



Privacy Impact Assessment
for the

Suspension and Debarment Case Management System

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Abstract

The Suspension and Debarment Case Management System (SDCMS) is a secure, web-based workflow management system maintained by the Office of Acquisition Management (OAQ) of the U.S. Immigration and Customs Enforcement (ICE) that manages ICE's suspension and debarment process. The purpose of SDCMS is to provide an automated mechanism for managing and reporting on all suspension and debarment activities from receipt of referral through the expiration date of the suspension or debarment period. The information maintained in SDCMS may contain personally identifiable information (PII) on federal contractors being referred for suspension or debarment. ICE is conducting this Privacy Impact Assessment (PIA) because SDCMS collects and maintains PII.

Overview

At ICE, OAQ processes and decides referrals for the possible suspension or debarment of entities (e.g., companies) or individuals who have engaged in conduct that casts doubt on their present responsibility, such as violating the employment provisions of the Immigration and Nationality Act (INA), or being suspected or convicted of certain criminal charges, including procurement-related offenses such as fraud or embezzlement. In general, all federal agencies and departments have the inherent authority to take suspension or debarment action against entities or individuals, pursuant to the Federal Acquisition Regulations (FAR) Subpart 9.4 and Executive Order 12989, as amended. Within the Department of Homeland Security (DHS), the head of contracting activity for each component is responsible for suspension and debarment activity within their component. Within ICE, OAQ has established the Suspension and Debarment Division that manages and reports on the suspension and debarment activities at ICE from the initial receipt of referrals through the expiration of the suspension or debarment period. To effectively manage this process, OAQ developed SDCMS to track, analyze, process and report on suspension or debarment activities at ICE.

Background: Suspension and Debarment

The federal suspension and debarment process is used to promote economy and efficiency in federal procurement by ensuring the U.S. Government conducts business only with responsible contractors. The FAR Subpart 9.4 provides legal authority for federal agencies to suspend or debar an entity or individual (known as "Respondents") on the basis of adequate evidence, or a preponderance of evidence respectively, of the commission of fraud or other conduct indicating a lack of business honesty.

Suspension is an action taken by the agency's Suspension and Debarment Official (SDO) under FAR 9.407 or under Subpart G of the Nonprocurement Common Rule. A suspended person or entity is disqualified temporarily from Government contracting and Government-approved subcontracting of covered transactions,¹ pending completion of an agency investigation and any judicial or administrative

¹ Pursuant to Title 2 of the Code of Federal Regulations, Part 180, *OMB Guidelines to Agencies on Governmentwide Debarment or Suspension*, covered transactions for suspensions and debarments include procurement contracts awarded by non-Federal participants in nonprocurement covered transactions (e.g., grants, scholarships, contracts of assistance, loans) as well as contracts and subcontracts for goods or services if: 1) the contract is awarded by a



proceedings that may ensue. Suspension is based on adequate evidence (i.e., a conviction is not required) of certain activities, such as commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public contract, as well as activities like commission of embezzlement, theft, tax evasion, violating Federal criminal tax laws, or commission of any other offense indicating a lack of business honesty that seriously and directly affects the present responsibility of a Government contractor or subcontractor. In the case of ICE's suspension process, Respondents can be suspended for any of the causes specified above based on adequate evidence, which could consist of an agent's affidavit detailing the suspected violation. Suspension can occur without advance notice to the affected person, but upon being suspended the Respondent will be notified and afforded 30 days to present information opposing the suspension.

Debarment is an action taken by the SDO under FAR 9.406 or under Subpart H of the Nonprocurement Common Rule. A debarred person or entity is excluded from Government contracting and Government-approved subcontracting or covered transactions for a reasonable specified period. Debarment may be based on a Respondent's conviction of a crime or a civil judgment for the same violations noted above, or for other causes like a determination by the Secretary of Homeland Security or the Attorney General of the United States that the Respondent is not in compliance with the INA employment provisions. Before debarment can occur, the affected Respondent will receive a notice of proposed debarment and will be provided thirty (30) days to comment before the SDO makes a final decision.

The majority of referrals received and processed by OAQ are for debarments. However, not all referrals result in a suspension or debarment. In some cases, the ICE SDO may decide to take no action against the Respondent or to enter into an Administrative Compliance Agreement instead.² Additionally, the ICE SDO may choose not to debar but instead deem a Respondent "responsible" if it presents mitigating circumstances or remedial measures that demonstrate to the satisfaction of the ICE SDO that it is a responsible contractor, consistent with the FAR.

Suspension and Debarment Case Management System (SDCMS)

Within ICE, OAQ is charged with analyzing and processing entities and individuals proposed for suspension or debarment in furtherance of the regulatory guidance described above. OAQ established the Suspension and Debarment Case Management System (SDCMS) to track, analyze, process and report on referrals for suspension or debarment. Referrals usually originate within ICE from offices such as the Office of Investigations (OI), Office of the Principal Legal Advisor (OPLA), and ICE Contracting Officers. For example, OI referrals may occur after an individual or entity has been found to have violated criminal or civil provisions of the INA employment provisions. Occasionally, OAQ receives external referrals from the Department of Homeland Security Office of the Inspector General (DHS-OIG) or other government agencies. External referrals usually occur when ICE interests are at issue, such as

participant in a nonprocurement transaction that is expected to equal or exceed \$25,000; 2) the contract requires the consent of an official of a federal agency; or 3) the contract is for federally-required audit services.

