

# Helping Commerce to... Commerce; A Kinder Gentler SDO (Getting Meta with Greg and James)

A Presentation Discussing The S&D Process and Alternative &  
Innovative Approaches to Help Keep Businesses in Business and People  
Employed

Presented by Greg Coss and James Latoff

# Let's Meet Today's Presentation Team

I am James Latoff

&

That's Mr. Greg Coss!

Greg is Here! Greg Is Still Not A Cat!  
But His Cat Kuzy is!



# Road Map For Today

- Chapter 1: S&D Nutshell
- Chapter 2: USA Construction (“USACon”) Case Study
- Chapter 3: NSPM-33
- Chapter 4: S&D POCs
- Questions & Answers

# Chapter 1: S&D Nutshell

Who, What, How, and Why?

# Introduction... Your Team

- Olivia J. Bradley, Senior Procurement Executive, Director of Acquisition Management, and Suspension & Debarment Official
- Molly Shea, Deputy Senior Procurement Executive and Deputy for Procurement Management
- Greg Coss, Suspension & Debarment Coordinator with the Suspension & Debarment Office, and Grants & Cooperative Agreements Specialist with the Financial Assistance Policy and Oversight Division
- James Latoff, Contractor Responsibility Coordinator with the Suspension & Debarment Office, and Attorney for and with OAM

# Suspension and Debarment Official (“SDO”)

- As noted, Olivia J. Bradley is the Department of Commerce SDO
- The Secretary of Commerce designated Olivia as the SDO
- The SDO protects the Department from fraud, waste, and abuse by working to help the government conduct business with presently responsible individuals and entities.
- The SDO makes “present responsibility” determinations regarding the recommended entities and individuals and determines if any administrative action is necessary to protect the government
- As SDO, Olivia wants to see successful grants and contracts
- S&D is not a punishment, but rather a means to ensure that any wrongdoing during the course of a contract or financial assistance, whether intentional or not, is discovered and corrected, to protect our mission and tax dollars and ensure the contractor’s or financial assistance recipient’s long-term success with the federal government

# What is Suspension and Debarment?

- S&D is acronym for many administrative remedies used to protect the federal government from doing business with non-responsible contractors and financial aid recipients to fight waste, fraud, and abuse
- Suspensions and Debarments are the most widely known remedies as these “actions” are visible to the public via SAM Exclusions (formerly EPLS)
- S&D is NOT A PUNISHMENT....“actions” provide a “timeout” to the entity or individual and allow the Respondents to become presently responsible

# What is the Suspension & Debarment process?

- Cases are referred to the SDO from many sources, including the Office of Inspector General, voluntary & mandatory disclosures, and employees
- SDO makes a determination based on the referral
- When suspended and proposed for debarment, contractors or financial aid recipients may submit matters in opposition demonstrating present responsibility
- If requested, SDO may meet with contractor or financial aid recipient
- If additional facts are presented, SDO makes a final decision which is provided to the contractor or financial aid recipient
- Remedy is implemented: debarment, administrative agreement, declination, etc.

# Exclusion Alternatives?

- Show Cause Letters and Requests for Information - not visible to the public
- The SDO may also decide to enter into an Administrative Agreement
- These agreements document remedial measures taken to prevent reoccurrence and provide the entity or individual with a path to become responsible
- Terminations of Review/Declinations inform the contractor or financial assistance recipient under review that they are presently responsible and can pursue new business with the Government

# S&D Office Facts and History

- One DOC employee debarred in history
- The one employee was complicit in the criminal activity
- Employee quit and became a contractor before any repercussions
- Prior SDO had to debar the individual to protect the government
- Kinder gentler SDO
- We see T4Cause and T4Default all the time for review and no reprisal!

# How We Can Best Ensure Success in the Fight Against Waste, Fraud, and Abuse?

- Utilize a Bureau S&D Points of Contact Program
- Engage with the Suspension & Debarment Office
- KEY TO SUCCESS: DOC community engagement with POCs and S&D Office

# Questions and Answers

- Our lines are open!
- Greg, any callers?

# The End of Chapter 1

- Greg Coss at [gcoss1@doc.gov](mailto:gcoss1@doc.gov)
  - James Latoff at [jlatoff@doc.gov](mailto:jlatoff@doc.gov)
- 
- Greg has graciously agreed to handle all tough questions, serious concerns, legitimate issues, or any negative comments
  - James will handle all positive comments as well as document and catalog any accompanying cat photos

# Chapter 2: USACon Case Study

- History of T4Causes and T4Ds
- The Protection of The DOC
- SDO's Innovative Approach and Solutions
- USACon Improved and Jobs Saved

