

9.407-1 General.

(a) The suspending official *may*, in the public interest, suspend a contractor for any of the causes in 9.407-2, using the procedures in 9.407-3.

(b)

(1) *Suspension* is a serious action to be imposed on the basis of *adequate evidence*, pending the completion of investigation or legal proceedings, when it has been determined that immediate action is necessary to protect the Government's interest. In assessing the adequacy of the evidence, agencies *should* consider how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result. This assessment *should* include an examination of basic documents such as contracts, *inspection* reports, and correspondence.

(2) The existence of a cause for *suspension* does not necessarily require that the contractor be suspended. The suspending official *should* consider the seriousness of the contractor's acts or omissions and *may*, but is not required to, consider remedial measures or mitigating factors, such as those set forth in 9.406-1(a). A contractor has the burden of promptly presenting to the suspending official evidence of remedial measures or mitigating factors when it has reason to know that a cause for *suspension* exists. The existence or nonexistence of any remedial measures or mitigating factors is not necessarily determinative of a contractor's present responsibility.

(c) *Suspension* constitutes *suspension* of all divisions or other organizational elements of the contractor, unless the *suspension* decision is limited by its terms to specific divisions, organizational elements, or commodities. The suspending official *may* extend the *suspension* decision to include any *affiliates* of the contractor if they are-

(1) Specifically named; and

(2) Given written notice of the *suspension* and an opportunity to respond (see 9.407-3(c)).

(d) A contractor's *suspension* shall be effective throughout the executive branch of the Government, unless the *agency head* or a designee (except see 26.505(e)) states *in writing* the compelling reasons justifying continued business dealings between that agency and the contractor.

(e)

(1) When the suspending official has authority to suspend contractors from both *acquisition* contracts pursuant to this regulation and contracts for the purchase of Federal *personal property* pursuant to FPMR 101-45.6, that official *shall* consider simultaneously suspending the contractor from the award of *acquisition* contracts and from the purchase of Federal *personal property*.

(2) When suspending a contractor from the award of *acquisition* contracts and from the purchase of Federal *personal property*, the *suspension* notice *shall* so indicate and the appropriate FAR and FPMR citations *shall* be included.

Parent topic: 9.407 Suspension.