² An Administrative Compliance Agreement is an alternative outcome to the suspension and debarment process. It is an agreement between ICE and the Respondent which contains certain terms and conditions the Respondent is responsible for meeting or satisfying to ensure compliance with the INA as well as being considered a responsible contractor consistent with the FAR.



when the entity being referred is believed to have violated the employment provisions of the INA. Referrals usually contain documentation (e.g., records documenting a criminal conviction or civil judgment of a violation) supporting the basis for suspension or debarment.

OAQ creates a record of each referral in SDCMS and uses the system to track the progress of the matter throughout the suspension and debarment process. The ICE SDO within OAQ is charged with making the decision to suspend, to propose for debarment, to debar, to take no action, to deem the Respondent responsible, or to enter into an Administrative Compliance Agreement. These outcomes are also recorded in SDCMS.

Typical Transaction

In a typical transaction, OAQ receives a debarment referral from ICE OI via email. The referral contains information about a company ICE investigated against which a final administrative order or judicial judgment was recently entered, finding that the company and/or its owner violated the employment provisions of the INA by knowingly employing or harboring aliens who were not authorized to work in the United States. The referral may also contain supporting legal documentation in the form of a record of the court's indictment, plea agreement and criminal judgment. OAQ's staff logs the referral in SDCMS where it is assigned a case number (known as the "SD case number"), and scans the supporting documentation into the system. Based on information and supporting documentation provided in the referral, OAQ manually inputs basic information about the Respondent into SDCMS such as the Respondent's name and address, Data Universal Numbering System (DUNS) number, whether the case is procurement related, and other relevant information.

The OAQ Analyst then conducts basic research about the Respondent using various government, commercial, and public sources. For example, the SD Analyst will download a Dun & Bradstreet (D&B) report for the Respondent entity (if available). The SD Analyst will also search the Government Services Administration's (GSA) Excluded Parties List System (EPLS) to identify prior suspension or debarment actions taken against the Respondents. Information gathered during the research may be updated in SDCMS or maintained in paper form. The SD Analyst also sends an e-mail to the Interagency Suspension and Debarment Committee (ISDC)³ requesting a lead agency determination, and updates SDCMS accordingly. If no other agency responds or it is determined by the ISDC that ICE is to be the lead agency, the SD Analyst manually prepares an administrative record for the ICE SDO. The Action Referral Memorandum contained in the record is routed via SDCMS to OPLA for legal concurrence before submission to the SDO, who reviews the record and makes a decision to propose for debarment or take no action. The SD Analyst updates SDCMS to reflect the SDO's decision. If a decision is made to propose for debarment, the SD Analyst also updates EPLS accordingly and ICE sends the Respondents a notice of proposed debarment, which provides the Respondents 30 days to contest the proposed debarment. The SD Analyst prepares a final decision memorandum after the 30-day period and presents any documentation or facts presented by the Respondents. The decision memorandum is sent through SDCMS to ICE OI for fact checking and to OPLA for legal review, and then is routed manually to the SDO for review and decision. The SDO will make a decision to debar the Respondents, determine them

³ The ISDC was established to monitor implementation of Section 4 of Executive Order 12549 *Debarment and Suspension*. The ISDC is a Federal forum used to determine which agency will be the lead agency when more than



to be responsible, enter into an Administrative Compliance Agreement, or take no action, and SDCMS will be updated accordingly to reflect the decision.

Section 1.0 Characterization of the Information

The following questions are intended to define the scope of the information requested and/or collected as well as reasons for its collection as part of the program, system, rule, or technology being developed.

1.1 What information is collected, used, disseminated, or maintained in the system?

SDCMS maintains information on Respondents who are referred to ICE for suspension or debarment, based on criminal or civil violations of the employment provisions of the INA or evidence of other violations related to performance on a government contract as defined in the FAR. Respondents can be entities or individuals that have government contracts as well as those that do not, but could possibly receive one in the future. The various categories of information collected, used, disseminated and maintained in SDCMS are as follows:

- General Respondent Information:
 - *For entities:* entity name, mailing address, names of key individuals in the entity,⁴ DUNS number, TIN (if known), whether they are a small business, cause and treatment code(s),⁵ and a copy of the D&B report, if available.
 - *For individuals:* name, mailing address, and cause and treatment code(s). Individuals' Social Security Numbers (SSNs) are not directly requested nor input as a separate field in SDCMS, but they may be included in supporting documentation submitted with the referral. Prior to scanning and uploading any supporting documentation into SDCMS ICE redacts the SSNs. However, SSNs provided in the referral or supporting documentation will be maintained in the paper file as OAQ is required to input SSNs into EPLS when suspending, proposing for debarment, or debarring an individual Respondent if the SSN is available.
- Referrals and Supporting Documentation: The personal information that may be contained in these documents varies, but typically consists of information sufficient to identify the Respondents and key individuals (if the Respondent is an entity), and other information pertaining to the specific investigations, convictions, civil judgments, fines, final orders,

one is considering whether to suspend or debar a particular entity or individual.

