclusion List and SAM to confirm the validity of all listed contractors' status and will recommend that the S&amp;D official take appropriate action</p>	Open	<p>Nonmonetary – Improve systems/processes and initiate best business practices</p> <p><i>Reviewing the Exclusion List and SAM to confirm contractor exclusion status</i></p>

Recommendation	Management Response	Status	Return on Investment
<b>Director, GPO</b>			
	to add or remove contractors as applicable. GPO stated they will also reexamine the rationale for maintaining its own Exclusion List instead of relying exclusively on SAM.		<i>will ensure information is up-to-date and accurate, and that GPO is following the current directive for timeframes of exclusion status.</i>

## Appendix B. Scope and Methodology

### Scope

Our joint team of inspectors and one investigator performed this inspection of GPO's Suspension and Debarment Program to understand its overall process, associated timelines, and evaluate the effectiveness of the dissemination of debarments inside and outside of GPO. As part of the inspection, we gathered documentation and interviewed applicable GPO leadership and staff. Specifically, the organizational scope included the Deputy Director, OGC, the Chief Administrative Officer, Acquisition Services, and Customer Services. We reviewed GPO's S&D activities from January 1, 2017, to December 31, 2020. We conducted fieldwork for this report between August and December 2020.

### Methodology

- Reviewed GPO directives, requirements, standard operating procedures, and guidance.
- Reviewed previous OIG and GAO reports.
- Reviewed best practices from the ISDC (this included the CIGIE Suspension and Debarment Working Group's report, *Don't Let the Toolbox Rust: Observations on Suspension and Debarment, Debunking Myths, and Suggested Practices for Offices of Inspectors General*, dated September 20, 2011),<sup>33</sup> OMB, GAO, and other federal agencies, including benchmarking available internal S&D processes from the Architect of the Capitol, Department of Defense, EXIM, Department of the Navy, DOT, Department of the Treasury, and Department of Veterans Affairs.
- Reviewed and analyzed documents (to include those received from GPO via data calls) associated with referrals and debarment decisions, such as the referrals, notifications of proposed debarments, contractor disputes, and notifications of final decisions.
- Interviewed the GPO Deputy Director and personnel from the OGC, the Chief Administrative Officer, Acquisition Services, and Customer Services.

We conducted this inspection under the authority of the *Inspector General Act of 1978*, as amended, the *Government Printing Office Inspector General Act of 1988*, and according to the Council of the Inspectors General on Integrity and Efficiency, *Quality Standards for Inspections and Evaluations*, January 2012 (*Blue Book*).

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<sup>33</sup> [CIGIE's Suspension and Debarment Working Group's report, \*Don't Let the Toolbox Rust: Observations on Suspension and Debarment, Debunking Myths, and Suggested Practices for Offices of Inspectors General\*, dated September 20, 2011](#)

## **Appendix C. Abbreviations**

DOT	Department of Transportation
DUNS	Data Universal Number System
Exclusion List	GPO List of Parties Excluded from Procurement Programs
EXIM	Export-Import Bank of the United States
FAR	Federal Acquisition Regulation
GAO	Government Accountability Office
GPO	Government Publishing Office
HHS	Department of Health and Human Services
ISDC	Interagency Suspension and Debarment Committee
MMAR	Materials Management Acquisition Regulation
OGC	Office of General Counsel
OIG	Office of Inspector General
OMB	Office of Management and Budget
PPR	Printing Procurement Regulation
S&D	suspension and debarment
SAM	System for Award Management
SBA	Small Business Administration
SDO	Suspension and Debarment Official



## Appendix D. Management Comments

HUGH NATHANIAL HALPERN  
Director

GPO

### MEMORANDUM

**Date:** June 21, 2021  
**To:** Inspector General  
**From:** Director, GPO  
**Subject:** Response to OIG Draft Report SP-20-04 – GPO’s Suspension and Debarment Program

Thank you for the opportunity to respond to the draft report on GPO’s processing of contractor suspensions and debarments. While I continue to believe that the Office of the Inspector General (OIG) can provide important and meaningful recommendations about improving the operation of GPO’s programs, I view the OIG’s unwillingness to entertain any questions from the agency regarding this draft report as a missed opportunity. While you have asked for our response to the factual findings in the report, we do not believe that we have sufficient visibility into the data underlying the report’s findings to fully respond, leaving lingering questions on our part regarding the conclusions of the draft report. When we inquired as to specific items that did not match our understanding, we were told to stop asking questions and limit our comments to only those items requested by the OIG. While I understand your view that this strictly conforms to your process, I believe that this is one of those cases where unwavering adherence to a rigid process will yield results that are not as good as they could be otherwise. I hope that in the future we can find a way forward where the OIG and GPO will actually engage in the “team approach” you have so often espoused.

#### Recommendation 1

*As recommended by OMB Memorandum M-12-02, appoint a senior accountable official who shall be responsible for program management activities including:*

- a. assessing the agency’s suspension and debarment program and the adequacy of available resources, such as staffing;*
- b. ensuring that the agency maintains effective internal controls and tracking capabilities;*
- c. ensuring that the agency participates regularly on the ISDC, as appropriate; and*
- d. reviewing internal policies, procedures, and guidance to ensure that suspension and debarment are being considered and used effectively.*

GPO does not concur with this recommendation.