# Background

- USACon is a construction focused contractor with gov-wide work
- USACon was supposed to provide the DOC all equipment, labor, and materials necessary to remove three (3) existing hazmat sheds and install three new hazmat sheds at the Bureau facility
- DOC Terminated USACON for failure to communicate and perform
- USACon's had a history of good performance but recent failures to perform and similar ghosting behavior
- Bureau made a referral to the SDO for possible Administrative Action

# More Background

- USACon's bid was 50% lower and USACon could not perform the work at their bid
- USACon attempted to double the cost of their bid after acceptance
- The Bureau attempted to work with USACon and find a resolution for more than a year
- USACon would respond intermittently and repeatedly failed to meet agreed to actions and timelines and then ghost again
- Bureau needed the work done

# Continued Even More...

- What SHOULD have happened next...
- What ACTUALLY happened next...
- SDO assessed USACon's situation and history
- SDO wants to help commerce to commerce, keep people employed
- SDO creates a very novel solution....

# Hey APEX Accelerator... Little Help...

- SDO worked with OSDBU to try and find USACon help
- OSDBU had difficulty finding any applicable assistance
- SDO reached out to SBA about possible Procurement Technical Assistance Centers (PTACs) assistance
- PTACs are now called APEX Accelerators

# Administrative Action

- Local APEX Accelerator agreed to assign a Consultant to USACon
- USACon agreed to meet and work with Consultant
- USACon gets the training and education necessary to function responsibly and keep working
- No exclusion necessary!

# Results

- USACon is enrolled in multiple programs and trainings to support small business gov contractors through the APEX Consultant
- USACon is still in business and improving as a contractor
- USACon is performing and responding on current contracts
- And USACon's employees stay employed

# Takeaways/Lessons Learned

- Making referrals helps contractors and grantees get better
- Collaboration between SDO, OSDDBU, Bureau, and APEX Accelerator
- Working together to overcome new and unexpected issues
- The DOC is better
- USACon is better

# Questions and Answers

Greg, have we received any questions?

# End of Chapter 2

- Greg Coss at `gcoss1@doc.gov`
  - James Latoff at [jlatoff@doc.gov](mailto:jlatoff@doc.gov)
- 
- Greg has still agreed to handle all tough questions, serious concerns, legitimate issues, or any negative comments
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# Chapter 3: NSPM-33

- **An** Brief Explanation of the Guidance For Implementing National Security Presidential Memorandum 33 On National Security Strategy For United States Government-Supported Research and Development

Who Put This Guidance Together?

- The Office of Science and Technology Policy (“OSTP”) - Coordinates science and technology policy across the diverse entities that make up the Federal research and development enterprise
- The National Science and Technology Council (“NSTC”) - Coordinates science and technology policy across the diverse entities that make up the Federal research and development enterprise
- Subcommittee on Research and Security - Coordinates Federal Government efforts to enhance the security and integrity of America’s science and technology research enterprise without compromising American values or the openness of the innovation ecosystem

# Why Did the Subcommittee Create the Guidance?

- Because the previous administration issued NSPM-33 to strengthen protections of U.S. Government-supported R&D against foreign government interference and misappropriation, while maintaining an open environment to foster research discoveries and innovation
- The guidance would provide direction to Federal departments and agencies regarding their implementation of NSPM-33
- Effective implementation will make it more difficult for individuals to conceal materially important support, obligations, conflicts of interest, and/or relationships that, when concealed, could lead to Federal research agencies making inadequately informed funding decisions
- Effective implementation will also make it easier for R&D award recipients and research agencies to identify and address noncompliance in a timely and fair manner

# Bottomline

- Bad Guys Want Our Research and Technology
- Foreign governments — including the governments of China, Russia, Iran, and others — are working hard to acquire our most advanced technologies
- NSPM-33 established national security policy for U.S. Government-supported R&D

# Sooo.... When? Aspirational Schedule

- NSPM-33 Issued January 14, 2021
- Implementation Guidance issued January 2022
- Federal Research Agencies work together to develop model grant application forms and instructions for use by any federal research funding agency. January through April 2022
- **Digital Persistent Identifiers (DPIs):** Section 4(b)(v) of NSPM-33 directs that “Consistent with applicable Federal laws and statutory authorities, within 1 year of the date of this memorandum, funding agencies shall establish policies regarding requirements for individual researchers supported by or working on any Federal research grant to be registered with a service that provides a digital persistent identifier for that individual.” 1 year is January 14, 2022
- **Research Security Program:** Section 4(g) of NSPM-33 directs that by January 14, 2022, “heads of funding agencies shall require that research institutions receiving Federal science and engineering support in excess of 50 million dollars per year certify to the funding agency that the institution has established and operates a research security program. Institutional research security programs should include elements of cyber security, foreign travel security, insider threat awareness and identification, and, as appropriate, export control training. Heads of funding agencies shall consider whether additional research security program requirements are appropriate for institutions receiving Federal funding for R&D in critical and emerging technology areas with implications for United States national and economic security.”
- **As of today, nothing is formalized in regulations, fully approved by OMB, or up and running**