⁴ The names of key individuals within the entity may also be collected for potential suspension or debarment action if discovered they had knowledge of the violation and were in a position to stop or prevent it. While some key individuals may be Respondents, not all are Respondents. The names of key individuals may be referenced in the D&B report along with the position they hold within the company.

⁵ Cause and Treatment codes – Standardized codes that identify the causes of a suspension or debarment action and the treatments to be accorded the excluded party.



settlement agreements, or pleas involving the Respondent that are the basis for the referral. Information contained in these documents may include: the Respondent's name, attorney's name(s), investigative summaries, case number, criminal or civil charges, criminal or civil violations, and sentencing guidelines. This information may be maintained electronically in SDCMS and in paper case files associated with the suspension and debarment process.

- Research Information: ICE conducts research to gather additional background information about the Respondent. Information collected may include affiliated companies or individuals, names of key individuals in the company, prior suspension or debarment actions taken against the Respondent, and current or prior federal government contract or assistance awards. These results may be uploaded into the system and/or also maintained in the paper case file.
- Other Case-Related Data:
 - Dates associated with the various suspension and debarment activities
 - Memoranda generated by OAQ to document decisions and actions taken during the process. Signed copies of these memoranda will be scanned and uploaded to SDCMS and may also be maintained in paper form for backup purposes.
 - The SD case number, program office making the referral, SD analyst working the case, status of the case, whether the case is procurement related or not, expiration date of the suspension, debarment or Administrative Compliance Agreement, and length of the suspension or debarment.

The system also provides enhanced filtering and sorting capabilities which OAQ uses to create standard and ad hoc reports based only on the information entered into the database. These reports are generated for statistical and performance-based purposes to further support OAQ in managing the suspension and debarment process. Additional performance reports may include current action, workload, open action, and process time reports.

1.2 What are the sources of the information in the system?

Information collected and maintained in SDCMS is received through referrals for suspension or debarment from ICE OI, ICE OPLA, DHS-OIG, ICE Contracting Officers, or other government agencies via the ISDC. Occasionally, Respondents contact OAQ directly before a referral is received to present OAQ with copies of their legal documents (e.g., indictments) and remedial and mitigation measures taken for OAQ to consider when processing the Respondent for suspension or debarment such as paying a fine, serving the probation term or firing the individual responsible for the violation. In such instances, OAQ processes the case in the same manner as referrals. OAQ also receives information directly from Respondents who elect to present information on their own behalf to contest the suspension or proposed debarment. SSNs of individuals may be received from the referring office or agency that provides the supporting documentation containing the SSN or from the individual if they elect to provide information containing their SSN. Prior to being scanned and uploaded into SDCMS, OAQ redacts the SSNs from these records.



Information is also collected during the SD Analyst's basic research from various government and publicly available commercial websites such as EPLS, D&B, USA Spending, the Federal Procurement Data System, and commercial data aggregators. The D&B report (if available) and any supporting research the SDO reviews in order to make a decision such as information from the entity's publicly available website or a printout of the information found in the corporate entity search from state websites is uploaded into SDCMS. All other information gathered from the research such as EPLS printouts of prior suspensions is maintained in the paper case file.

It is necessary to collect information from other than the Respondent because individuals and companies who are suspected of violating the employment provisions of the INA based on adequate evidence or who have been convicted of violations that rise to the level of a suspension or debarment action are not likely to refer themselves to the government for this type of action. It is also necessary to retain any supporting legal documents to set forth a factual basis for the suspension or debarment action.

As discussed in Question 1.1 above, SDCMS also generates standard and ad hoc reports for statistical and performance-based purposes based only on the information input into the system.

1.3 Why is the information being collected, used, disseminated, or maintained?

The information is collected to carry out a presidential mandate to use the suspension and debarment process to legally sanction entities and individuals that have violated the employment provisions of the immigration laws of the United States. This information is necessary for OAQ to administer and manage the suspension and debarment process at ICE in accordance with the FAR.

1.4 How is the information collected?

Referrals for suspension or debarment are received via email or fax from the various sources listed in Question 1.2 above. Information provided in referrals from external components or agencies is generally collected during investigations or research of an entity or individual suspected or convicted of violating the employment provisions of the INA. Typically, OAQ does not collect information from Respondents directly except for instances where Respondents approach OAQ before a referral is received and if they elect to submit information opposing a suspension or proposed debarment. Respondents may provide this information by e-mail, by mail, or verbally to OAQ.

ICE OI collects information from Respondents during their investigation of the Respondents for violations of federal law including employment provisions of the INA and gathers relevant legal and court documents pertaining to the Respondents. Information collected by ICE OI is populated in ICE Form 73-010, "Referral for Consideration for Debarment," which ICE OI submits to OAQ to refer Respondents for suspension or consideration for debarment.

Research information is also collected by the SD Analyst from various government and publicly available commercial websites such as EPLS, D&B, and commercial data aggregators. The SD Analysts do not connect to D&B, commercial data aggregators, other publicly available resources via SDCMS,



rather the SD Analysts access and search these sources separately via the Internet to download and print out applicable search results.

