Summary. This regulation establishes policies and prescribes procedure for the United States Forces Korea Suspension and Debarment program in the Republic of Korea (ROK).

Summary of Change. This regulation has been substantially changed a full review of its contents is required.

Applicability

a. This regulation applies to all United States (U.S.) appropriated and nonappropriated fund contracting activities in the ROK. For the Army and Air Force Exchange Service, this regulation applies only to in country procurements.

b. All supplements or command policies that were established under USFK Reg 715-1, 10 Dec 92 and that do not adhere to the requirements of this regulation are now superseded.

Supplementation. Issue of further supplements to this regulation by subordinate commands is prohibited unless prior approval is obtained from USFK Staff Judge Advocate (SJA), ATTN: FKJA, Unit #15237, APO AP 96205-5237.

Records Management. Records created as a result of processes prescribed by this regulation must be identified, maintained, and disposed of according to AR 25-400-2. Record titles and descriptions are available on the Army Records Information Management System (ARIMS) website at https://www.arims.army.mil.

Suggested Improvements. The proponent of this regulation is the Commander USFK, (FKPM-S). Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to the Commander USFK, (FKPM-S), Unit #15237, APO AP 96205-5237.

Distribution. Electronic Media Only (EMO).
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2. References
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Glossary, page 13
Chapter 1

1. Purpose
This regulation supplements guidance concerning suspensions and debarments in DFARS, part 209.4, and FAR, part 9 and subpart 9.4., for United States Forces, Korea (USFK). It specifically establishes responsibilities and procedures for such actions in the Republic of Korea (ROK) and provides guidance concerning the publication and maintenance of the USFK consolidated list of debarred, ineligible, and suspended contractors.

2. References
Required and related publications are listed in Appendix A.

3. Explanation of Abbreviations and Terms
Abbreviations and special terms used in this regulation are listed in the Glossary.

4. Responsibilities
   a. The Judge Advocate General delegates authority to the United States Forces Korea/Eighth United States Army (EUSA) Staff Judge Advocate (SJA) the responsibility to act on his behalf as the Debarment Authority (DA) for all purposes under Defense Federal Acquisition Regulation Supplement Subpart 209.4 (Suspension, Debarment, and Ineligibility) in the Republic of Korea (ROK).

   b. The Debarment Authority, USFK/EUSA SJA will --

      (1) Review suspension/debarment files and solely determine the basis for debarment or suspension.

      (2) Issue a notice of proposed debarment or suspension to the contractor(s), or initiate an alternative administrative remedy as required (Corporate Ethics Program, Letter of Concern, etc).

      (3) Hear and review the contractor(s) opposition to the proposed suspension, debarment, or other administrative remedy.

      (4) Determine whether or not the contractor(s) has raised a genuine dispute over facts material to the proposed debarment or suspension.

      (5) Refer the debarment or suspension file to a fact finder for findings when there is a general issue of material fact in accordance with FAR 9.4, para. 9.406-3d(2)(ii) and AR 27-10, para. 8-4f. The contracting office will be responsible for representing the government and presenting evidence during the fact-finding.

      (6) Coordinate the recommended decision letter with the ACoFs, Acquisition Management.

      (7) Prepare the final decision letter.

      (8) Advise the contractor(s) of USFK debarment and suspension procedures.

      (9) Approve, disapprove, or modify and sign the decision letter.

      (10) Issue the decision letter to the contractor.
(11) Fax or email copies of the contractor(s) proposed suspension, final suspension, proposed debarment, or final debarment letters to the Procurement Fraud Advisor, 411<sup>th</sup> Contracting Support Brigade-Korea (Office of Counsel), as soon as possible after signature (FAR 9.404(c) – Update EPLS generally within 5 working days after the action becomes effective.).

(12) Appoint a Procurement Fraud Irregularities Coordinator and a Procurement Fraud Advisor IAW AR 27-40.

c. Procurement Fraud Irregularities Coordinator (PFIC), USFK/EUSA SJA will –

(1) Have overall responsibility for the design and implementation of the USFK procurement fraud program.

(2) Coordinate procurement fraud irregularities with theater procurement fraud advisors (IMCOM, 411th CSB/K, Far East District Engineers (FED)) and the Army Procurement Fraud Branch (PFB).

(3) Process all suspension, debarment, and other administrative remedies for review by the debarment authority.

d. Assistant Chief of Staff (ACofS), Acquisition Management, will --

(1) Review suspension and debarment reports for compliance with DFARS, part 209.4, and FAR, part 9, subpart 9.4. Recommend approval or disapproval of the report, and return the report to the submitting Procurement Fraud Advisor, 411th CSB/K (Office of Counsel).

