

**U.S. Department of Labor
Office of Inspector General
Office of Audit**

BRIEFLY...

Highlights of Report Number 05-10-002-03-321, to the Assistant Secretary for Employment and Training Administration (ETA) and the Deputy Administrator for Wage and Hour Division (WHD).

WHY READ THE REPORT

This report discusses the U.S. Department of Labor's (DOL) use of suspension and debarment authority within the foreign labor certification (FLC) programs. Suspension and debarment are used to assure that the government does business with only responsible parties. Suspension prohibits persons or entities from participating in government business pending the results of an agency investigation. Debarment excludes persons or entities from government business for up to 3 years for prescribed violations. The Federal government established the government-wide Excluded Parties List System as a comprehensive list of individuals and firms suspended, disqualified, or otherwise excluded from receiving business or benefits from federal agencies.

In concert with the Departments of Homeland Security and State, DOL's Office of Foreign Labor Certification (OFLC) and WHD oversee and enforce provisions of the Immigration and Nationality Act (INA) related to several visa programs that permit foreign residents to work in the United States. Violations of program requirements subject persons and entities to potential debarment from future program participation and other government business.

WHY OIG CONDUCTED THE AUDIT

The OIG conducted a performance audit to determine whether OFLC and WHD properly used suspension and debarment in administering the foreign labor certification programs.

READ THE FULL REPORT

To view the report, including the scope, methodology, and full agency response, go to:

<http://www.oig.dol.gov/public/reports/oa/2010/05-10-002-03-321.pdf>

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DEBARMENT AUTHORITY SHOULD BE USED MORE EXTENSIVELY IN FOREIGN LABOR CERTIFICATION PROGRAMS

WHAT OIG FOUND

OFLC and WHD narrowly defined their suspension and debarment authority based only on INA provisions, rather than the broader government-wide authority (29 CFR Part 98). As a result, they did not consider debarment of individuals or entities convicted of program violations resulting from OIG investigations.

When OFLC and WHD did debar individuals or entities, they did not provide that information for inclusion in the government's Excluded Parties List System. As a result, there was an increased risk that parties who had previously violated FLC laws or regulations could continue to participate in FLC programs, or receive business or benefits from other federal agencies.

Although not related to the use of suspension and debarment authority, the audit also identified several FLC applications that contained potentially invalid Employer Identification Numbers (EIN). While the number of potentially invalid EINs was small, the review of applications for valid EINs is within OFLC's authority to "review applications for obvious errors." An invalid EIN may indicate that the applicant is not a legitimate organization.

WHAT OIG RECOMMENDED

We recommended that ETA and WHD take steps to assure that (a) debarments are considered, and decisions documented, for anyone convicted of FLC violations, and (b) FLC debarments are reported to appropriate DOL personnel for inclusion in the government-wide exclusion system. We also recommended that ETA strengthen FLC application processing controls to ensure the detection and resolution of applications with potentially invalid EINs.

The Assistant Secretary for ETA cited the need to resolve differing legal opinions concerning the use of the exclusion system and stated they had implemented additional EIN controls. WHD cited a need for further legal research over both debarment authority and use of the exclusion system.