1.5 How will the information be checked for accuracy?

The information collected and processed in SDCMS is checked for accuracy during the review process and in the due process affording the Respondents an opportunity to view the information ICE relied upon to take action against them and challenge the accuracy of that information. The majority of referrals processed by OAQ are for debarments, which are based on civil judgments or criminal convictions. However, before the SDO receives the decision memorandum it is routed via SDCMS to ICE OPLA for legal review and concurrence. ICE OPLA reviews the memorandum to ensure it is legally sufficient and that OAQ correctly imputed the suspension, proposed debarment, or debarment upon the Respondent. Additionally, if the SDO suspends or proposes a Respondent for debarment, that Respondent is sent a notification and a copy of the Action Referral Memorandum stating why they are being suspended or proposed for debarment. The Respondent then has 30 days to respond and present matters in opposition to the suspension or proposed debarment, during which time they may challenge the accuracy of any information relied upon by the SDO in taking the action, or present new information that may provide a more complete set of facts. Information presented by the Respondent generally includes mitigating factors and remedial measures (e.g., paying a fine, serving the probation term or firing the individual responsible for the violation) they have taken to demonstrate they are a responsible contractor. Allowing the Respondent to view the basis for their suspension or proposed debarment and present information to contest the proposed action complies with the due process requirements and enhances the accuracy of the information ICE relies upon to take suspension and debarment actions and the integrity of the process as a whole. Final decision memoranda are also routed via SDCMS to ICE OI for fact checking to ensure the information presented is accurate and consistent with the ICE OI investigation such as whether cited judgments are accurate and the Respondent cooperated with ICE OI during the investigation.

If after the Respondent presents information opposing the proposed action the SDO believes there is a genuine issue of material fact in dispute, the SDO sends the fact or issue to another official for a fact-finding hearing. In such cases, the DHS Office of the Chief Procurement Officer will coordinate the designation of a fact finding official. The fact-finding official will conduct the fact finding and provide a report containing the results of the fact-finding to the ICE SDO, which is uploaded into SDCMS and may be retained in paper form.

Information obtained from publicly available commercial sources can generally be verified against another source. For example, the DUNS number which is obtained from D&B is input into EPLS when a business is suspended or proposed for debarment. When making the EPLS entry, the EPLS system uses the DUNS number entered by the SD Analyst to pull up the business name and address, thus verifying the accuracy of the data.



1.6 What specific legal authorities, arrangements, and/or agreements defined the collection of information?

The FAR Subpart 9.4 provides legal authority to suspend or debar an entity or individual. Additionally, EO 12989, amended by EO 13286 and further amended by EO 13465, provides for the debarment of federal contractors or subcontractors who have not complied with certain alien employment provisions of the INA, as amended.

1.7 Privacy Impact Analysis: Given the amount and type of data collected, discuss the privacy risks identified and how they were mitigated.

Privacy Risk: SDCMS could present a risk of the over-collection of PII.

Mitigation: ICE collects only the information necessary to track and process referrals of Respondents for suspension or debarment. All PII collected is necessary for the purpose of ensuring the cases are tracked and responded to properly. In cases where individual Respondents' SSNs are provided in the initial referral or supporting legal documentation OAQ redacts the SSNs before scanning and uploading the documentation into SDCMS. Additionally, ICE does not directly enter it into a searchable field in SDCMS, thereby further limiting the collection of PII to only the information necessary. The limited scope of information collected mitigates any risk of the over-collection of information.

Privacy Risk: The collection and maintenance of information about Respondents referred for debarment presents a risk of *de facto* debarment before a decision is made by the SDO in the event the information is compromised.

Mitigation: To mitigate this risk, SDCMS employs appropriate role-based access controls limiting access to only authorized users within OAQ, ICE OI and OPLA as well as defining and limiting their system access to only what is necessary to support their prescribed duties. All users also receive training regarding the proper use of SDCMS and rules of behavior prior to being granted access to the system. Additionally, access to SDCMS is further safeguarded from unauthorized access because the system does not connect to any other information system.

Privacy Risk: The use of commercial data could present a risk of data inaccuracy.

Mitigation: ICE promotes data accuracy and integrity when using commercial sources by using credible, industry-wide commercial sources to increase the probability in identifying valid, relevant information about Respondents. Information collected from commercial sources is also checked and verified against EPLS and other credible commercial sources. Prior to any final determination, Action Referral Memoranda and Debarment Period Memoranda are routed via SDCMS to ICE OPLA and OI for legal review and fact checking. Additionally, when a Respondent is suspended or proposed for debarment, they are sent a notice and given 30 days to present information to contest the suspension or proposed debarment action. If the facts are incorrect, Respondents are given an opportunity for a fact finding hearing.



Section 2.0 Uses of the Information

The following questions are intended to delineate clearly the use of information and the accuracy of the data being used.

2.1 Describe all the uses of information.

OAQ uses SDCMS to manage the suspension and debarment workflow activities as well as process Respondents referred for suspension or debarment accordingly. ICE OPLA uses SDCMS to review Referral Action Memorandum and other documents before they are sent to the SDO. Additionally, ICE OI accesses SDCMS to fact check documents. Use of PII in the database is used by ICE for internal purposes only. However, in the event another government agency is designated as the lead agency responsible for processing the Respondent for suspension or debarment, information maintained by OAQ is provided to that agency. If the referral originates from DHS-OIG, OAQ will process the suspension or debarment and provide a copy of the final decision documents to DHS-OIG.