- Disclosure Requirements and Standardization: Provide clarity regarding disclosure requirements, disclosure process, and expected degree of cross-agency uniformity
- Digital Persistent Identifiers: Describe how research agencies will incorporate DPIs—also known as Persistent Identifiers (PIDs)—into disclosure processes
- Consequences for Violation of Disclosure Requirements: Potential violations will be investigated by OIGs and referred to DOJ and agencies for S&D consideration, as necessary
- Information Sharing: Provide clarity regarding circumstances when sharing information of violations and potential violations, and provide assurance regarding limitations of sharing to respect privacy and legal protections
- Research Security Programs: Provide clarity on the requirement for research organizations that receive substantial Federal R&D funding to maintain research security programs

# Agencies should....

- Coordinate implementation of NSPM-33 and work through the NSTC
- Wait for NSTC's pending model award proposal disclosure forms and instructions which will *not* be in regulation

Or.... They Could Just....

- Create and implement processes, forms, and language accomplishing the goals of NSMP-33 through an overarching research security framework addressing currently *known* vulnerabilities and laying the foundation to counter vulnerabilities discovered down the road
- Please see the slides from our Roundtable Discussion....

# NSTC Next Steps

- OSTP has no plans to formally create regulations for any aspect NSPM-33
- Publication will be as guidelines and suggested templates and language
- NO government-wide DPI system

But....

- Bureaus will be held accountable for failure to address known foreign influence vulnerabilities....

# Questions and Answers

Greg, have we received any questions?

# End of Chapter 3

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  - James Latoff at [jlatoff@doc.gov](mailto:jlatoff@doc.gov)
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  - James will handle all positive comments and cat photos



# Chapter 4: S&D POCs

# Bureau Points of Contact

- NIST – Joe Widdup ([joseph.widdup@nist.gov](mailto:joseph.widdup@nist.gov))
- Census – Brigid Boykin ([brigid.boykin@census.gov](mailto:brigid.boykin@census.gov))
- PTO – Lisa Wade ([lisa.wade@uspto.gov](mailto:lisa.wade@uspto.gov))
- NOAA – Rebecca Pedroza ([rebecca.pedroza@noaa.gov](mailto:rebecca.pedroza@noaa.gov))
- \*MBDA – Joann Hill ([jhill@mbda.gov](mailto:jhill@mbda.gov))
- \*ITA – Brad Hess ([brad.hess@trade.gov](mailto:brad.hess@trade.gov))
- \*NTIA – Markia Williams ([mwilliams@ntia.gov](mailto:mwilliams@ntia.gov))
- EDA – William Bethel ([wbethel@eda.gov](mailto:wbethel@eda.gov)); Christine Clemons ([cclemons1@eda.gov](mailto:cclemons1@eda.gov));  
Ann Marie Maloney ([amaloney@eda.gov](mailto:amaloney@eda.gov))
- ES-A – Dawn Gresham ([dgresham@doc.gov](mailto:dgresham@doc.gov))
- OGC – James Latoff ([jlatoff@doc.gov](mailto:jlatoff@doc.gov)), \*Sarah Schwartz ([sschwartz@doc.gov](mailto:sschwartz@doc.gov))
- OAM – Greg Coss ([gcoss1@doc.gov](mailto:gcoss1@doc.gov)) – general questions
- OIG Hotline – 1-800-424-5197 or [Hotline@oig.doc.gov](mailto:Hotline@oig.doc.gov)
- MAX Website:  
<https://community.max.gov/pages/viewpage.action?spaceKey=DOC&title=Suspension+and+Debarment+Office+of+Acquisition+Management>
- Contains **S&D handbook**, last three year's breakout sessions, S&D guidance, fraud indicators, ISDC meeting notes

\* Grants Only

# Office of Suspension and Debarment Contact Information

- E-mail: [suspenddebar@doc.gov](mailto:suspenddebar@doc.gov)
- Phone: (202) 482-5286
- Greg Coss ([gcoss1@doc.gov](mailto:gcoss1@doc.gov)) 202-482-3134
- James Latoff ([jlatoff@doc.gov](mailto:jlatoff@doc.gov)) 202-322-4112
- Website: <https://www.commerce.gov/oam/policy/suspension-and-debarment>
- MAX Website:  
<https://community.max.gov/pages/viewpage.action?spaceKey=DOC&title=Suspension+and+Debarment+Office+of+Acquisiton+Management>

# The End.

Thank you for your time!

If you have any questions, concerns, comments, or suggestions please  
contact any of us!

ALL YOU NEED TO KNOW.....PHONE A FRIEND!

\* No animals were harmed in the making of this episode



**I AM NOT A CAT**