

February 2009

EXCLUDED PARTIES LIST SYSTEM

Suspended and
Debarred Businesses
and Individuals
Improperly Receive
Federal Funds



GAO

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Highlights of [GAO-09-174](#), a report to congressional requesters

Why GAO Did This Study

To protect the government's interests, any agency can exclude (i.e., debar or suspend) parties from receiving federal contracts or assistance for a range of offenses. Exclusions of companies or individuals from federal contracts or other funding are listed in the Excluded Parties List System (EPLS), a Web-based system maintained by GSA.

Recent allegations indicate that excluded parties have been able to receive federal contracts. As a result, GAO was asked (1) to determine whether these allegations could be substantiated and (2) to identify the key causes of any improper awards and other payments detected. GAO investigated parties that were excluded for offenses such as fraud, theft, and violations of federal statutes and received awards in excess of \$1,000.

What GAO Recommends

GAO recommends that GSA take actions to strengthen controls over EPLS, including issuing guidance to agency officials on EPLS requirements, ensuring that EPLS requires the entrance of contractor identification numbers, and strengthening search functions. GSA agreed with these recommendations and outlined several actions it has taken or plans to take. However, the actions described do not achieve the intent of GAO's recommendations. GSA simply restated its current policies instead of agreeing to take steps to oversee the completeness of EPLS and ensure that exclusions are properly enforced.

To view the full product, including the scope and methodology, click on [GAO-09-174](#). For more information, contact Gregory Kutz at (202) 512-6722 or kutzg@gao.gov.

EXCLUDED PARTIES LIST SYSTEM

Suspended and Debarred Businesses and Individuals Improperly Receive Federal Funds

What GAO Found

Businesses and individuals that have been excluded for egregious offenses ranging from national security violations to tax fraud are improperly receiving federal contracts and other funds. GAO developed cases on a number of these parties and found that they received funding for a number of reasons, including because agency officials failed to search EPLS or because their searches did not reveal the exclusions. GAO also identified businesses and individuals that were able to circumvent the terms of their exclusions by operating under different identities. GAO's cases include the following:

- The Army debarred a German company after its president attempted to ship nuclear bomb parts to North Korea. As part of the debarment, Army stated that since the president "sold potential nuclear bomb making materials to a well-known enemy of the United States," there was a "compelling interest to discontinue any business with this morally bankrupt individual." However, Army told GAO it was legally obligated to continue the contract and paid the company over \$4 million in fiscal 2006. In fact, the Army had several options for terminating the contract, but it is not clear if these options were considered.
- The Navy suspended a company after one of its employees sabotaged repairs on an aircraft carrier by using nonconforming parts to replace fasteners on steam pipes. If these pipes had ruptured as a result of faulty fasteners, those aboard the carrier could have suffered lethal burns. Less than a month later, the Navy improperly awarded the company three new contracts because the contracting officer did not check EPLS.

Additional Examples of Excluded Parties That Continued to Receive Federal Funds

Nature of work	Reason for exclusion	Case details
Administrative services	Submission of inflated invoices to IRS	NASA awarded company \$450,000 because it did not search EPLS.
Computer services	Falsification of SEC filings	USDA awarded company \$120,000 when EPLS searches did not reveal the suspension.
Electronics	Conviction for making fraudulent purchases using stolen federal government credit cards	Debarred owner created "new" company with a different name but the same address, to obtain awards from the Defense Logistics Agency.

Source: GAO.

Most of the improper contracts and payments GAO identified can be attributed to ineffective management of the EPLS database or to control weaknesses at both excluding and procuring agencies. For example, GAO's work shows that entries may contain incomplete information, the database has insufficient search capabilities, and the points of contact for information about exclusions are incorrect. GAO also found several agencies that did not enter exclusions and others that did not check EPLS prior to making awards. Finally, GAO found that excluded parties were still listed on GSA's Federal Supply Schedule, which can result in agencies purchasing items from unscrupulous companies. To verify that no warnings exist to alert agencies that they are making purchases from excluded parties, GAO used its own purchase card to buy body armor worth over \$3,000 from a company that had been debarred for falsifying tests related to the safety of its products.

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Abbreviations

CAGE	Commercial and Government Entity
CO	Contracting Officer
DLA	Defense Logistics Agency
DOJ	Department of Justice
DUNS	Data Universal Numbering System
EIN	Employer Identification Number
EPA	Environmental Protection Agency
EPLS	Excluded Parties List System
FAQ	Frequently Asked Questions
FAR	Federal Acquisition Regulation
FPDS-NG	Federal Procurement Data System-Next Generation
GSA	General Services Administration
HHS	Department of Health and Human Services
IAE	Integrated Acquisition Environment
IRS	Internal Revenue Service
NASA	National Aeronautics and Space Administration
SEC	Securities and Exchange Commission
SSN	Social Security Number
TIN	Taxpayer Identification Number
USDA	United States Department of Agriculture
VA	Department of Veterans Affairs

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United States Government Accountability Office
Washington, DC 20548

February 25, 2009

The Honorable Edolphus Towns
Chairman
Committee on Oversight and Government Reform
House of Representatives

The Honorable Henry A. Waxman
House of Representatives

Federal agencies are required to award contracts only to presently responsible sources—those that are determined to be reliable, dependable, and capable of performing required work. To protect the government's interests, any agency can exclude, i.e., suspend or debar, businesses or individuals from receiving contracts or assistance¹ for various reasons, such as a conviction of or indictment for criminal or civil offense or a serious failure to perform to the terms of a contract.² Within 5 business days after a suspension or debarment becomes effective, agencies must report all excluded parties to the Excluded Parties List System (EPLS), a Web-based system maintained by the General Services Administration (GSA).³ Before awarding funds, contracting officers and other agency officials are required to check EPLS to ensure that a prospective vendor is not an excluded party.

GSA offers training for suspension and debarment officials and other agency personnel only on EPLS system requirements. GSA has not issued any additional guidance or best practices related to EPLS. According to GSA, agencies are responsible for training suspension and debarment officials and contracting officers about Federal Acquisition Regulation (FAR) requirements related to exclusions and procurements. In addition,

¹ Parties can be excluded from receiving a wide range of federal funds including, but not limited to, Medicare and Medicaid provider payments, cooperative agreements, scholarships, fellowships, loan guarantees, subsidies, insurance, payments for specified uses, donation agreements, or contracts of assistance.

² A suspension is a temporary exclusion of a party pending the completion of an investigation, while a debarment is a fixed-term exclusion. Generally, the period of debarment does not exceed 3 years, though some are indefinite.

³ The database can be accessed at www.epls.gov.

GSA told us that the Federal Acquisition Institute offers training courses on these issues.