General Respondent information such as names and addresses are used to identify and verify the Respondent referred for suspension or debarment and to mail notices to the Respondents. The DUNS number (for companies) is used to identify a business unit and is required to be input into EPLS for Respondents that are suspended, proposed for debarment or debarred. Similarly, for individuals SSNs are required to be input into EPLS if available. Research information is used to verify ownership of companies, identify affiliated companies or individuals, and determine if the Respondent has an active business registration on file with the state, has already been suspended or debarred by another agency, or has a current or prior Federal government contract or assistance award and if so, with which agency. This information is used to further substantiate any proposed suspension or debarment action. Any supporting legal documentation provided with the referral is attached to the Action Referral Memorandum or Debarment Period Memorandum to provide proof of cause for a suspension or debarment action. The other SD case information is used as background information and may contain information gathered during the SD Analyst's research as well as the actual referral.

Pursuant to the Homeland Security Acquisition Manual, OAQ shares limited information about all suspension and debarment cases with the DHS Office of the Chief Procurement Officer as well as full case information with the DHS Office of the Chief Procurement Officer on a case-by-case basis in order to determine the DHS lead component responsible for the suspension or debarment action before coordinating the referral through the ISDC. In cases where the ISDC determines another agency to be the lead agency responsible for the suspension or debarment action, OAQ provides that agency with information maintained about the respective Respondent in order that the agency may effectuate the suspension or debarment or other outcome (e.g., Administrative Compliance Agreement, etc.) and enter the Respondent's status into EPLS.



2.2 What types of tools are used to analyze data and what type of data may be produced?

SDCMS is a web-based system that provides enhanced filtering and sorting capabilities which OAQ uses to create standard and ad hoc reports based only on the information entered into the database. These reports are generated for statistical and performance-based purposes to further support OAQ in managing the suspension and debarment process.

OAQ reports reflect statistics and performance over a given time period for the number of referrals, number of proposed debarments, number of debarments, number of suspensions, number of Administrative Compliance Agreements, number of Respondents found responsible, number of procurement-related referrals, and number of actions with a particular cause and treatment code. SDCMS also generates performance reports such as current action, workload, open action, and process time reports.

2.3 If the system uses commercial or publicly available data please explain why and how it is used.

D&B, commercial data aggregators, and other publicly available resources such as state databases for corporations and federal websites are used to generate and fact check information in the referrals. This is done outside of the database by the SD Analyst. However, some of this data filters into the Action Referral Memorandum or Debarment Period Memorandum to further substantiate the proposed suspension or debarment action. D&B is used to collect the Respondent's DUNS number (for companies) and to verify ownership of companies and affiliation with other companies. State databases are used for corporate entity searches to provide information about whether the business is currently in good standing with the state, name and address of the registered agent⁶ and names of key individuals within the corporation. The names of key individuals within the corporation may also be collected for potential suspension or debarment action if discovered they had knowledge of the violation and were in a position to stop or prevent it. Additionally, for Respondents that are suspended, proposed for debarment or debarred the DUNS number (for companies), which acts as a unique business identifier, is required to be entered into EPLS.

2.4 Privacy Impact Analysis: Describe any types of controls that may be in place to ensure that information is handled in accordance with the above described uses.

Privacy Risk: There is a privacy risk of unauthorized access and to the information maintained in SDCMS.

⁶ A registered agent is a business or individual that receives service of process in the event of legal action and official state documents required for tax and legal purposes on behalf of a business entity.



Mitigation: To mitigate this risk, SDCMS employs appropriate role-based access controls so only authorized users have access to the system. The access roles are pre-designated by the individuals' position, which ensures users are only granted access to information necessary to perform their official duties. Only system administrators can access and change all fields in the database. Additionally, all users receive training regarding the proper use of SDCMS and rules of behavior prior to being granted access to the system. All database users complete annual mandatory privacy and security training, which stresses the importance of appropriate and authorized use of personal data in government systems.

Section 3.0 Retention

The following questions are intended to outline how long information will be retained after the initial collection.

3.1 What information is retained?

OAQ maintains records in SDCMS and corresponding paper files of suspension and debarment referrals, as described in Question 1.1.

3.2 How long is information retained?

OAQ is working with the ICE Records Management Branch and the National Archives and Records Administration (NARA) to develop an appropriate retention schedule for information maintained in SDCMS. OAQ anticipates maintaining records in the database and the paper files for three years after the decision on a referral or period of "exclusion" (i.e., suspension or debarment) expires, whichever is later, as required by the Homeland Security Acquisition Manual. After this time, records will be destroyed. This preserves records for a sufficient time in case a Respondent is referred again for suspension or debarment action during completion of their term of suspension, debarment, or Administrative Compliance Agreement.

3.3 Has the retention schedule been approved by the component records officer and the National Archives and Records Administration (NARA)?

No. OAQ is in the process of drafting a proposed retention schedule for information maintained in SDCMS.

