

Suspension And Debarment: FY 2022 By The Numbers

By **David Robbins** (October 5, 2022, 4:48 PM EDT)

Fall brings many changes, such as colder weather, colorful foliage and the start of a new government fiscal year. It is also time to consider suspension and debarment numbers for the prior fiscal year.

As has been the case in prior years, this review focuses on the agencies most actively suspending and debaring government contractors. Many other agencies have statutory or discretionary programs, but their focus is elsewhere and therefore falls outside the scope of this article.

This analysis is taken directly from the authoritative source of suspension and debarment data — the System for Award Management, or SAM, database. This information is available in real time.

By contrast, the governmentwide suspension and debarment system's annual report to Congress published by the Interagency Suspension and Debarment Committee, or ISDC, is less timely.

The ISDC's latest report published on March 22, and covered fiscal year 2020. Fiscal year 2021's report has not yet published even though the 2022 fiscal year just ended.

The real-time availability of SAM data is vitally important to contractors because it enables a better understanding of the enforcement climate, and shows trends that permit adjustments in internal controls and compliance efforts in real time.

The numbers show that overall suspensions and debarments increased by 20 actions year-over-year. Suspensions and debarments of individuals declined by 49.

Twelve more firms — companies that have indicia of active participation in government contracting — were debarred in fiscal year 2022 as compared with 2021. And the number of special entities — generally, corporate entities that do not have indicia of active participation in government contracting — increased by 58.

This slight increase in overall numbers is a change from a multiple-year, significant slide that caused overall exclusions to drop more than 60% between fiscal year 2016, when we first started with this analysis, and fiscal year 2021.[1]



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SAM Data Versus the ISDC Data

It is important to note that the data reviewed in this article is substantially different from the information published by the ISDC in its annual — though significantly delayed — report to Congress.

The ISDC report lists separately the numbers of suspensions, debarments and proposed debarments by agency. As such, the ISDC report measures the total number of times an agency issues any kind of action during a fiscal year.

For example, if an agency suspended, proposed for debarment and debarred a single contractor in a year, then the ISDC report would count that as three actions. But that tally is not helpful as the public seeks to understand the number of companies or individuals that were subjected to exclusions.

Stated differently, the ISDC report does not help the public understand how common exclusions are. The ISDC report only shares how many actions occurred and is silent on how many respondents were involved.

This is why our annual by-the-numbers series exists: to help contractors assess risks and adjust conduct.

Fiscal Year 2022 at a Glance

| Agency | Total | Firms | Individuals | Special Entities | Percentage Individuals |
|---------------|-------|-------|-------------|------------------|------------------------|
| Agriculture | 47 | 0 | 41 | 6 | 87 |
| USAID | 18 | 0 | 16 | 2 | 89 |
| Commerce | 2 | 0 | 2 | 0 | 100 |
| DOD-Air Force | 47 | 20 | 20 | 7 | 43 |
| DOD-Army | 116 | 24 | 87 | 5 | 75 |
| DOD-DLA | 139 | 59 | 68 | 12 | 49 |
| Education | 14 | 0 | 14 | 0 | 100 |
| Energy | 9 | 2 | 6 | 1 | 67 |
| EPA | 153 | 45 | 74 | 34 | 48 |
| GSA | 43 | 13 | 22 | 8 | 51 |
| Interior | 26 | 2 | 19 | 5 | 73 |
| NASA | 23 | 6 | 17 | 0 | 74 |
| NSF | 5 | 1 | 4 | 0 | 80 |
| SBA | 34 | 6 | 14 | 14 | 41 |
| State | 29 | 6 | 16 | 7 | 55 |
| VA | 29 | 11 | 18 | 0 | 62 |

In an unusual development, several agencies had multiple common names listed in SAM. Most likely these are aliases and do not reflect additional respondents.

For purposes of accuracy, we list the multiple counting agencies below, while the table above contains the numbers as they are listed in SAM.

- The U.S. Agency for International Development had 16 similar names.

- The U.S. Air Force had three individuals with common names.
- The U.S. Army had five common names.
- The U.S. Navy has 10 common names for firms, six common names for special entities and six common names for individuals.
- The General Services Administration has three common names for what appear to be a single car dealership.
- The U.S. Department of the Interior has seven common names for individuals.
- Both the U.S. Small Business Administration and the U.S. Department of Veterans Affairs excluded the same company, San Antonio, Texas-based Blackhawk Ventures LLC.

Fiscal year 2022 also saw a continued tendency to exclude small business compared to large businesses. Recent years' exclusions of U.S. firms by business size are shown in the following table. The table only analyzes firms because they traditionally have indicia of activity as government contractors.

In the 2022 fiscal year, the government moved away from Data Universal Numbering System numbers for the purpose of identifying contractors to unique entity identifiers. This could potentially have caused the government to enter fewer firms and more special entities into SAM.

It is unclear from the numbers what impact unique entity identifiers had, so for this year, we will continue to analyze firms' business size.

And, as always, analyzing business size is more art than science. Open-source business intelligence services like Buzzfile are helpful to look up company revenue and employee numbers, and then we need to use our judgment from there.