During the period covered by the draft report, the GPO received 18 referrals, or approximately four to five referrals per year. Given the draft report’s finding that the cause of what the OIG perceives as a delay in processing of suspension and debarments was a lack of resources and competing priorities of the Office of the General Counsel (OGC), it is unclear how adding an additional management layer in the form of a “senior official” would speed up the process or benefit the taxpayer. The OGC now has two attorneys on staff dedicated to handling procurement issues, including suspensions and debarments.

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## Appendix D. Management Comments (Cont.)

### MEMORANDUM



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This additional OGC resource and the steps to be taken by GPO as outlined *infra*, should be sufficient to manage a “program” of four to five referrals per year.

It is unclear whether the intention is to require GPO to hire someone to solely fill this function or assign the functions to someone else who already has significant executive responsibilities, but in either case, GPO does not see the benefit in this approach. We will, however, ensure that the recommended items are regularly reviewed by existing senior personnel.

#### Recommendation 2

*Implement a case management tool to process and monitor suspension and debarment referrals, including maintaining complete official records for each referral.*

GPO concurs in part with this recommendation.

While the agency is not agreeing *ab initio* to implement such a system, we will investigate the availability, cost, and efficacy of tools that will assist in processing and tracking referrals. As we conduct that market research, we will have a preference for solutions centered around applications already available to GPO (e.g. Microsoft SharePoint).

#### Recommendation 3

*Adopt the FAR Subpart 9.4 – Debarment, Suspension, and Ineligibility as GPO’s suspension and debarment practice.*

GPO concurs in part with this recommendation.

GPO’s current debarment regulation, GPO Directive 110.11C, Contractor Suspension and Debarment Procedures, dated January 10, 2013, was based on FAR Subpart 9.4 as that subpart was structured in 2013. While GPO will not adopt FAR Subpart 9.4 merely by reference as that would delegate to an executive branch official the authority to set GPO policy, GPO will update its debarment regulation to include those minor revisions to FAR Subpart 9.4 that have occurred in the intervening eight years.

#### Recommendation 4

*Update internal S&D directives, policies, procedures, guidance, and controls to include:*

- a. Timeframes for the various steps in processing suspension and debarment referrals, including, but not limited to, timeframes for the initial review and the final decision, and a requirement to document deviations from the established timeframes.*
- b. Quality control checks for the various steps in the suspension and debarment process, including, but not limited to, the complete official record, reconciliation of exclusion information, and duration of suspension and debarment periods.*
- c. Reviewing SAM (and the Exclusion List, if FAR Subpart 9.4 is not adopted) both after opening bids or proposals and immediately before awarding contracts.*

## Appendix D. Management Comments (Cont.)

### MEMORANDUM



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GPO concurs in part with this recommendation.

GPO will review its internal guidance to both Acquisitions Services and Customer Services, to ensure consistency of approach by all contracting personnel and to ensure that all contracting personnel know how and when to access both SAM and the GPO Exclusion List.<sup>1</sup> Further, GPO will ensure that an official administrative record is retained by the OGC for each S&D referral. As noted in its response to Recommendation 5, *infra*, the GPO will review the Exclusion List and SAM to confirm the validity of all listed contractors' status, and will recommend to the S&D official appropriate action to add or remove contractors as applicable.

We disagree, however, with the recommendation to adopt rigid, difficult to move timelines for consideration of these matters. As the draft report notes, GPO's debarment regulation does not contain mandatory timeframes or goals<sup>2</sup> for the various steps in processing suspension and debarment referrals and instead uses what the draft report describes as "vague terminology" such as "in a timely manner" and "promptly" when addressing timeframes. GPO's current debarment regulation, GPO Directive 110.11C, was based on FAR Subpart 9.4. The "vague terminology" referenced in the draft report is from FAR Subpart 9.4.<sup>3</sup>

The establishment of mandatory timelines as recommended in the draft report for processing actions is ill-advised for several reasons. First, each matter referred for S&D is unique<sup>4</sup> and, depending on the facts of the case and the contractor's response, processing

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<sup>1</sup> GPO is pleased to note that the draft report identified no instances of GPO making contract awards to ineligible contractors.

<sup>2</sup> The draft report references OGC's purported goal to "complete S&D actions within 60 days of the referral." draft report at 17. There appears to have been a miscommunication during the OIG's discussions with OGC as no such goal exists.

<sup>3</sup> Compare GPO Directive 110.11C ¶8a(2) ("Whether the contractor brought the activity cited as a cause for debarment to the attention of the appropriate Government agency in a timely manner;") with FAR § 9.406-1(a)(2) ("Whether the contractor brought the activity cited as a cause for debarment to the attention of the appropriate Government agency in a timely manner."); compare GPO Directive 110.11C ¶10f(2) ("If debarment is not imposed, the Debarring Official shall promptly notify the contractor and any affiliates involved.") with FAR § 9.406-3 ("If debarment is not imposed, the debarring official shall promptly notify the contractor and any affiliates involved, by certified mail, return receipt requested.").