(2) Coordinate recommendations concerning invited/technical representative contractor restrictions with the appropriate U.S. diplomatic mission and government agencies.

e. Procurement Fraud Advisor (411th CSB/K) will –

(1) Coordinate 411th CSB/K procurement fraud irregularities with the PFIC.

(2) Review all agency suspension and debarment reports for legal sufficiency.

(3) Register the report as an official USFK initiation of debarment and suspension action.

(4) Draft 411th CSB/K contract suspension and debarment reports related to cases of fraud identified by investigative agencies (CID, OSI, FBI, etc.).

(5) Forward one copy of completed reports, complete with all exhibits and evidence, thru the Director of Contracting, Deputy Assistant Chief of Staff (DACofS), Acquisition Management, to the Assistant Chief of Staff (ACofS), Acquisition Management for review and approval.

(6) Notify contracting activities and concerned agencies in the ROK of potential action pending.

(7) Forward all Freedom of information Act (FOIA) requests for evidence to the USFK Debarment Authority (USFK/EUSA SJA). Copies of all documents released and the name of each requestor will also be forwarded to the Debarment Authority.
(8) Notify contracting activities and concerned agencies in the ROK of the decision.

(9) All changes to the proposed debarment or suspension will be submitted by the contracting agency to the PFA, 411th CSB/K for coordination with the Debarment Authority.

(10) Maintain the USFK list of debarred, suspended, and ineligible contractors, adding contractors to or deleting them from the list when appropriate and posting on the EUSA Portal (https://8army.korea.army.mil/specialstaff/CCK/Office%20of%20Counsel/default.aspx), no less than quarterly.

(11) Fax or email pertinent data on contractor(s) suspended, proposed for debarment, or debarred to the Procurement Fraud Branch (PFB) as soon as possible after the action is completed.

f. Procurement Fraud Advisors (IMCOM/FED) will –

(1) Coordinate procurement fraud irregularities with the PFIC.

(2) Review respective agency suspension and debarment reports, provide a formal legal sufficiency legal opinion, and forward one copy to the PFA, 411th CSB/K.

g. Contracting officers (other than investigative agency cases) will --

(1) Identify the basis for debarment or suspension as set forth in the FAR, part 9, subpart 9.4, and summarize evidence in support of each cited basis.

(2) Prepare the report required by DFARS, part 209.406-3(a) (also see PGI 209.406-3 Procedures).

(3) Review, assess, and initiate all correspondence and coordination between the contracting activity and the contractor concerning the proposed action, to include any steps the contractor may have taken or recommended to avoid practices cited in the proposed debarment or suspension action including the firing of employees, offers to make restitution to the U.S. Government, or similar proposals.

(4) Advise, if known, whether or not the contractor, owners, officers, or managers are prominent citizens or entities in the ROK or if they have any family, social, or other connections with such individuals or entities.

(5) Compile and forward all evidence and related documents supporting the proposed debarment or suspension. In cases in which some of the evidence is classified, privileged, or otherwise not releasable to the contractor, compile and forward a second file of all evidence without the protected evidence. The basis for the deleted evidence will be discussed in the report and will be coordinated with the appropriate investigative agencies before being forwarded to the chief of the contracting office. Investigative agencies may later be required to discuss protected evidence with the military judge or the U.S. counsel representing the U.S. Government.

(6) List each investigating agency that provided information for the action and a point of contact, with phone number, at each agency.
(7) The debarment and suspension file may be prepared and submitted in accordance with Rule 4, Procedures of the Armed Services Board of Contract Appeals, to achieve uniform preparation of the file.

(8) Submit one copy of the report, including enclosures, to their agency Procurement Fraud Advisor for formal legal opinion.

h. Acquisition personnel (contracting specialists, GPC cardholders, billing officials, etc.) will-

(1) Prior to obligating government funds (purchase orders, contract awards, GPC purchases, contract extensions, etc), review the EPLS and USFK Parties List(s) after the opening of contract bids or receipt of proposals to ensure no listed suspended/debarred contractors are utilized in the acquisition process.

(2) Comply with FAR 9.405 (d)(2) and (3).

(3) Prior to award or modification of any contract, acquisition personnel obligating government funds shall again review the EPLS and USFK Parties lists to ensure that no award is made to a listed contractor.

(4) Agencies unable to access the web-based USFK Parties list will notify 411th CSB/K, Office of Counsel, (724-7515/3373), to obtain a copy via telefax/email.