In July 2005, GAO reported that the data in EPLS were insufficient to enable agencies to determine with confidence that a prospective vendor was not currently excluded.⁴ In response, GSA agreed to modify EPLS's data requirements to include a mandatory provision that agencies enter a Data Universal Numbering System (DUNS) number to facilitate the identification of excluded contractors.⁵ Despite this modification, recent allegations indicate that businesses or individuals that have been excluded for egregious offenses have been able to "resurface" under the same or a different business name or identity in order to continue to receive federal contracts and other funds. As a result, you asked us to (1) determine whether we could substantiate these allegations and (2) identify the key causes of any improper awards and other payments we detect.

To determine whether excluded individuals are receiving federal funds, we first compared DUNS numbers appearing in EPLS with those appearing in the Federal Procurement Data System-Next Generation (FPDS-NG) for fiscal years 2006 and 2007. FPDS-NG is the central repository for capturing information on federal procurement actions. Because not all records within EPLS contain DUNS numbers, we also compared vendor addresses available in EPLS with those in FPDS-NG. From the matches we identified, we selected for further investigation parties that (1) were excluded governmentwide for egregious offenses such as fraud, false statements, theft, and violations of selected federal statutes and (2) received new awards in excess of \$1,000 during the period of suspension or debarment. We reviewed agency documentation related to the exclusion actions and the justifications for awards to confirm that these parties had received improper awards and to identify the key causes of such awards. We did not examine any federal award databases other than FPDS-NG, nor did we examine whether excluded parties continued to receive federal funds under subcontract arrangements or from grants, loans, or subsidies. Our objective was not to determine, and we did not have data to determine, the number of businesses and individuals in EPLS that received new federal awards during their exclusions. However, the data we obtained were

⁴ GAO, *Federal Procurement: Additional Data Reporting Could Improve the Suspension and Debarment Process*, [GAO-05-479](#) (Washington, D.C.: July 29, 2005).

⁵ A DUNS number is a unique nine-digit identification number assigned to firms by Dun & Bradstreet, Inc.

sufficient to identify businesses and individuals for further investigation. We prepared case studies on these parties if we could confirm that they received improper awards during the period of their exclusion. However, we did not conduct an exhaustive investigation of these parties' business and financial transactions, nor could we determine the total dollar value of improper awards they received.

We conducted our audit work and investigative work from December 2007 through November 2008. We conducted our audit work in accordance with U.S. generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives. We performed our investigative work in accordance with standards prescribed by the President's Council on Integrity and Efficiency. A detailed discussion of our scope and methodology is presented in appendix 1.

Results in Brief

We confirmed allegations that businesses and individuals that were excluded for egregious offenses were continuing to improperly receive federal contracts. Specifically, we developed case studies on businesses and individuals that were awarded funds despite being suspended or debarred for a variety of offenses, ranging from national security violations to illegal dumping of chemicals to tax fraud. These excluded parties received funding in part because agency officials failed to search EPLS or because their searches did not reveal the exclusions as a result of system deficiencies. We also identified additional cases involving businesses and individuals that were able to fraudulently circumvent the terms of their exclusions by operating under different identities and one case where the Army chose to continue doing business with an excluded party despite its debarment. Examples of our cases include the following:

- In July 2005, the Department of the Army debarred a German company and its president after the president violated German law and attempted to ship dual use aluminum tubes, which can be used to develop nuclear weapons, to North Korea. In the debarment decision, the Army stated that because the president "sold potential nuclear bomb making materials to a well-known enemy of the United States," there was a "compelling interest to discontinue any business with this morally bankrupt individual." Despite this debarment, the Army chose to continue to award the company task orders and paid it over \$4

million during fiscal year 2006. Although the Army told us that it was legally obligated to continue the contract with the company, there were in fact several options available for termination. It is not clear if the Army considered these options because the officials we spoke with were not sure of the exact circumstances surrounding the decision and there was no contemporaneous documentation related to the case.

- In April 2006, the Department of the Navy suspended a company after one of its employees sabotaged repairs on an aircraft carrier by using nonconforming parts to replace fasteners on steam pipes. If these pipes had ruptured as a result of faulty fasteners, those aboard the carrier could have suffered lethal burns. However, less than a month after the suspension, the Navy awarded the same company three new contracts because a contracting officer failed to check EPLS to verify the company's eligibility.
- GSA suspended a construction company in September 2006 after its president opened fraudulent GSA surplus-property-auction accounts using fictitious Social Security numbers so that he could continue to do business with GSA while his original account was in default for nonpayment. The Department of the Interior attempted to check the contractor's eligibility in EPLS prior to making several awards to the company, but the exclusion was not revealed because GSA did not enter the company into EPLS until October 2006, more than a month after the suspension began.
- The Department of Health and Human Services (HHS) debarred an individual in April 2003 for 5 years after he pleaded guilty to Medicare fraud. Because HHS did not debar the individual's company, he transferred ownership of the company to his wife in an attempt to continue receiving Medicare reimbursements. After HHS objected to this arrangement, he then sold the company to a neighbor. Two years later, citing financial difficulties, the neighbor sold the business back to the original owner's wife. The wife admitted to our investigators that she then legally changed her last name to her maiden name to avoid "difficulties" in using her husband's name. Using this scheme, the couple received Medicare payments for the remaining 3 years of the husband's debarment.

Most of the improper contracts and payments we identified can be attributed to ineffective management of the EPLS database or to control weaknesses at both excluding and procuring agencies. Our cases and analyses of EPLS data demonstrate that no single agency is proactively monitoring the content or function of the database and that agencies are

not consistently inputting timely or accurate data related to the parties they exclude. Specifically, our work shows that EPLS entries may contain incomplete information, the database has insufficient search capabilities, and the listed points of contact for further information about exclusions are incorrect. With regard to agency control weaknesses, our investigation shows that (1) excluding agencies ignored the DUNS number requirement, (2) agencies did not enter exclusions within the required time frame, (3) contracting officers failed to check EPLS prior to making awards or adding new work or extensions to existing contracts, (4) agencies used automated purchasing systems that do not interface with EPLS, and (5) agencies made purchases from excluded parties that are listed on GSA's Federal Supply Schedule. Although agencies are still required to check EPLS prior to purchasing items through this program, the fact that excluded parties are listed on the GSA Schedule can result in agencies purchasing from unscrupulous companies that continue to pursue business with the government notwithstanding the terms of their exclusions. To verify that no warnings exist to alert agencies that they are making purchases from excluded parties, we used our own GAO purchase card to buy body armor worth over \$3,000 through the Supply Schedule from a company that had been debarred by the Department of the Air Force in September 2007 for falsifying tests related to the safety of its products.