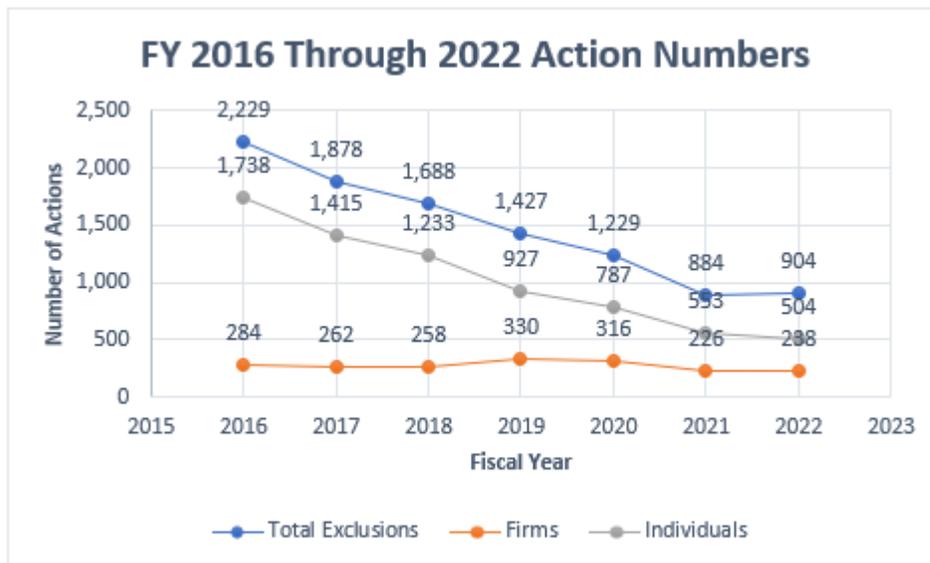
| Agency | Small 2022 | Small 2021 | Small 2019 | Small 2018 | Small 2017 |
|---------------|------------|------------|------------|------------|------------|
| Agriculture | N/A | 100% | 100% | 100% | 88% |
| USAID | N/A | 100% | N/A | N/A | N/A |
| Commerce | N/A | 100% | 100% | 100% | N/A |
| DOD-Air Force | 100% | 88% | 92% | 100% | 100% |
| DOD-Army | 100% | 100% | 91% | 98% | 62% |
| DOD-Navy | 100% | 97% | 100% | 94% | 94% |
| DOD-DLA | 100% | 92% | 97% | 91% | 73% |
| Education | N/A | N/A | N/A | N/A | N/A |
| Energy | 100% | 100% | N/A | 100% | 25% |
| EPA | 82% | 97% | 87% | 98% | 77% |
| GSA | 77% | 100% | 100% | 97% | 100% |
| Interior | 100% | 100% | 100% | 50% | 100% |
| NASA | 84% | N/A | 0% | 100% | 67% |
| NSF | 100% | 100% | 100% | 100% | 100% |
| SBA | 83% | 100% | 100% | 100% | 100% |
| State | 100% | N/A | 100% | 100% | N/A |
| VA | 82% | 100% | 100% | 100% | 100% |

Comparison of Fiscal Year 2016 Through Fiscal Year 2022 Numbers

While exclusions of individuals continued a sharp year-over-year decline, exclusions of firms increased slightly. Exclusions of special entities increased significantly.

| Fiscal Year | Total Exclusions | Firms | Individuals | Special Entities |
|-------------|------------------|-------|-------------|------------------|
| 2016 | 2,229 | 284 | 1,738 | 207 |
| 2017 | 1,878 | 262 | 1,415 | 201 |
| 2018 | 1,688 | 258 | 1,233 | 197 |
| 2019 | 1,427 | 330 | 927 | 188 |
| 2020 | 1,229 | 316 | 787 | 128 |
| 2021 | 884 | 226 | 553 | 104 |
| 2022 | 904 | 238 | 504 | 162 |

Illustrated graphically, the trend lines are:



Although one year is a data point and not a trend, it appears that the government's suspension and debarment system has at least temporarily stopped its intense, year-over-year decline in number of exclusions.

Traditionally, a slight increase in firms excluded and a significant increase in special entity exclusions might be met with skepticism because special entities historically have not had indicia of active participation in government contracting — such as a commercial and government entity code.

One might question whether an increase in exclusions of noncontractors has any real impact in protecting the government contracting system as a whole.

But in the year that the government transitioned to the unique entity identifier, it is at least possible that the Special Entity designation contains some active government contractors. This is worth probing further in future years to see whether fiscal year 2022 was the year the government suspension and

debarment apparatus sought to end its long decline and focused more on exclusions.

There are some signs of life from the suspension and debarment system. The most recent ISDC report showed some innovation,^[2] and at least two agencies have listed reasons for their exclusions in the SAM database in a way that increases transparency and public trust in the system.

The U.S. Department of Commerce inserted so-called additional comments into SAM. For example, the agency included explained that an individual was suspended "while legal proceedings pending" and that another individual had a "[n]o response – debarment."

And the U.S. Department of Agriculture's Risk Management Agency went further, explaining in great depth:

[An individual] was indicted on four counts of False Statements to the Federal Crop Insurance Corporation ... and two counts of Major Fraud Against the United States. ... [after receiving] about \$2,786,372.00 in indemnities from the Risk Management Agency (RMA) to which he was not entitled.

Hopefully the rest of the government suspension and debarment apparatus will become as transparent as the Commerce Department's Risk Management Agency.

In an era where the multi-year decline in suspensions and debarments can call into question the need for the remedy, or cause the public to question whether each agency needs separate staff to manage ever-decreasing numbers of exclusions, additional transparency allows the public to understand how tax dollars are being spent, and how much protection is actually being achieved.

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[1] <https://www.law360.com/articles/1441838/suspension-and-debarment-fy-2021-by-the-numbers>.

[2] [https://www.acquisition.gov/sites/default/files/page_file_uploads/ISDC_FY_2020_Section_873_Report_\(use_for_web_upload\).pdf](https://www.acquisition.gov/sites/default/files/page_file_uploads/ISDC_FY_2020_Section_873_Report_(use_for_web_upload).pdf).

See also, <https://www.law360.com/articles/1485135/new-suspension-and-debarment-report-shows-innovation>.