



**DON'T JUMP THE SHARK:  
CHANGING THE LANDSCAPE  
FOR A DEBARMENT PROGRAM**

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# ROADMAP

1. Scope of USPS contracting
2. USPS SDO
3. General S&D referral process
4. Idiosyncrasies of USPS regulation
5. USPS philosophy



# SCOPE USPS CONTRACTING

- \$14 billion/year
- \$40 billion under administration
- Everything:
  - Transportation, fuel, construction, mail processing equipment, IT, etc.
- Exempted from most statutes & FAR
  - CICA, AKA, PIA (SCA, D-B, CDA)



# Suspension and Debarment Official

- USPS HQ, not OIG
- VP Supply Management
  - Contract background
- Acquisition head
  - Not OGC or independent office
- Not lawyer
  - Deferential to USPS OGC



# GENERAL S&D REFERRAL PROCESS

- OIG intake from field
  - Rarely outside agency, *c.f.*, Army
- OIG OGC packet prep
- Refer to Suspension and Debarment Official
  - Out of my control
  - SDO not personally involved
- SDO follow Qs
- Notice from Supply Management



# IDIOSYNCRASIES - USPS REG

- Proposed Debarment not automatic ineligibility, unlike FAR
  - Suspension required
- Inadequate performance insufficient
  - Contract violation required
- USPS GC concurrence required
- Contractor definition – reasonably likely to receive USPS contract (not gov't K)
- Causes = Conviction for crime obtaining or performing K, but not civil judgment



# IDIOSYNCRASIES - USPS REG

- Greater exclusionary effect
  - No subcontracts regardless of \$\$\$, consent
  - Cannot supply goods to USPS contractor
  - Cannot perform any part of a USPS contract
- Broader imputation – individual conduct imputed to any firm with which he is “connected”; no “knowledge,” “on behalf of”
- Separate excluded parties list
- Suspension – no evidence standard
  - Indicted for or commits ??



# USPS PHILOSOPHY & MO

- Conservative
  - Fear litigation, no contested cases
  - Wedded to suppliers
  - Move the mail!
- View as private company
  - Resistant to S&D, no private equivalent
- Protect USPS, not gov't
  - Terminations often enough
- No suspensions w/o Proposed Debarment
- Dislike fact based cases, prefer judicial
- Dislike K violation cases, prefer crimes

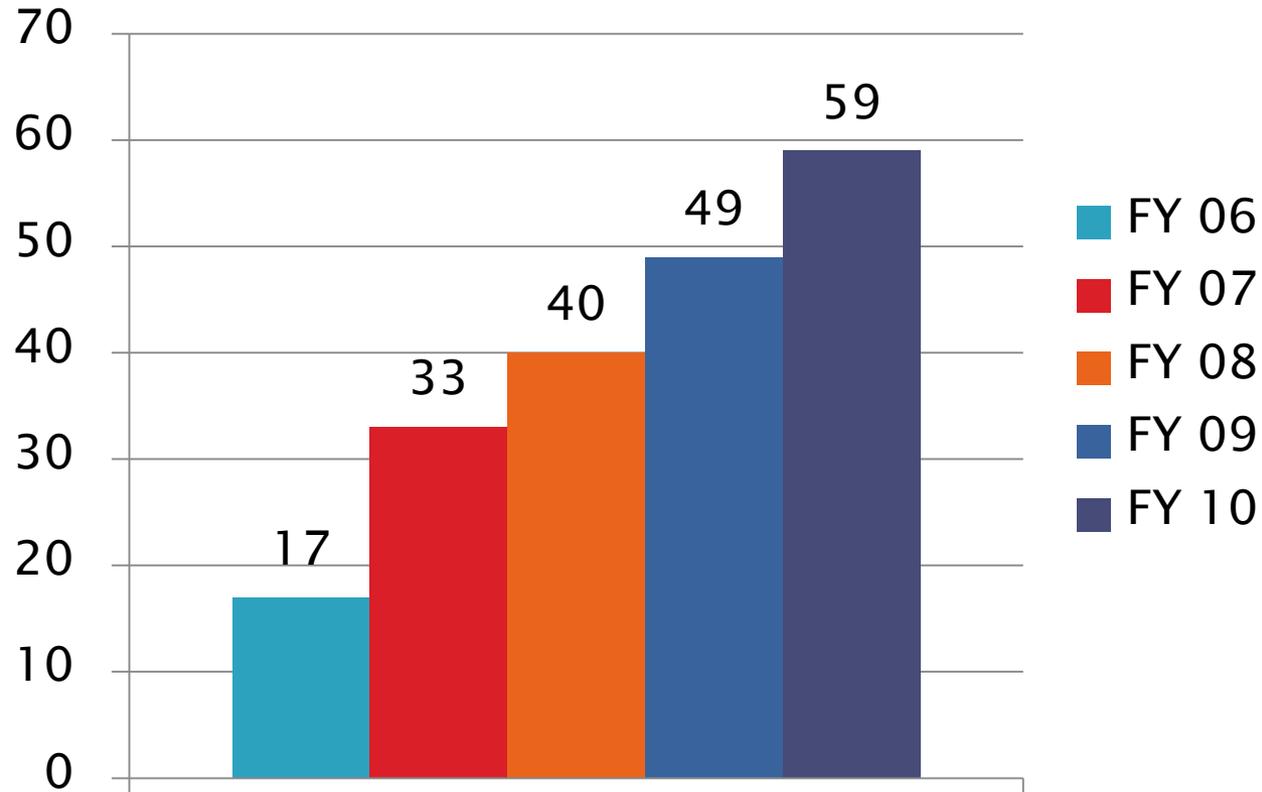


# USPS PHILOSOPHY & MO

- Uncomfortable with affiliation (control)
  - Require clear proof of ownership, biz entity
- Little information to Respondent
  - Notice Letter only
- No show cause letters
- Compliance Agreements very rare



# Parties Referred for Debarment





# STATISTICAL CONCLUSIONS

- OIG debarment referrals increased approximately 300% since FY 06
- Proposed Debarments increased to 35 in FY 10
- Debarment output is commensurate with # OIG agents investigating suppliers



# OIG PROCEDURAL STREAMLINING

- Finished debarment packets transmitted directly from OIG Office of General Counsel to USPS
  - Packets no longer returned to OI
- RESULT:
  - Faster referrals (2-4 week savings)
  - Consistency - OIG Office of General Counsel sole POC for USPS on debarments



# USPS PROCEDURAL IMPROVEMENTS

- Additional Supply Management employee assigned to process debarment referrals
  
- Law Department attorney assigned to review debarment referrals
  
- RESULT:
  - Faster debarments (30–60 days)
  - Closer scrutiny/increased USPS requests for additional information