On November 18, 2008, we held a corrective action briefing with the agencies that are the subjects of our case studies. At the briefing, GSA officials noted that most of the issues we had identified could be solved through improved training, and the other agencies agreed. We also referred all of our cases to the appropriate agency officials for further action. In addition, we are recommending that the Administrator of General Services take five actions to strengthen controls over EPLS to improve the effectiveness of the suspension and debarment process. Specifically, GSA should issue guidance to procurement officials on the requirement to check EPLS prior to awarding contracts and to suspension and debarment officials on the 5-day entry and contractor identification number requirements. GSA should also ensure that the EPLS database requires contractor identification numbers for all actions entered into the system. In addition, GSA should strengthen EPLS search capabilities and take steps to update and maintain EPLS points of contact. Finally, GSA should place a warning on the Federal Supply Schedule Web site indicating that prospective purchasers need to check EPLS to determine whether vendors are excluded and should also explore the feasibility of removing or identifying excluded entities that are listed on the Schedule.

In written comments on a draft of this report, GSA agreed with all five of our recommendations. As part of its response, GSA outlined actions it plans to take or has taken that are designed to address our recommendations. However, most of the actions described do not achieve the intent of these recommendations. In several instances, GSA simply restated its current policies and procedures instead of agreeing to take steps to oversee the completeness of EPLS and ensure that exclusions are properly enforced. Based on our investigation, if GSA is not more proactive in its management of the system, suspended and debarred companies will continue to improperly receive millions of taxpayer dollars. See the Agency Comments and Our Evaluation section of this report for a more detailed discussion of GSA's comments. We have reprinted GSA's written comments in appendix III.

Background

GSA operates EPLS through funds obtained from 24 federal agencies⁶ in support of the Integrated Acquisition Environment (IAE), a bundle of services established to streamline the federal government acquisition process.⁷ Agencies are required to report excluded parties by entering information directly into the EPLS database within 5 working days after the exclusion becomes effective. When a business is excluded, the action extends to all its divisions and organizational units, as well as specifically named affiliates. Affiliates may include businesses with interlocking management, shared facilities, and equipment; new businesses with the same ownership and employees as previously excluded businesses; and common interests among family members.

The Federal Acquisition Regulation (FAR) includes a list of the information to be entered in EPLS, such as the individual's or business's name and address, a code signifying the cause of the exclusion, the length of the exclusion, the name of the agency taking the action, and the contractor identification number, if applicable. With regard to the latter, for firms the FAR requires entrance of a DUNS number—a unique nine-digit identification number assigned by Dun & Bradstreet, Inc. If available and disclosure is authorized, excluding agencies should also enter an employer identification number (EIN), other taxpayer identification number (TIN), or a Social Security number (SSN) if excluding an individual. Department of Defense agencies may also enter a Commercial

⁶ The 24 agencies are those subject to the Chief Financial Officers Act.

⁷ See www.gsa.gov/iae for a list of the services included in the IAE.

and Government Entity (CAGE) code, a unique identifier assigned by the department.

Before awarding contracts or making purchases from GSA's Federal Supply Schedule, contracting officers and other agency officials are required to check EPLS to ensure that a prospective vendor is not an excluded party. Generally, excluded parties may complete their performance on preexisting contracts. However, agencies must check EPLS prior to making any modifications that add new work or extend the period of performance, unless a waiver is granted by the head of the agency.

Excluded Parties Continue to Do Business with the Government

Businesses and individuals that have been excluded for egregious offenses are continuing to receive federal contracts and other funds. We developed case studies on several of these excluded parties and found that they continued to receive contracts and other federal payments in part because agency officials failed to search EPLS or because their searches did not reveal that the entity was excluded as a result of system deficiencies. In other cases, these searches did not reveal exclusions because the excluded businesses and individuals were fraudulently operating under different identities. We also identified one case where the Army chose to continue doing business with an excluded party despite its debarment. Table 1 highlights 15 of the case studies we developed. More detailed information on 10 of these cases follows the table. An additional 10 cases are listed in appendix II.

Table 1: Case Studies Show That Agencies Are Awarding Funds to Excluded Parties

Case	Nature of work	Excluding agency and reason for exclusion	Case details
1	Chemical products	<ul style="list-style-type: none"> GSA, May 2007 Conspiring to defraud the government. 	<ul style="list-style-type: none"> Company sold over \$1,000,000 in chemicals to various federal agencies, including GSA, during its debarment. EPLS searches did not reveal the company was debarred because GSA did not list any unique identifying information for the company in EPLS until we notified it of the discrepancy in May 2008.
2	Cable television	<ul style="list-style-type: none"> Navy, July 2003 Conviction for a massive tax fraud scheme. 	<ul style="list-style-type: none"> The Navy made two awards to the company during FY 2006 and FY 2007 totaling \$230,000 because the contracting officer (CO) used an incorrect name to search EPLS.
3	Mechanical parts	<ul style="list-style-type: none"> Defense Logistics Agency (DLA), February 2005 Delivery of noncompliant parts for use in military vehicles. 	<ul style="list-style-type: none"> Per a DLA investigation conducted in summer 2007, during its debarment the company sold over \$1,000,000 in parts to various federal agencies, including the Air Force, the Army, the Navy, and GSA, among others. The Air Force purchased \$2,000 of these parts because it used incorrect punctuation in an EPLS search. We do not have documentation explaining why other agencies made awards to this company.
4	Computer services	<ul style="list-style-type: none"> GSA, August 2006 Conviction for falsification of records related to Securities and Exchange Commission (SEC) filings. 	<ul style="list-style-type: none"> The U.S. Department of Agriculture (USDA) awarded the company \$120,000 in September 2006 when EPLS searches by name and DUNS did not reveal the suspension because the CO used incorrect punctuation in the company's name.
5	Construction	<ul style="list-style-type: none"> GSA, September 2006 Use of fictitious SSNs to open fraudulent GSA auctions accounts. 	<ul style="list-style-type: none"> Interior made seven awards to the company totaling \$230,000 during 2007. Five of these awards were made because the CO failed to query EPLS. For two awards, an EPLS query did not reveal the suspension because GSA failed to enter the data in a timely manner.
6	Cleaning supplies	<ul style="list-style-type: none"> GSA, March 2007 Conviction for illegally dumping chemicals into city sewers. 	<ul style="list-style-type: none"> The Department of Veterans Affairs (VA) made a \$1,500 purchase from the company during August 2007. VA did not check EPLS because it assumed the company was eligible based on its listing on the Federal Supply Schedule.
7	Engineering	<ul style="list-style-type: none"> Navy, April 2006 Deliberate replacement of inspected parts with nonconforming parts during a repair of a naval vessel. 	<ul style="list-style-type: none"> Within a month of debarring the company, the Navy awarded contracts totaling \$110,000 without checking EPLS. The Navy also made a \$4,000 award following an EPLS search in which the company's name was misspelled.
8	Electronics	<ul style="list-style-type: none"> DLA, May 2006 Use of insider information to bid on federal contracts. 	<ul style="list-style-type: none"> The Air Force awarded the company \$50,000 in 2007 after incorrectly searching for the company's DUNS using EPLS's name search function.

