

AFFILIATION & IMPUTATION

Mini-Guide

PURPOSE: To enlarge the scope of suspension or debarment

Suspension or debarment may be extended to affiliates and imputed parties

AFFILIATION (2 C.F.R. § 180.625(b); 48 C.F.R. § 9.406-1(b))

- Definition: Entities or individuals are affiliates of each other if, directly or indirectly, (1) either one controls or has the power to control the other, or (2) a third party controls or has the power to control both. (2 C.F.R. § 180.905 ; 48 C.F.R. § 9.403)
- Must prove a current relationship of control between the proper who acted improperly and the affiliate – one controls the other
- Ways of establishing control include:
 - Interlocking management or ownership;
 - Identity of interests among family members;
 - Shared facilities and equipment;
 - Common use of employees; or
 - A business entity which has been organized following the exclusion of a person which has the same or similar management, ownership, or principal employees as the excluded person
- Example: John owns 100% of Company. John and Company are affiliates

IMPUTATION (2 C.F.R. § 180.630; 48 C.F.R. § 9.406-5)

- In certain circumstances, improper conduct of one party may be imputed to another. An employee's actions may be imputed to his/her company; conversely, a company's actions may be imputed to its employees.
- Ways of establishing the necessary links for imputation include:
 - Employee X's improper conduct can be imputed to company Y when it occurred in connection with X's performance of duties for or on behalf of company Y, or with Y's knowledge, approval, or acquiescence. Y's acceptance of benefits from X's conduct is evidence of knowledge, approval, or acquiescence.
 - Company Y's improper conduct can be imputed to employee X if X knew of, or had reason to know of Y's conduct.
 - Company X & Company Y participated in a joint venture or similar arrangement and X's improper conduct occurred for or on behalf of the joint venture or similar arrangement, or with the knowledge, approval, or acquiescence of Y. Y's acceptance of benefits from X's conduct is evidence of knowledge, approval, or acquiescence.
- Examples:
 - John, acting on behalf of Company, submits false invoices. John's improper conduct can be imputed to Company.
 - Karen and Lori are business partners. Karen and Lori agree that Karen will submit false invoices. Karen's improper conduct can be imputed to Lori.