3.4 Privacy Impact Analysis: Please discuss the risks associated with the length of time data is retained and how those risks are mitigated.

Privacy Risk: There is a privacy risk that information retained for longer than necessary, if inadvertently disclosed or compromised, could result in the *de facto* debarment of a Respondent based on historical or untimely data.



Mitigation: OAQ anticipates maintaining records in the database for three years as required. This preserves records for a sufficient time in case a Respondent is referred again for suspension or debarment action during completion of their term of suspension, debarment, or Administrative Compliance Agreement as well as ensures information retained in SDCMS is timely.

Section 4.0 Internal Sharing and Disclosure

The following questions are intended to define the scope of sharing within the Department of Homeland Security.

4.1 With which internal organization(s) is the information shared, what information is shared and for what purpose?

As required by the Homeland Security Acquisition Manual, OAQ shares limited information about each case with the DHS Office of the Chief Procurement Officer including the Respondent's name, mailing address, DUNS number (for entities) and a brief description of why the suspension or debarment action is being taken. OAQ shares full case information with the DHS Office of the Chief Procurement Officer on a case-by-case basis as discussed in Question 1.5. In the event a Respondent has a contract with another component of DHS, case information is shared with the DHS Office of the Chief Procurement Officer pursuant to the Homeland Security Acquisition Manual in order to determine the DHS lead component responsible for the suspension or debarment action before coordinating the referral through the ISDC. Only in the event another component within DHS is designated the lead agency in the suspension or debarment action will any supporting legal documentation be shared with that component. No other DHS component will have access to the system.

4.2 How is the information transmitted or disclosed?

Information maintained in SDCMS shared with other parts of DHS is transmitted electronically via e-mail on a case by case basis through a DHS e-mail account. No other DHS component will have access to the system. Any associated paper file(s) to be provided to another DHS component are properly marked and labeled Sensitive But Unclassified (SBU) / For Official Use Only (FOUO) and transmitted via a secure mail courier.

4.3 Privacy Impact Analysis: Considering the extent of internal information sharing, discuss the privacy risks associated with the sharing and how they were mitigated.

Privacy Risk: SDCMS could present a risk of the inadvertent disclosure of information by transmitting data electronically outside the system to other DHS components.

Mitigation: In the event another DHS component takes lead on a suspension or debarment action, information maintained in SDCMS is transmitted through a DHS e-mail account. Any associated paper file(s) to be provided to another DHS component are properly marked and labeled Sensitive But



Unclassified (SBU) / For Official Use Only (FOUO) and transmitted via a secure mail courier. Additionally, all users receive training regarding the proper use of SDCMS and ICE rules of behavior prior to being granted access to the system.

Section 5.0 External Sharing and Disclosure

The following questions are intended to define the content, scope, and authority for information sharing external to DHS which includes Federal, state and local government, and the private sector.

5.1 With which external organization(s) is the information shared, what information is shared, and for what purpose?

When OAQ receives a referral it must disclose information about the referral to the ISDC in accordance with the Homeland Security Acquisition Manual to ensure only one agency is taking action on a Respondent for a particular cause for suspension or debarment. This information includes the Respondent's name, mailing address, DUNS number (for companies) and a brief description of why the suspension or debarment action is being taken. If another agency is determined to be the lead, any supporting legal documents provided in the referral will be shared with that agency.

If a Respondent is suspended, proposed for debarment or debarred, ICE is required to enter specific information about the Respondent into EPLS, which is a publicly available database maintained by GSA. Specifically, the SD Analyst enters the Respondent's name, address, DUNS number (for entities), SSN (for individuals only if provided in the referral or supporting legal documentation), cause and treatment code(s), and the appropriate suspension or debarment action taken into EPLS. All Federal agencies as well as the general public will be able to see the name of the Respondent; city and state of their address; date suspended, proposed for debarment or debarred; debarment date; and cause and treatment code in EPLS.

5.2 Is the sharing of personally identifiable information outside the Department compatible with the original collection? If so, is it covered by an appropriate routine use in a SORN? If so, please describe. If not, please describe under what legal mechanism the program or system is allowed to share the personally identifiable information outside of DHS.

Information is only shared outside of DHS in the event another agency is designated the lead agency by the ISDC or if a Respondent is suspended, proposed for debarment or debarred. It is necessary to share this information to ensure no other Federal government entity awards Federal contracts, grants or any other Federal assistance to a suspended or debarred entity. The sharing of PII is compatible with the original collection and covered by routine uses in GSA/GOVT-8 EPLS SORN (71 FR 70515, December 5, 2006) as well as authorized by the FAR.



5.3 How is the information shared outside the Department and what security measures safeguard its transmission?

Information disclosed about the referral to the ISDC for coordination is transmitted via an encrypted e-mail. Any information shared outside the Department is shared only in the event another agency is designated the lead agency by the ISDC. In such cases OAQ transmits any Respondent data maintained in SDCMS via an encrypted e-mail to the lead agency point of contact, and any associated paper file(s) to be provided are properly marked and SBU / FOUO and transmitted via a secure mail courier. Subsequent to a final decision, the SD Analyst manually enters the required Respondent data into EPLS via an online secure connection. Additionally, any EPLS users with data input capability are required to undergo training and have a user password to access the EPLS database.