Case	Nature of work	Excluding agency and reason for exclusion	Case details
9	Administrative services	<ul style="list-style-type: none"> Treasury, March 2004 Submission of inflated invoices to the Internal Revenue Service (IRS) for payment. 	<ul style="list-style-type: none"> The National Aeronautics and Space Administration (NASA) awarded the company \$450,000 in 2006 on the basis of an EPLS query performed in 2003, before the company was debarred.
10	Prosthetics	<ul style="list-style-type: none"> GSA, November 2006 Violation of antifraud provisions of federal securities laws. 	<ul style="list-style-type: none"> GSA did not enter the company in EPLS until after the suspension had terminated. VA made \$1,000 in purchases from the company in November 2006, having no way to know that the company was ineligible.
11	Electronics	<ul style="list-style-type: none"> Navy, October 2005 Conviction for stealing federal purchase card numbers to make fraudulent purchases totaling over \$125,000. 	<ul style="list-style-type: none"> DLA made a \$2,500 purchase from the company in December 2005 through an automated purchasing system that does not interface with EPLS. Debarred owner created a "new" company to receive an additional \$30,000 in 2006 and 2007 from DLA by using a slightly altered name and a new DUNS and CAGE code. Federal contractor databases list the convicted company president as the point of contact for both companies. The contact phone number, addresses, and banking information were also identical.
12	Medical equipment	<ul style="list-style-type: none"> HHS, April 2003 Conviction for wire and Medicare fraud. 	<ul style="list-style-type: none"> After a series of ownership transfers, the owner's wife operated her debarred husband's company under her maiden name. This scheme allowed the company to continue to receive Medicare disbursements for 3 years until her husband's debarment terminated.
13	Aircraft adhesives	<ul style="list-style-type: none"> GSA, November 2006 Wire fraud and use of noncompliant parts. 	<ul style="list-style-type: none"> GSA entered into an administrative agreement with the owner that allowed him to continue to do business with the government as long as he removed himself from daily operations. In reality, the owner maintained control of the company using anonymous e-mail accounts and untraceable prepaid cell phones.
14	Military spare parts	<ul style="list-style-type: none"> DLA, December 2005 Conviction for false statements. 	<ul style="list-style-type: none"> The Navy and the Air Force made purchases totaling \$3,000 during FY 2006 in part because they used incorrect punctuation in EPLS searches.
15	Manufacturing	<ul style="list-style-type: none"> Army, July 2005 Conviction in Germany for attempting to smuggle nuclear reactor parts into North Korea. 	<ul style="list-style-type: none"> The Army awarded the company over \$4 million during FY 2006. The Army told us it was legally obligated to continue the contract. However, there were in fact several options for termination. It is not clear whether the Army considered those options.

Source: GAO.

Notes: Dollar amounts are rounded. An additional 10 cases, numbered 16 to 25, are listed in appendix II.

Case 1: GSA debarred this company and its principals in May 2007 for conspiring to defraud the government by affixing false manufacturing labels on chemicals they were selling to GSA. In addition, investigators from the Environmental Protection Agency (EPA) and the Drug Enforcement Agency learned this company was selling an ozone-depleting chemical to a company that in turn sold the chemical to individuals for the illegal production of methamphetamines. Despite its debarment, the company has since received over \$1 million in awards from four different federal agencies; the majority of these awards were made by USDA and GSA. USDA officials told us that they were exercising an option year on a previously existing contract with the company and that their internal procedures did not require them to conduct an EPLS search prior to awarding the company \$700,000 associated with the option. However, the officials were mistaken: the FAR states that options will not be exercised with debarred parties unless the head of an agency makes a determination that the agency should continue the contract.⁸

Furthermore, when we asked GSA officials why they were doing business with a company they had recently debarred, they told us that it was not the same company. Specifically, they told us that they had checked EPLS and found that the company that they were currently doing business with had a different address than the company they originally debarred, even though both shared the same name. But when we examined records associated with the debarment, we were able to confirm that it was in fact the same company. GSA's debarring official had mistakenly entered the company's attorney's address into EPLS instead of its business address. After we notified GSA, they corrected the entry in May 2008. However, because of the incorrect address and lack of DUNS, agencies that conducted EPLS searches related to this company prior to May 2008 would have been unable to determine that it was debarred. According to one of the company's principals, they continued to accept federal funds during the debarment because agencies continued to place orders on existing contracts; the principals did not feel obligated to point out that the agencies were in error.

Case 2: In 2003 and 2004, the Navy debarred this company, its 20 subsidiaries, and several of its executives (including its comptroller, treasurer, and president/co-owner) in conjunction with a massive tax fraud scheme. Specifically, the company pleaded guilty in November 2002

⁸ Federal Acquisition Regulation (FAR) § 9.405-1(b)(3).

of conspiring to defraud the Department of Defense through falsified cost claims and money laundering related to its business of providing cable television service to U.S. military installations. Prior to this plea, the company president/co-owner fled to New Zealand via Canada and Barbados under a Grenadian passport obtained in the name of a deceased former neighbor. He was apprehended by Australian police in 2002 while attempting to obtain a Canadian visa in Sydney and was extradited 4 years later. He was eventually convicted of tax evasion, false claims, and mail fraud and was sentenced to 108 months imprisonment and ordered to pay a \$4 million fine.

During 2006 and 2007, the Navy lifted the debarments from the parent company and 11 of the company's subsidiaries because the company's president and other executives agreed to remove themselves from office. However, the remaining 11 subsidiaries continued to be debarred in part because the company was unable to provide the Navy with evidence that the former president and other executives had actually resigned from day-to-day operations. Despite the subsidiaries' ongoing debarred status, the Navy awarded \$230,000 to 2 of these 11 debarred subsidiaries during 2006 and 2007. About \$225,000 of this total was awarded because the Navy searched EPLS using a variation of the company name that was not listed as debarred.

Although the parent company continues to be the sole provider of cable for numerous military bases throughout the world, the Navy remains concerned about doing business with the company in part because of its continued relationship with the former president. Specifically, prior to departure from office, the president gifted his 50 percent ownership interest in the company to his wife; she was never debarred but was previously suspended for 5 months beginning October 2006. Currently, she is president and CEO and has assumed management of the corporate staff. As of March 5, 2007, the debarred former president was serving the first 6 months of his sentence under house arrest.

