

The Global Suspension & Debarment Survey: Understanding Exclusion Systems Around the World

May 22, 2019 – Jacob Burns Moot Court Room, The George Washington University Law School

Speakers Present:

- *Maria Swaby*, Suspension and Debarment Official, United States General Services Administration
- *Jessica Tillipman*, Assistant Dean for Field Placement and Professorial Lecturer in Law, George Washington University Law School
- *Chris Yukins*, Lynn David Research Professor Government Procurement Law, George Washington University Law School
- *Belita Manka*, Senior Counsel, Procurement, Legal Vice Presidency, World Bank
- (Moderator) *Collin Swan*, Counsel (Sanctions), World Bank Office of Suspension and Debarment

Session Summary:

The event opened with a brief overview of the Global Suspension and Debarment Survey provided by the survey team, which included Collin Swan & Elle Ross (World Bank Office of Suspension and Debarment), Juan Ronderos (Sanctions Officer for the Inter-American Development Bank Group), and Simon Laliberté (Bureau of the Inspector General of Montreal). A few results from the pilot study, launched from May to October 2018, were presented. The session then moved to a panel discussion of the survey and issues surrounding exclusion.

The panelists first discussed the findings of the pilot study and some of the challenges associated with launching a survey on this topic. Ms. Tillipman noted that the survey results indicated that a substantial number of jurisdictions do not allow for debarment to be waived under any circumstances, including a national emergency or lack of another supplier able to perform the work. Mr. Yukins stated that he was most interested in the various areas which showed substantial commonalities between the systems, such as the grounds for which an exclusion may be imposed. Ms. Manka noted that the jurisdictions surveyed in the pilot study largely reflected Western European and OECD countries and indicated that this could account for some of the similarities in the systems. However, she also noted that many of the grounds for exclusion described in the survey were very similar to those she has seen in procurement legislation of other countries. However, there are additional grounds found in certain systems which are not captured by this list such as: withdrawal of the bid before contract award, failure by the successful bidder to sign the contract, professional misconduct, etc.

The speakers also addressed the issue of standardization of suspension and debarment practices. Ms. Tillipman discussed the lack of uniformity in terms used to describe exclusion – including “suspension,” “debarment,” “blacklisting,” and “sanctions.” These terms can help indicate the purposes of the system, and there is a clear variety of reasons why a country may decide to implement an exclusion system. Ms. Manka pointed out that the survey could be a good way to identify the different meanings assigned to terms and help generate a more uniform lexicon around exclusion.

Ms. Swaby and Mr. Yukins discussed the desirability of having an easy way to share exclusion information across systems. Ms. Swaby stated that attempts to apply cross-debarment may be hampered by available resources and the practical considerations governments must consider when making decisions about how, and to what extent, to display information. Mr. Yukins argued that we are heading toward an era of open data; governments should thus consider whether public information is easily accessible and understandable, even in other jurisdictions.

Ms. Swaby discussed what it takes to implement an exclusion system based on her experiences working with the Tunisian government to develop their current exclusion framework. She identified five areas which should be included in any exclusion system: (1) active referral process, (2) dedicated staff, (3) detailed, written policies and procedures that are publicly available, (4) case management system, and (5) regularly measured performance standards.