5. Policy Guidance
There are 3 tenets to the USFK/EUSA suspension and debarment program.

 a. Accurate compilation of data supporting suspension and debarment.

 b. A thorough review of advisory lists to identify suspended and debarred contractors.

 c. Individual proactive measures by all personnel to remain cognizant of potential procurement fraud activities and to immediately report suspected fraud to appropriate procurement fraud advisors.

6. Exceptions to Policy

 a. Personnel requesting an exception to policy concerning any chapter, section or paragraph in this regulation must forward a written request through appropriate command channels and HQ USFK, ATTN: FKJA, Unit #15237, APO AP 96205-5237, for final decision. Requests for exception to policy must provide, at a minimum, justification for the exception and include appropriate compensatory measures.

 b. Exceptions to policy approved under previous editions of this regulation will expire 90 days from the effective date of this regulation. Requests for renewal of previously approved exceptions must be submitted within 60 days of the effective date of this regulation, IAW the routing process in paragraph 6a above and the provisions of this regulation.

7. USFK Installation Barment

 a. In specific cases, an Area/USFK-wide installation bar may be imposed on individual contractors debarred from contracting.
b. Installation bars will normally run concurrently with the acquisition debarment period.

c. The procedures established in USFK 190-7 Installation Access will be utilized in the processing of Area/USFK-wide installation barments and reinstatement of installation access privileges.
Appendix A
References

Section I. Required Publications

FAR, Part 9, Contractor Responsibilities and Subpart 9.4, Debarment, Suspension, and Ineligibility. (cited in 1)

DFARS, Part 209.406-3(a) (Debarment, Suspension, and Ineligibility (Investigation and Referral). (cited in 4g(2))

AR 27-40 (Litigation). (cited in 4b(12))

USFK Reg 190-7 (Installation Access Control). (cited in 7)

Section II. Related Publications

AR 27-1 (Legal Services, Judge Advocate Legal Services).

AR 27-10 (Military Justice).

AR 190-30 (Military Police Investigations).

AR 195-2 (Criminal Investigation Activities).

AR 215-4 (Nonappropriated Fund Contracting).


Armed Services Board of Contract Appeals Procedures.

Bid Protest Guide.

Court of Federal Claims Rules.

DoD 5400.7-R (DoD Freedom of Information Act Program)

DoD 5400.11-R (Department of Defense Privacy Program)

DoD 5500.7-R (Joint Ethics Regulation).

Status of Forces Agreement (Art XV).

USFK Reg 700-19 (USFK Invited Contractors and Technical Representatives Program).

USFK Reg 715-2 (Contracting for Supplies, Services, and Construction).
MEMORANDUM FOR THE JUDGE ADVOCATE GENERAL

SUBJECT: Designation of Officials for Debarment, Suspension and Ineligibility Matters

Pursuant to my authority as Acting Secretary of the Army, The Judge Advocate General is hereby designated as my designee under DFARS Subpart 209.4 (Debarment, Suspension, and Ineligibility). He, or his general officer or Senior Executive Service designee, has the authority to act on my behalf for all purposes of this subpart, to include acting as a debarring and suspending official.

This designation includes the authority for The Judge Advocate General to further designate officials to act as debarring and suspending officials in overseas areas of responsibility as specified in DFARS Subsection 209.403, except that such officials overseas need not be general officers.

The Judge Advocate General will ensure that the names of all parties suspended, proposed for debarment, or debarred pursuant to this designation or any redesignation are included on the General Services Administration’s List of Parties Excluded for Federal Procurement or Nonprocurement Programs.

This designation is effective immediately.

R. L. Brownlee
Acting Secretary of the Army
DEPARTMENT OF THE ARMY
UNITED STATES ARMY LEGAL SERVICES AGENCY
801 NORTH STUART STREET
ARLINGTON VA 22202-1837

JALS-CA-PF (27-40f)

MEMORANDUM FOR

COMMANDER, U.S. ARMY LEGAL SERVICES AGENCY
STAFF JUDGE ADVOCATE, UNITED STATES ARMY EUROPE AND SEVENTH ARMY
STAFF JUDGE ADVOCATE, U.S. EIGHTH ARMY

SUBJECT: Designation of Army Officials for Suspension, Debarment, and Ineligibility Matters

1. The Secretary of the Army designated The Judge Advocate General, or his General Officer or Senior Executive Service designee, to act on his behalf for all purposes under Defense Federal Acquisition Regulation Supplement Subpart 209.4 (Suspension, Debarment, and Ineligibility).