Case 4: GSA suspended this computer services company in August 2006 after a conviction for falsification of books and records used for required SEC filings. USDA awarded the company \$120,000 in September 2006. Although USDA procurement staff searched for the correct company in EPLS, they left out a comma when spelling the name, and the suspension did not appear.

Case 5: In September 2006, GSA suspended this construction company and its president after the president was found to have used fictitious Social Security numbers to open multiple GSA auction accounts to bid on surplus property. These fraudulent accounts allowed him to continue to bid on property from GSA while his primary account was in default for nonpayment. Despite this suspension, Interior made seven awards in 2007 to the company totaling over \$230,000. For five of these awards, Interior was unable to provide evidence that EPLS was checked prior to the award. The remaining two awards were both made within a month of the suspension. Because GSA had failed to enter the suspension information into EPLS in a timely manner, Interior was unaware of the company's ineligibility. Specifically, GSA did not enter the company into EPLS for more than a month after its suspension, even though the FAR requires agencies to report excluded parties within 5 working days after the exclusion becomes effective.

Case 6: This cleaning supply manufacturer was convicted for illegally discharging chemicals into a city sewer system. GSA suspended the company in March 2007. Prior to its suspension, the company had been approved as a GSA Supply Schedule vendor through July 2011. Although agencies are required to check EPLS prior to making purchases through the supply schedule, VA officials assumed that the company was eligible based on its Supply Schedule listing and purchased \$1,500 of cleaning products in August 2007.

Case 7: The Navy initially contracted with this engineering company to replace 500 "brittle fasteners" on steam pipes on the aircraft carrier U.S.S. John F. Kennedy in February 2006. Subsequently, Navy personnel conducted ongoing inspections of the replacements to verify that they had been properly changed. The Navy suspended the company in April 2006 when it found that one of the company's employees was replacing the correct fasteners he had recently installed with nonconforming parts after those initially installed had already passed inspection. The employee used this scheme because he had underestimated the number of fasteners he needed to complete the replacement work. According to documents provided by Navy officials, if these pipes had ruptured as a result of faulty fasteners, those aboard the carrier could have suffered lethal burns. Despite these actions, the Navy made three awards worth a total of \$110,000 to the company within a month of the suspension because COs did not check EPLS to verify the company's eligibility. The Navy awarded

the company an additional \$4,000 when another CO misspelled the company's name in an EPLS search.⁹

Case 9: Treasury suspended this administrative services company in March 2004 for inflating costs on invoices submitted to the IRS. Prior to this suspension, during September 2003, NASA issued a contract to the company for training logistics support services. In a memorandum describing this award decision, NASA made specific reference to ongoing litigation related to cost inflation on IRS invoices, but noted that at that time “neither the IRS, nor the DOJ has initiated suspension or debarment actions.” Even though NASA had knowledge of the case, it failed to check EPLS for a change in contractor eligibility prior to making modifications to the company's contract in 2006, as required by the FAR. Instead NASA simply relied on its original 2003 EPLS check when increasing the contract's value, in excess of the minimum contract value, by \$450,000.

Case 11: The CEO of this electronics company was convicted in June 2004 of making fraudulent purchases with government purchase card information that he stole from Navy officials who were making purchases from his company. The Navy debarred the CEO and his company in October 2005. However, DLA's automated purchasing system, which does not interface with EPLS, placed an order with the company during its debarment for \$3,000 worth of electrical components. In addition, the CEO created a “new” company using a slightly altered business name, different DUNS numbers, and CAGE codes—the three primary unique identifiers used to locate a firm within EPLS.¹⁰ He was then able to receive an additional \$30,000 in awards during 2006 and 2007 from DLA. Our investigation also revealed that this second company shares the same address, phone number, and bank account with the debarred company.

Case 12: This case involves a debarred individual who used a series of ownership changes to allow his durable medical equipment company to continue to receive reimbursements from Medicare. In April 2003, HHS debarred the owner for 5 years after he pleaded guilty to wire fraud and Medicare fraud related to a scheme in which he used his company to sell medically unnecessary incontinence kits to nursing homes. Because HHS did not debar the individual's company, he transferred ownership of the

⁹ Navy identified this award prior to delivery and cancelled it at no cost to the government.

¹⁰ Although the second company was incorporated in 2002, prior to the debarment of the CEO's primary business, the majority of its sales occurred after the debarment.

company to his wife in an attempt to continue receiving Medicare reimbursements. HHS objected to this transfer and threatened to debar the entire company unless another owner could be found. The couple then sold the business to a neighbor. After 2 years, citing financial difficulties, the neighbor defaulted on her obligations and returned the business to the original owner's wife.

After the wife reassumed control of the company, she legally changed her last name back to her maiden name, even though she was still married to the original owner. She admitted to our investigators that she did so to avoid "difficulties" in conducting business using the same name as a convicted criminal. She also transferred the full assets of her husband's former company to a preexisting durable medical equipment company that she also owned and changed the name under which the company would do business. The couple told us, and the Medicare program confirmed, that the business continued to receive reimbursements from Medicare for the remainder of the husband's debarment. The husband's debarment terminated in April 2008, and he has returned to running the original company's day-to-day operations.

Case 13: GSA debarred the owner of this aircraft adhesives company in November 2006 after he was convicted of wire fraud related to a scheme in which he conspired with his subcontractor to fraudulently change expiration dates on adhesives sold to the Navy. The adhesives he sold to the Navy were 5 years out of date. As part of the debarment, GSA entered into an administrative compliance agreement with the owner that allowed his company to continue do business with the federal government. This agreement was based in part on the owner's assertion that he had voluntarily built a "firewall" between himself and the day-to-day operations of his company. However, our investigation revealed that the owner misled GSA and was in reality still continuing to run the company through an intermediary by using anonymous e-mail accounts and untraceable prepaid cell phones. Specifically, the intermediary, who was supposedly in charge of daily operations, told us that he e-mailed all transactions and communications to the debarred owner for review. This information included contracts, government orders, and orders from suppliers. In addition, the intermediary told us that he provided the owner with daily updates on company operations using the prepaid cell phones. In order to prevent detection, the intermediary drove miles away from the company every day at lunch to place the calls. Using this scheme, the owner was able to continue to run the company, receiving \$700,000 in improper payments since the administrative compliance agreement went into effect.

Case 15: The Army decided to pay this company millions of dollars even though it had debarred the company and its president for attempting to illegally sell nuclear bomb parts to North Korea. Although the Army had several options for terminating its contract with the company, it is not clear if the Army considered these options because the officials we spoke with were not sure of the exact circumstances surrounding the decision.