<sup>4</sup> Just as every S&D referral is different, so is every investigation that led to the referral. Of the 5 referrals examined in the draft report where the beginning date of the investigation can be ascertained, the length of time taken to produce an investigative report has ranged from 326 days to 1,319 days with an average of 664 days. GPO recognizes that it would not be appropriate to establish mandatory investigatory deadlines, given the uncertainty of where the evidence in each case may lead, the availability of OIG investigative resources, and the competing priorities of the OIG.



## Appendix D. Management Comments (Cont.)

### MEMORANDUM



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may take more time. Indeed, in the small sample studied in the draft report two of the referrals were subject to challenge in Federal court, another referral was stayed at the request of the Department of Justice and subsequently by the automatic stay provisions of 11 U.S.C. 362. Several other referrals resulted in administrative agreements that were negotiated by the parties. The debarment process is intended to be one that is “as informal as is practicable” while affording the contractor fundamental fairness and an opportunity to oppose the proposed action.<sup>5</sup> Setting mandatory time limits would be inconsistent with the informal nature of the process and provide no particular benefit to either the GPO or the contractors involved.

As noted in the draft report, the primary factor in the timeliness of processing referrals was the fact that only one OGC attorney was available to work on the referrals and that his time was often taken up with competing priorities. As with any organization of limited resources, the OGC must prioritize tasks and at times this means that matters of less priority must be deferred. However, with the recent hiring of another attorney versed in procurement matters, we anticipate that such referrals will be handled with less delay in the future.

The draft report’s finding at page 18 that GPO’s current administration of the S&D regulation means the potential for “higher prices and lower quality in procurements” is difficult to understand. In support of this conclusion, the draft report notes that eight vendors the IG referred for debarment and were in fact proposed for debarment were ineligible to compete for GPO contracts while a decision on debarment was pending. The purpose of making a contractor ineligible to compete following a proposed debarment is to protect the interests of the Government while the matter is being adjudicated. The draft report describes the pool of printing contractors as “already small” and speculates that reducing the pool during the S&D adjudicatory process would allow the remaining contractors to “exert extraordinary influence on prices.” (draft report at page 19.) The GPO has approximately 10,000 registered printing contractors. It is unclear how the temporary suspension of eight of them, even for an extended period of time, would exert extraordinary influence on the pricing or quality offered by the remaining 99.9 percent of the vendor pool.

#### Recommendation 5

*Review the Exclusion List and SAM records to confirm the validity of all listed contractors’ status, and take appropriate action to add or remove contractors as applicable.*

GPO concurs with this recommendation.

The OGC will review the GPO Exclusion List and SAM to confirm the validity of all listed contractors’ status and will recommend the S&D official take appropriate action to add or

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<sup>5</sup> See, FAR §§ 9.406-5(b), 9.407-5(b)(1); GPO Directive 110.11C ¶¶ 10.b, 15(b)(1).

## Appendix D. Management Comments (Cont.)

### MEMORANDUM



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remove contractors as applicable. GPO will also reexamine the rationale for maintaining its own Exclusion List instead of relying exclusively on SAM.

If you have further questions about this matter, please contact Mr. Ric Davis, Acting Chief of Staff, at [rdavis@gpo.gov](mailto:rdavis@gpo.gov), if there are any questions regarding this information.

A handwritten signature in blue ink, appearing to read "Hugh N. Halpern", written over a horizontal line.

HUGH NATHANIAL HALPERN  
Director, U.S. Government Publishing Office

Digitally signed by Hugh N  
Halpern

Date: 2021.06.21 10:11:07 -04'00'

cc:  
Deputy Director  
Acting Chief of Staff

## Appendix E. GPO's Emailed Questions Regarding the OIG's Draft Report

From: [Davis, Richard \(Ric\) G. \(CTO\)](#)  
To: [Deahl, Nathan J.](#)  
Cc: [Leary, Michael P.](#)  
Subject: Re: Draft Suspension and Debarment Inspection Report  
Date: Friday, June 4, 2021 2:39:05 PM  
Attachments: [image001.png](#)

---

Good afternoon,

In order to respond to the draft report we request the following information:

Draft Report page 9: "Of note, when requested by OIG, OGC was not able to locate documents, such as records of disputes from contractors and internal decision memoranda." Which documents are missing?

Draft Report page 14 refers to a "stated goal of 60 days." Where did that goal come from?

Draft Report page 16, Table 1. Please provide the names of the contractors.

Draft Report pages 23-23. Please provide the names of contractors on the GPO list but not on SAM.

Thanks,

Ric Davis  
Chief of Staff (Acting)  
Chief Technology Officer (CTO)  
Manager, Administrative Services (Acting)  
U.S. Government Publishing Office  
Washington, D.C. 20401

## **Appendix F. Report Distribution**

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Deputy Director

Acting Chief of Staff

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