2. Under the authority delegated to The Judge Advocate General, the Special Assistant to The Judge Advocate General for Communications, Transportation, and Utilities, Mr. Robert N. Kittel (Senior Executive Service), is hereby designated as the Army's Official for Suspension, Debarment, and Ineligibility matters. The Assistant Judge Advocate General is designated to perform such duties when Mr. Kittel is unable to act due to conflict, disqualification, or unavailability.

3. The Deputy Judge Advocate, U.S. Army Europe and Seventh Army, and the Staff Judge Advocate, U.S. Eighth Army are designated as the Army's Suspension and Debarment officials for Europe and Korea, respectively.

4. These designations shall remain effective until superseded or revoked.

[Signature]
THOMAS J. ROMIG
Major General, USA
The Judge Advocate General

CF:
DJA-ZB
DJA-ZC
DJA-ZX
DJA-AO
JALS-ZX
JALS-CA

Printed on Recycled Paper

8
USFK REG 715-1, 19 May 2010
Example

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: USFK List of Parties Excluded from Federal Procurement and Non-Procurement Programs

1. A revised USFK List of Parties Excluded from Federal Procurement and Non-Procurement Programs, dated 1 November 2007, is enclosed. IAW Federal Acquisition Regulation 9.405, contractors on this list are excluded from receiving contracts, to include purchases made with a Government Purchase Card (GPC). The enclosed information paper provides the restrictions in contracting with companies that are suspended, debarred, or proposed for suspension or debarment actions.

2. This list replaces the USFK List of Parties Excluded from Federal Procurement and Non-Procurement Programs dated 1 August 2007. These names shall be posted on the Excluded Parties Listing System website at http://www.epis.gov/epis/search.do and USFK Parties List at https://cekweb.korea.army.mil/GPC/Repository/Debar/USFKDebar.pdf. Procurement Fraud Updates will be provided via email text and this parties list modified as changes occur. The next USFK List of Parties Excluded from Federal Procurement and Non-Procurement Programs shall be published NLT February 2008.

3. Absent any current contract performance requirements, a USFK-Wide Installation barment shall be imposed on all individuals debarred for more than two years. This bar shall remain in effect for the duration of the procurement/non-procurement debarment period.

4. Point of contact is Office of Counsel, 724-7515.

   DANIEL T. COTTRELL
   COL, AR
   Principal Assistant Responsible for
   Contracting

---

1 "Reciprocal" List

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### FOR OFFICIAL USE ONLY
**USFK SUSPENSION/DEBARMENT LIST**
**BY COMPANY - 1 November 2007**

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<th>COMPANY NAME</th>
<th>REGISTRATION NUMBER</th>
<th>CY OF OFFENSE</th>
<th>OFFENSE</th>
<th>AGENCY</th>
<th>CONTRACTOR ADDRESS</th>
<th>SUSPENSION DEBARMENT PERIOD</th>
<th>START DATE</th>
<th>TERM DATE</th>
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<td>FALSE BIDS</td>
<td>USACK</td>
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<td>5 YRS</td>
<td>24-Jun-04</td>
<td>24-Jun-09</td>
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### FOR OFFICIAL USE ONLY
**USFK SUSPENSION/DEBARMENT LIST**
**BY INDIVIDUAL - 1 November 2007**

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<th>OFFENSE</th>
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<th>ADDRESS</th>
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<th>USFK-WIDE INSTALLATION BAR</th>
<th>START DATE</th>
<th>TERM DATE</th>
<th>COMPANY NAME</th>
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<td>KIM, PON KUN</td>
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<td>PRESIDENT</td>
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<td>BRIBERY</td>
<td>USACK</td>
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<td>5 YRS</td>
<td>YES</td>
<td>24-Jun-04</td>
<td>24-Jun-09</td>
<td>GUBAK CONSTRUCTION CO</td>
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</table>
UNCLASSIFIED

Office of Counsel
U.S. Army Contracting Command Korea
724-7515/1 May 2008

INFORMATION PAPER

CONTRACTS WITH DEBARRED AND SUSPENDED CONTRACTORS

1. Purpose: To highlight restrictions for contractors that are debarred, suspended or proposed for either action.¹

2. Discussion:

   a. New Contracts. Agencies cannot enter into new contracts with companies that are debarred, suspended or proposed for either action. The Federal Acquisition Regulation (FAR) allows an exception to this general rule when "the agency head or designee determines that there is a compelling reason for such action." FAR 9.405(a). The Army has delegated the authority to make this determination to the local Suspension and Debarment Official (SDO), the Staff Judge Advocate for the Eighth U.S. Army, Army FAR Supplement (AFARS) 5109.405(a). A contracting officer initiates the process of seeking an exception, then must route it through the Head of the Contracting Activity (HCA) Director, Army Contracting Agency and the Contract Appeals Division for coordination, and who then forward the request to the local SDO for action. Requests affecting USACKC contracts and the GPC program are all coordinated with the Director of Contracting and the Commander before being forwarded to the HCA.