In March 2003, the U.S. Army Contracting Command for Europe awarded a German company a contract with two 1-year options to provide “civilian on the battlefield” actors to participate in training exercises. These actors were not required to have any specialized skills, other than speaking some English. In July 2005, the Army debarred the company and its president based on the president’s 2004 attempt to illegally ship dual use aluminum tubes, which can be used to develop nuclear bombs, to North Korea. German customs authorities had twice denied the president a license to ship the aluminum tubes to North Korea, once in 2002 and again in 2003, and specifically told him that the tubes were likely to be used for the “North Korean nuclear program.” Despite this warning, the president attempted to smuggle the aluminum tubes to southeast Asia aboard a French vessel and misled German authorities by telling them that the tubes had been returned to a vendor in the United Kingdom. Germany subsequently convicted the president under the German Federal Foreign Trade Act and the Federal Weapons of War Control Act. In its decision to debar the company, Army officials stated that because the president “sold potential nuclear bomb making materials to a well-known enemy of the United States,” the United States has “a compelling interest to discontinue any business with this morally bankrupt individual” and that continuing to do business with the company would be “irresponsible.” The contractor notified the Command of the proposed debarment in May 2005, but the Command decided that the action did not prohibit it from continuing to do business with the company. Ultimately, the Army paid the company in excess of \$4 million throughout fiscal year 2006.¹¹

One potential avenue for termination that the Army could have considered relates to a contractual provision that stated “contractors performing services in the Federal Republic of Germany shall comply with German law.... Compliance with this clause and German law is a material contract requirement. Noncompliance by the Contractor or Subcontractor at any

¹¹ Prior to the debarment, the Command had exercised an option on the contract, extending it for another year.

tier shall be grounds for issuing a negative past performance evaluation and terminating this contract, task order, or delivery order for default.” Even though the company violated the German Federal Foreign Trade Act and the Federal Weapons of War Control Act, the Army Command officials we spoke with did not indicate that this option had been considered.

Moreover, the Command officials told us that the Army was “legally obligated” to continue the contract based on the provision in the FAR that specifies that “agencies may continue contracts or subcontracts in existence at the time the contractor was debarred, suspended, or proposed for debarment unless the agency head directs otherwise.” However, although this provision does grant the Army the authority to continue the contract, it does not obligate the Army to do so. In fact, the FAR permits the federal government to terminate contracts for convenience and for default, depending on the circumstances. Although the Command officials we spoke with told us that both these options had been considered, when we asked for more detailed information, they told us that they were not involved in the decision-making process and were not sure of the exact circumstances surrounding the decision. In addition, there was no contemporaneous documentation to support the decision. Thus, the Command continued to pay the company millions of dollars, even though the Army had determined that doing business with the company would be “irresponsible.”

Ineffective EPLS Management or Agency Control Weaknesses Lead to Improper Awards and Other Payments

Most of the improper awards and payments we identified can be attributed to ineffective management of the EPLS database or to control weaknesses at both excluding and procuring agencies. For example, our cases and analyses of EPLS data show that EPLS entries may lack DUNS numbers, the database had insufficient search capabilities, and that a number of the listed points of contact for further information about exclusions were incorrect. Although we did not conduct a comprehensive review of each agency’s controls, our cases studies also show that excluding agencies failed to enter information into EPLS in a timely manner and that procuring agencies failed to check EPLS prior to making awards, including purchases from the GSA Schedule. To illustrate the latter issue, we used our own purchase card to buy body armor worth over \$3,000 off the Supply Schedule from a company that had been debarred for falsifying tests related to the safety of its products.

Ineffective Management of EPLS

As described below, our cases and analysis of EPLS data demonstrate that no single agency is proactively monitoring the content or function of the database:

EPLS Contains Incomplete Information: As of July 2007, GSA updated EPLS to prevent excluding agencies from completing an entry without entering a DUNS number. This modification, which was made in response to an earlier GAO recommendation,¹² was intended to enable agencies to determine with confidence that a prospective vendor was not currently excluded. However, during our initial analysis of the 437 firms entered into EPLS between June 29, 2007, and January 23, 2008, we found that 38—9 percent—did not have any information listed in the DUNS field. According to GSA, agencies may have been able to complete these entries without a DUNS number because they were modifications of existing records. For example, if an agency suspended a company prior to July 2007 and then updated that entry in September 2007 to reflect that the company had subsequently been debarred, the agency would not be required to enter a DUNS number. This discrepancy means that only new exclusions entered after the July 2007 effective date require a DUNS number in order to complete an EPLS entry. Without this unique identification information, agencies are forced to rely on name and address matches, making it extremely difficult to definitively identify an excluded party.

EPLS Search Functions Are Inadequate: When agency staff query EPLS by name or address to verify vendor eligibility, there is no guarantee that a search will reveal a suspension or debarment action. For example, we identified agencies that conducted “exact name” EPLS searches but still awarded contracts to an excluded party.¹³ These agencies did not use correct spelling or punctuation in their searches. Unlike other search engines, an exact name search in EPLS must literally be exact in terms of spelling and punctuation or an excluded party will not be revealed. For example, a party listed as “Company XYZ, Inc.” in EPLS would not be identified if an agency left out the comma in the name and instead conducted a search for “Company XYZ Inc.” Other agencies we identified provided proof that they conducted searches by DUNS numbers but their searches similarly did not reveal any exclusions, even though the

¹² GAO-05-479.

¹³ Although we found that most of agencies we identified conduct searches by exact name, EPLS users can also search by other fields, including “partial name.”

companies the agencies were looking for were listed in EPLS with DUNS numbers. We cannot determine why these searches failed.

EPLS Agency Points of Contact Are Incorrect: The EPLS Web site lists points of contact for further information regarding specific exclusion actions. This directory covers 59 agencies and lists 78 different individuals. Overall, we were unable to contact suspension and debarment personnel at 15—about 25 percent—of the agencies with listed points of contact. For example, we initially found that 19 of the phone numbers listed were disconnected or otherwise nonfunctioning. In addition, we found that 6 points of contact were incorrect. In one instance, the individual listed had been retired for 5 years. These inaccuracies increase the likelihood that agency staff will be unable to confirm actions with the excluding agency.

Excluding and Procuring Agency Control Weaknesses

We identified the following excluding and procuring agency control weaknesses:

Excluding Agencies Do Not Always Enter DUNS Numbers: As previously indicated, we found that 38 of the 437 EPLS entries agencies made between June 29, 2007, and January 23, 2008, lacked an entry in the DUNS field. We also found that for 81 additional firms entered into EPLS during the same period, the excluding agency entered a DUNS number of “00000000” or some other nonidentifying information. Therefore, 119 firms in total—27 percent—lacked an identifiable DUNS number. Incorrect DUNS numbers prevent contracting officers and other agency officials from readily identifying debarred or suspended parties when making awards.

