United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

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Department of the Interior Guidance (DIG) Release 2011 – 01

Subject: **Action Official Referrals of Covered Transaction Award Termination for Noncompliance or Material Failure to Perform Determinations to the Department of the Interior Suspending and Debarring Official**

References: 2 CFR Part 2; 2 CFR 215.13, 215.61, § 215.62, §§ 180.440, 180.445, 180.450, and Part 1400; 12 CFR 12.93; 36 CFR 51.74; 43 CFR 12.83 and 12.962; and 43 CFR Subpart 3108

1. **Purpose:**

This DIG provides guidance on the responsibilities of Department of the Interior (DOI) Award Officials in connection with award terminations for nonperformance.

2. **Effective Date:**

Effective upon issuance.

3. **Expiration Date:**

This guidance will remain in effect until cancelled or superseded.

4. **Background:**

The Code of Federal Regulations at 2 CFR § 180.25 provides that agencies shall establish procedures for the prompt reporting, investigation, and referral to the debarring official of matters appropriate for that official's consideration. 2 CFR § 180.800(a) establishes offense-based causes for debarment. 2 CFR § 180.800(b) and (c) establish additional causes for action including, but not limited to, violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program. These include, but are not limited to, willful failure to perform in accordance with one or more public agreements or transactions or a history of failure to perform, or unsatisfactory performance of, one or more public agreements or transactions; a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction; or any other cause of so serious and compelling a nature that it affects a participant's present responsibility.

Covered transaction award terminations for nonperformance may be based upon performance information indicating default; serious poor performance; or other lack of business integrity or honesty on the part of the contractor such as to warrant consideration for suspension and/or debarment action to protect Federal discretionary assistance, loan and benefit program activities at both DOI and government-wide.

5. **Required Actions:**

Action Officials will refer each final award termination for nonperformance or material failure to perform determination under 2 CFR 215.13, 216.61, § 215.62; 12 CFR 12.83; 36 CFR 51.74; 43 CFR 12.83 and 12.962; 43 CFR Subpart 3108; or termination action under 2 CFR §§ 180.440, 180.445, and 180.450, for suspension and debarment review and action by the DOI Suspending and Debarring Official (SDO). The Senior Procurement Executive is the DOI SDO. The Award Official's referral shall be sent to the DOI Office of Inspector General (OIG) for evaluation and, at OIG discretion, preparation of a suspension or debarment action referral memorandum which shall then be forwarded to the SDO for action.

6. **Additional Information:**

Please disseminate this guidance within your bureau. It will also be available on the Web at http://www.doi.gov/pam.dig.html. Questions regarding this policy may be directed to David M. Sims, Debarment Program Manager, at (202) 254-5551 or by e-mail at David_Sims@ios.doi.gov.

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