   b. Existing Contracts. Generally, agencies can continue contracts that were in existence when a firm was debarred, suspended or proposed for either action, unless an agency head or designee directs otherwise. FAR 9.405-1(e) The decision to terminate an existing contract is made by a contracting officer in consultation with his legal advisor and technical staff. Acquisition regulations place several restrictions on the authority to use existing contracts with debarred or suspended contractors. Agencies may not renew or otherwise extend the duration of current contracts (e.g., exercise options), may not place orders exceeding the guaranteed minimum under indefinite quantity contracts or place orders on GSA Federal Supply Schedule contracts. The acquisition regulations do allow exceptions to these rules if the agency determines that there is a compelling reason for that action. Defense FAR Supplement (DFARS) 209.405-1(b) & (c). The local SDO determines if compelling reasons exist to grant an exception using the same procedures outlined above.

   c. Compelling Reasons. Listed below are examples of compelling reasons for contracting with firms that have been debarred, suspended or proposed for either action. Requests for exceptions must be supported by compelling factual information, not general or conclusory statements.

      - Only that contractor can provide the supplies or services;
      - Urgency requires contracting with a debarred or suspended contractor;
      - National defense requires continued business dealings with the contractor; or
      - The contractor and agency have an agreement covering the same events that resulted in the debarment or suspension and the agreement includes the agency's decision not to debar or suspend the contractor.

   d. Individual Responsibilities. All DOD officials involved in the contracting process or GPC program must protect the Government's interests from irresponsible contractors. To satisfy this obligation, agency officials must not seek bids from, extend existing contracts with or award new contracts to companies that are debarred, suspended or proposed for either action. This is achieved by reviewing the USFK and EPLS lists of parties excluded from contracting with the US Gov.²

   e. Contracting Officer's Responsibilities. Contracting officers must also review the Office of Counsel Advisory List to determine if a particular contractor is responsible. The Advisory List identifies companies and/or individuals that are being investigated for possible misconduct. This list may not be released outside of this Command.

¹ Debarments exclude contractors from receiving Government contracts and subcontracts for a set time period. Suspensions have the same effect, but are temporary measures to protect the Government’s interests until an investigation or legal proceeding is completed. FAR 9.405(a) & 9.407-1(b)(1). Contractors proposed for debarment or suspension have been notified that they are being considered for either of these measures and are given an opportunity to present evidence that such measures are unnecessary. As a general rule, contractors are debarred or suspended because they have committed misconduct relating to the performance of a Government contract.

² The restrictions in this information paper also apply to Morale Welfare & Recreation contracts and Government Purchase Card transactions. AR 215-4, para 4-5.a; USACKC GPC SOP, para III.B.4.c.

Appendix D
Excluded Parties List System (EPLS)

https://www.epls.gov/epls/search.do
Glossary

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>ACoS</td>
<td>Assistant Chief of Staff</td>
</tr>
<tr>
<td>CID</td>
<td>Criminal Investigation Division</td>
</tr>
<tr>
<td>DA</td>
<td>Debarment Authority</td>
</tr>
<tr>
<td>DACofS</td>
<td>Deputy Assistant Chief of Staff</td>
</tr>
<tr>
<td>DoC</td>
<td>Director of Contracting</td>
</tr>
<tr>
<td>EUSA</td>
<td>Eighth United States Army</td>
</tr>
<tr>
<td>EPLS</td>
<td>Excluded Parties List System</td>
</tr>
<tr>
<td>FED</td>
<td>Far East District (Engineers)</td>
</tr>
<tr>
<td>FBI</td>
<td>Federal Bureau of Investigation</td>
</tr>
<tr>
<td>FOIA</td>
<td>Freedom of Information Act</td>
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<tr>
<td>GPC</td>
<td>Government Purchase Card</td>
</tr>
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<td>OSI</td>
<td>Office of Special Investigations</td>
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<td>PFA</td>
<td>Procurement Fraud Advisor</td>
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<td>Procurement Fraud Irregularities Coordinator</td>
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<tr>
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<td>Staff Judge Advocate</td>
</tr>
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