Agencies Did Not Enter Exclusions in a Timely Manner: The FAR mandates that agencies enter all required information regarding debarment and suspension actions into EPLS within 5 working days after the action becomes effective.¹⁴ However, our case examples identified several instances in which agencies failed to do so. For instance, VA made a purchase from a vendor while the vendor was in the midst of a 1-month suspension for a violation of the antifraud provisions of federal securities laws. Because GSA, the suspending agency, did not enter the action into EPLS until several days after the suspension had been lifted, VA had no

¹⁴ FAR 9.404(c)(3).

mechanism to identify the suspension and thus proceeded with the purchase from the suspended vendor.

Contracting Officers Did Not Check EPLS: The FAR requires contracting officers to check that proposed vendors are not listed in EPLS.¹⁵ In six of our case studies, we found that procurement staff made no effort to query EPLS to determine vendor eligibility prior to awarding an initial contract or modifying an existing contract to extend the period of performance or increase the scope of work, resulting in 14 awards to ineligible parties.

Automated Purchasing Systems May Not Interface with EPLS: Some agencies use automated systems to process routine purchasing transactions. In this situation, agencies still have a responsibility to verify contractor eligibility before making a purchase. However, unless the automated system is able to interface directly with EPLS, it is possible for the system to unintentionally make purchases from excluded parties. For example, 90 percent of DLA's annual purchases go through an automated system, which does not interface with EPLS. We identified four instances where DLA contracted with and made payments to excluded parties as a result of using this system.¹⁶

Excluded Parties Remain Listed on the GSA Schedule: Under the Federal Supply Schedule program, GSA establishes long-term governmentwide contracts with commercial firms to provide access to over 11 million commercial supplies and services that can be ordered directly from the contractors or through an on-line shopping and ordering system. GSA requires new vendors to demonstrate that they are responsible and to certify that they are currently eligible for federal contracts. On its Web site, GSA states that the Schedule is a "reliable and proven one-stop online resource" and "offers the most comprehensive selection of approved products and services from GSA contracts." However, vendors are not removed from the Schedule if they become debarred or suspended. The FAR specifically prohibits agencies from making a Supply Schedule purchase from an excluded contractor.

¹⁵ FAR 9.404(c)(7). Each agency must "establish procedures to ensure that the agency does not solicit offers from, award contracts to, or consent to subcontracts with contractors whose names are in EPLS."

¹⁶ We found another six instances where DLA noticed an improper purchase prior to delivery and cancelled it without cost or liability to the government.

Nonetheless, these GSA Schedule listings can result in agencies purchasing items from unscrupulous vendors. For example, in one of our cases, an agency incorrectly assumed that GSA was responsible for ensuring the ongoing eligibility of vendors listed on the Supply Schedule and thus did not check EPLS before it made purchases from a company that illegally dumped chemicals into city sewers. To verify that no warnings exist to alert agencies that they are making purchases from excluded parties, we used our own GAO purchase card to acquire body armor worth over \$3,000 from a Supply Schedule company that had been debarred for falsifying tests related to the safety of its products. Nothing in the purchase process indicated that the company was ineligible to do business with the government and the company did not inform us of its excluded status.

Corrective Action Briefing and Referrals

On November 18, 2008, we held a corrective action briefing for agencies that were the subjects of our case studies. Attendees at this meeting included representatives from the Army, the Navy, the Air Force, the Defense Logistics Agency, the Department of Energy, the Department of Veterans Affairs, the General Services Administration, and the National Aeronautics and Space Administration. At this briefing, we explained the types of cases we investigated and the overall control weaknesses we identified. In response, GSA officials noted that most of the issues we had identified could be solved through improved training, and the other agencies agreed. We also referred the businesses and individuals discussed in our case studies to the appropriate agency officials for further investigation.

Conclusion

EPLS system deficiencies and agency control weaknesses have allowed contractors that have been deemed insufficiently responsible to do business with the government and to receive federal funds during their period of ineligibility. These excluded parties will no doubt continue to benefit unless GSA strengthens its oversight and management of EPLS. More importantly, agencies can prevent improper awards in the future by strictly adhering to the requirement to check EPLS prior to making awards and by entering all information related to excluded parties in an accurate and timely fashion.

Recommendations for Executive Action

To improve the effectiveness of the suspension and debarment process, we recommend that the Administrator of General Services take the following five actions:

- issue guidance to procurement officials on the requirement to check EPLS prior to awarding contracts and to suspension and debarment officials on the 5-day entry and contractor identification number requirements;
- ensure that the EPLS database requires contractor identification numbers for all actions entered into the system;
- strengthen EPLS search capabilities to include common search operators, such as AND, NOT, and OR;
- take steps to ensure that the EPLS points of contact list is updated; and
- place a warning on the Federal Supply Schedule Web site indicating that prospective purchasers need to check EPLS to determine whether vendors are excluded and explore the feasibility of removing or identifying excluded entities that are listed on the GSA Schedule.

Agency Comments and Our Evaluation

In written comments on a draft of this report, GSA concurred with all five recommendations and agreed to use the report's findings to strengthen controls over the Excluded Parties List System. GSA's comments are reprinted in appendix III. As part of its response, GSA outlined actions it plans to take or has taken that are designed to address the recommendations. However, most of the actions described do not achieve the intent of these recommendations. In several instances, GSA simply restated its current policies and procedures instead of agreeing to take steps to oversee the completeness of EPLS and ensure that exclusions are properly enforced. Based on our investigation, if GSA is not more proactive in its management of the system, suspended and debarred companies will continue to improperly receive taxpayer dollars.

For example, in response to our recommendation to issue guidance to procurement officials on the requirement to check EPLS prior to awarding contracts and to suspension and debarment officials on the 5-day entry and contractor identification number requirements, GSA does not plan to

take any new actions. Instead, GSA cited Federal Acquisition Regulation (FAR) requirements already in place and pointed to a two-paragraph section of the EPLS Frequently Asked Questions (FAQ) Web page that existed prior to our investigation. GSA considers the FAQ to be support for closing this recommendation. However, our investigation clearly demonstrates that, despite the existence of this FAQ, agencies are not always checking EPLS prior to awards or entering exclusions in a timely or complete fashion. Moreover, at our corrective action briefing, GSA officials noted, and the other agencies agreed, that most of these problems could be solved through improved training and guidance. If GSA and the other agencies continue to operate the EPLS system as they have, we believe suspended and debarred companies will continue to be able to do business with the government. Therefore, we do not consider the GSA FAQ to be sufficient support to close this recommendation.

