

Department of Homeland Security Immigration & Customs Enforcement Suspension and Debarment

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Background on ICE program

Started in FY 2008

Impetus was EO 13465; amending 12989 & 13286 relating to
Immigration and Nationality Act violations

Statutory aspect to ICE program (NIF)

FY 2009 – 1 S; 73 P4D; 63 D

FY 2010 - 8 S; 206 P4D; 155 D

Use both 2 C.F.R. § 180 (NCR) and 48 C.F.R. § 9 (FAR)

ICE waits for Convictions

CAUSES

Debarment:

FAR Subpart 9.406-2 & 2 C.F.R. § 180.800

Preponderance of evidence

Suspension:

FAR Subpart 9.407-2 & 2 C.F.R. § 180.700

Immediate need to protect & adequate evidence

S&D Discussion

- SDO signature authority
- Coordination with ICE H.S.I.; DHS-OIG; and, DOJ
- Protect integrity of ongoing investigations
- Early contact with SD
- ISDC Lead Agency coordination
- Show Cause (shock and alarm) letter
- Debarment impact
- S&D=Administrative action – no discovery allowed
- Release of data to respondent – no agent notes

Referrals?

Upon receipt by SD – research then action -

Decisions:

- Suspend; Propose for Debarment; No Action; Show Cause
- After Suspension: Propose for Debarment; No Action
- After Propose for Debarment: Debar; Administrative Compliance Agreement; Find Responsible

Hearings: genuine dispute over material facts

These actions are reciprocal for all Federal Agencies

Take-Away Thoughts

- When does a conviction become too old to refer?
- What documents should you include in referral package?
- Should you impute from owner to company or from company to owner? Include affiliates?
- Debarment period? How long is long enough?
- Is the case based on fact or conviction?
- Can someone with no prior history be suspended/debarred?

Questions?