5.4 Privacy Impact Analysis: Given the external sharing, explain the privacy risks identified and describe how they were mitigated.

Privacy Risk: The privacy risks associated with this external sharing relates to the unauthorized access to and disclosure of the information maintained in SDCMS.

Mitigation: The sharing of information described above is in accordance with appropriate routine uses and legally mandated sharing to ensure the Government conducts business only with responsible contractors. These risks are mitigated by limiting SDCMS access only to ICE personnel and external sharing to a case-by-case basis. Additionally, only required data is provided to external agencies electronically via encrypted email or manual data entry procedures in the case of updating information in EPLS, and the legal supporting documents provided to external agencies determined to be the lead agency pursuing the suspension or debarment action are properly marked and labeled SBU / FOUO.

Section 6.0 Notice

The following questions are directed at notice to the individual of the scope of information collected, the right to consent to uses of said information, and the right to decline to provide information.

6.1 Was notice provided to the individual prior to collection of information?

Notice is provided by the GSA/GOVT-8 EPLS SORN as well as this PIA. Notice is also provided in the FAR on government suspensions and debarments and the procedures for conducting suspension and debarment actions. OAQ does not directly collect information on Respondents provided in suspension and debarment referrals from DHS-OIG or other government agencies therefore is not in the position to provide notice at the time of collection.

If an individual has been suspended or proposed for debarment, they will be sent a copy of the notification and action referral memorandum. They may also access the EPLS database at <http://www.epls.gov> and search their name. Additionally, when a Respondent is sent notice that they



have been suspended or proposed for debarment, they are given 30 days to respond and present any information in opposition to the proposed action. If the facts are incorrect, they will be given an opportunity for a fact finding hearing.

6.2 Do individuals have the opportunity and/or right to decline to provide information?

Information in SDCMS is not collected directly from Respondents unless they elect to provide information on their own behalf to OAQ either prior to the receipt of a referral for suspension or debarment or when presenting information opposing the proposed suspension or debarment action. Any such information is provided by the Respondent on a voluntary basis.

6.3 Do individuals have the right to consent to particular uses of the information? If so, how does the individual exercise the right?

No. Individuals do not have the option to provide for particular uses of their information. ICE will use their information for the purposes described in this PIA and as described in the GSA/GOVT-8 EPLS SORN.

6.4 Privacy Impact Analysis: Describe how notice is provided to individuals, and how the risks associated with individuals being unaware of the collection are mitigated.

Privacy Risk: There is a risk that individuals are not aware of the existence of SDCMS and the data it collects and maintains.

Mitigation: The FAR provides notice on government suspensions and debarments and the procedures for conducting suspension and debarment actions, and this PIA serves as public notice of the existence of SDCMS and the data it collects and maintains.

Section 7.0 Access, Redress and Correction

The following questions are directed at an individual's ability to ensure the accuracy of the information collected about them.

7.1 What are the procedures that allow individuals to gain access to their information?

Individuals may request access to records about them in SDCMS by following the procedures outlined in the GSA/GOVT-8 EPLS SORN. In addition to the procedures above, individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to:



ICE FOIA Officer
800 North Capitol Street, N.W.
5th Floor, Suite 585
Washington, D.C. 20528

Individuals may also submit requests by fax at 202-732-0310 or by email at ice-foia@dhs.gov. Please see the ICE FOIA Office's website for additional information (<http://www.ice.gov/foia/index.htm>). If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer, Department of Homeland Security, 245 Murray Drive, S.W., Building 410, STOP-0550, Washington, D.C. 20528.

If an individual has been suspended, proposed for debarment or debarred, they will be notified via certified mail with a copy of the notification and action referral memorandum. When a Respondent is sent notice that they have been suspended or proposed for debarment, they are also given thirty (30) days to respond and present any matters in opposition. If the facts are incorrect, they will be given an opportunity for a fact finding hearing. Additionally, they may access the EPLS database at <http://www.epls.gov> and search their name.

7.2 What are the procedures for correcting inaccurate or erroneous information?

If Respondents obtain access to the information in SDCMS pursuant to the procedures outlined in the GSA/GOVT-8 EPLS SORN, they may seek correction of any incorrect information in the system by submitting a request to correct the data. The data correction procedures are also outlined in the GSA/GOVT-8 EPLS SORN.

In addition to the procedures above, individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to:

ICE FOIA Officer
800 North Capitol Street, N.W.
5th Floor, Suite 585
Washington, D.C. 20528

Individuals may also submit requests by fax at 202-732-0310 or by email at ice-foia@dhs.gov. Please see the ICE FOIA Office's website for additional information (<http://www.ice.gov/foia/index.htm>). If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer, Department of Homeland Security, 245 Murray Drive, S.W., Building 410, STOP-0550, Washington, D.C. 20528.

Additionally, when a Respondent is sent notice that they have been suspended or proposed for debarment, they are given 30 days in which to respond to present any matters in opposition. If the facts are incorrect, they will be given an opportunity for a fact finding hearing.



7.3 How are individuals notified of the procedures for correcting their information?

The procedure for submitting a request to correct information is outlined in the GSA/GOVT-8 EPLS SORN and in this PIA in Questions 7.1 and 7.2. Additionally, Respondents suspended or proposed for debarment are sent a notification outlining the procedures for presenting any matters in opposition to include correcting their information.

7.4 If no formal redress is provided, what alternatives are available to the individual?

Formal redress is provided as described in Questions 7.1 and 7.2 above.

7.5 Privacy Impact Analysis: Please discuss the privacy risks associated with the redress available to individuals and how those risks are mitigated.

Privacy Risk: There is a risk that that a Respondent may not have access or the ability to correct their information.

Mitigation: This risk is mitigated by allowing Respondents to request access or amendment of their records at any time. Respondents may access their information by using the FOIA / Privacy Act process detailed above in Questions 7.1 and 7.2. Additionally, individuals who are suspended or proposed for debarment are sent notice that they have been suspended or proposed for debarment, they are given 30 days in which to respond to present any matters in opposition. If the facts are incorrect, they will be given an opportunity for a fact finding hearing.

Section 8.0 Technical Access and Security

The following questions are intended to describe technical safeguards and security measures.

8.1 What procedures are in place to determine which users may access the system and are they documented?

The OAQ Assistant Director must approve any requests for ICE personnel to become users of SDCMS. Once approved, the SD Administrator creates a profile based on the anticipated role of the user. Once the profile is created, the Administrator conducts training with the user, leaving also a training slide presentation with snapshots and high-level guidance regarding reports and queries available. After the user successfully completes the required training the user's account is activated and he or she can then begin using the system. The various users and respective access rights are as follows:

- SD Analyst: Read/write access to entire database;



- OPLA: Read-only access to entire database and ability to upload documents to the document library;
- OI: Read-only access to document library and ability to upload documents to the document library;
- SD Administrator: Read/write/delete/add access to the entire database; and
- IT Administrator: Access to make technical and maintenance modifications to the database as necessary.

8.2 Will Department contractors have access to the system?

Contractors may be granted IT Administrator access to SDCMS for routine maintenance or future system updates. All contractors undergo an extensive background investigation prior to accessing SDCMS.

8.3 Describe what privacy training is provided to users either generally or specifically relevant to the program or system?

All ICE personnel and contractors complete annual mandatory privacy and security trainings, the Culture of Privacy Awareness and the Information Assurance Awareness Training. Additionally, all users receive training regarding the proper use of SDCMS and sign the ICE rules of behavior prior to being granted access to the system.

8.4 Has Certification & Accreditation been completed for the system or systems supporting the program?

SDCMS will reside within the ICE Collaboration Tool General Support System environment, which was granted its Authority to Operate on October 31, 2007 and expires on October 31, 2010.

8.5 What auditing measures and technical safeguards are in place to prevent misuse of data?

SDCMS will only be accessible to authorized users. Each user will have their own set of privileges based on their prescribed role. SDCMS operates on the ICE Enterprise Network which runs within the DHS network, is protected by DHS network firewalls, and is further governed by the provisions set forth in DHS Management Directive 4300A. The system allows for remote access to the system through a secure VPN connection to the ICE Enterprise Network, which uses a two-factor authentication access control. Additionally, all ICE remote users are required to access SDCMS using a government-issued encrypted laptop.

The ICE Collaboration Tool General Support System generates audit logs to track user activity. These audit logs are periodically reviewed by the ICE Collaboration Tool system administrators or



Information System Security Officer (ISSO) to identify any violations or misuse of SDCMS or information maintained in the system. Audit log records must be maintained online for at least 90 days, thereby allowing rapid access to recent information.

8.6 Privacy Impact Analysis: Given the sensitivity and scope of the information collected, as well as any information sharing conducted on the system, what privacy risks were identified and how do the security controls mitigate them?

Privacy Risk: The privacy risks to this system relate to unauthorized system access or use and inadequate system security.

Mitigation: Both risks are mitigated by following DHS and government-wide security protocols that establish controls appropriate for this type of sensitive data. As described above and elsewhere in this PIA, those controls include role-based user access controls, user training, and appropriate information sharing procedures.

Section 9.0 Technology

The following questions are directed at critically analyzing the selection process for any technologies utilized by the system, including system hardware, RFID, biometrics and other technology.

9.1 What type of project is the program or system?

SDCMS is an information technology project that supports OAQ management with tracking and reporting on the suspension and debarment process and activities. This project resides within the ICE Collaboration Tool General Support System environment. There are no modules or subsystems for SDCMS.

9.2 What stage of development is the system in and what project development lifecycle was used?

SDCMS is currently in the design phase. SDCMS follows the ICE Systems Assurance System Lifecycle Methodology for SharePoint. Testing is scheduled to be completed in January 2010, with full deployment by February 1, 2010.

9.3 Does the project employ technology which may raise privacy concerns? If so please discuss their implementation.

No.



Responsible Officials

Lyn Rahilly
Privacy Officer
U.S. Immigration and Customs Enforcement
Department of Homeland Security

Approval Signature

Original copy signed and on file with the DHS Privacy Office

Mary Ellen Callahan
Chief Privacy Officer
Department of Homeland Security