In response to our recommendation that GSA ensure that the EPLS database requires contractor identification numbers for all actions entered into the system, GSA maintains that it made the entrance of DUNS numbers in EPLS mandatory for organizations and contractors on June 29, 2007. GSA does not plan to take any additional actions and believes that this 2007 action closes the recommendation. However, our investigation clearly demonstrates that EPLS entries for firms lacked contractor identification numbers after June 29, 2007. Specifically, we found that 38 (9 percent) of the 437 firms entered into EPLS between June 29, 2007, and January 23, 2008, did not have any information listed in the DUNS field. We also found that for 81 additional firms entered into EPLS during the same period, the excluding agency entered a DUNS number of “000000000” or some other nonidentifying information. Therefore, 119 firms in total—27 percent—lacked an identifiable DUNS number. In addition to DUNS numbers, the FAR also states that excluding agencies should enter an employer identification number (EIN), other taxpayer identification number (TIN), or a Social Security number (SSN), if these numbers are available and disclosure is authorized. Department of Defense agencies may also enter a Commercial and Government Entity (CAGE) code. However, none of these identification numbers are mandatory in EPLS and the data reliability assessment we conducted at the start of our work¹⁷

¹⁷ See appendix I for more information.

showed that they are rarely entered. Without unique identification information, agencies are forced to rely on name and address matches, making it extremely difficult to definitively identify an excluded party when making awards. Consequently, we continue to believe that GSA should take further steps to ensure that the EPLS database requires, at a minimum, contractor identification numbers for all actions entered into the system. We do not consider the recommendation to be closed.

In response to our recommendation to strengthen EPLS search capabilities to include common search operators, such as AND, NOT, and OR, GSA noted that EPLS now supports these operators and provided a link to the advanced search tips help site. Our observation is that since we concluded our investigation, EPLS search capabilities have improved. However, there is no link to the advanced search tip site on the EPLS front page, so users may not be able to readily access this information. Specifically, users must first click on “search help,” which provides a list of basic tips, and then scroll down to find the advanced search tip link. Therefore, we consider this recommendation to be open.

In response to our recommendation to take steps to ensure that the EPLS points of contact list is updated, GSA explained that while it maintains responsibility for updating the list, it is the responsibility of each agency to notify GSA of any changes to their individual point of contact information. GSA also mentioned that the responsibility of each agency has been addressed at the Interagency Suspension and Debarment Committee and EPLS Advisory Group meetings. In addition, GSA stated that EPLS includes semi-annual automated notifications to verify agency point of contacts and that the EPLS help desk also provides support in identifying current information in response to public user reports of outdated point of contact information. As we noted in our report, the EPLS Web site has a directory that covers 59 agencies and lists 78 different individuals, if additional follow-up is needed. However, we were unable to contact suspension and debarment personnel at 15—about 25 percent—of the agencies with listed points of contact. For example, we initially found that 19 of the phone numbers listed were disconnected or otherwise nonfunctioning. In addition, we found that 6 points of contact were completely incorrect. In one instance, the individual listed had been retired for 5 years. As of February 11, 2009, the date of GSA’s agency comment letter, our follow-up work shows that the majority of these inaccuracies still existed on the EPLS agency contact list. Therefore, it

appears that the steps GSA mentions in its comment letter have been ineffective. Although we recognize that agencies have a responsibility to provide GSA with up-to-date information, we think it is reasonable for GSA to proactively manage the completeness and accuracy of the list, especially since they know, as a result of our investigation, that the list has significant errors. In short, we do not consider GSA's actions to be sufficient to close the recommendation.

Finally, we recommended that GSA place a warning on the Federal Supply Schedule Web site indicating that prospective purchasers need to check EPLS to determine whether vendors are excluded and also explore the feasibility of removing or identifying excluded entities that are listed on the GSA Schedule. In response, GSA outlined proposed actions that it believes warrant closing the recommendation. These actions include (1) adding reminders to eCommerce systems to ensure that purchasers are aware of excluded parties prior to placing orders, (2) establishing and placing messages within the Web sites to remind purchasers to check EPLS, and (3) providing direct access links to the EPLS Web site within the GSA Advantage, eBuy, and eLibrary sites so that purchasers have easy access to the system. We support these planned improvements; however, they only address part of our recommendation. With regard to the second part of our recommendation—exploring the feasibility of removing or identifying excluded entities—GSA reiterated the process for terminating a contractor's Schedule contract without actually stating any actions it would take to address the vulnerability we found. During our investigation, we identified several excluded parties on the Schedule, including a body armor manufacturer that had been debarred for the egregious offense of falsifying tests related to the safety of its products. As shown by this finding, there is currently no way to alert prospective purchasers that a specific Schedule contractor is excluded. We continue to believe it is important for GSA to explore the feasibility of proactively removing or identifying excluded parties that are listed on the Schedule. Therefore, we consider the recommendation to be open.

As arranged with your office, we plan no further distribution until 5 days after the date of this report. At that time, we will be sending copies of this report to the Administrator of General Services and other interested parties. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>. For further information about this report,

please contact Gregory D. Kutz at (202) 512-6722 or kutzg@gao.gov.
Contact points for our Offices of Congressional Relations and Public
Affairs may be found on the last page of this report.

A handwritten signature in black ink that reads "Gregory D. Kutz". The signature is written in a cursive style with a large, stylized initial "G".

Gregory D. Kutz
Managing Director,
Forensic Audits and Special Investigations

Appendix I: Scope and Methodology

To substantiate the allegation that businesses and individuals improperly received federal funds despite being excluded for egregious offenses, first we obtained a database from the General Services Administration (GSA) of all Excluded Parties List System (EPLS) records that were active between October 1, 2001, and January 23, 2008. This database contained over 125,000 records and included the following fields: unique record identifier, entity name, Social Security number (SSN), taxpayer identification number (TIN), entity classification,¹ Commercial and Government Entity (CAGE) code, exclusion type,² cause and treatment code, full address, Data Universal Numbering System (DUNS) number, debarring agency, date of action,³ date of termination,⁴ delete date,⁵ archive/current status, and description. We matched the 11,432 DUNS available in EPLS with DUNS numbers appearing in the Federal Procurement Data System-Next Generation (FPDS-NG) for fiscal years 2006 and 2007. Because not all records within EPLS contain DUNS numbers, we also matched these databases by vendor address. We focused our efforts on identifying parties that (1) were excluded governmentwide for egregious offenses such as fraud, false statements, theft, and violations of selected federal statutes and (2) received new contracts in excess of \$1,000 during the period of their exclusion. Our objective was not to determine, and we did not have data to determine, the total number of individuals and businesses in EPLS that received new federal awards during their exclusions or the total dollar value of improper awards.

To develop case studies, we performed investigative work on a nonrepresentative selection of the contractors that received new awards in excess of \$1,000 during their period of exclusion. The investigative work included obtaining and analyzing public records, criminal histories, and conducting interviews. However, we did not conduct an exhaustive investigation of these parties' business and financial transactions, nor could we determine the total dollar value of improper awards they received. To identify the key causes of the improper awards identified in

¹ Entities in EPLS can be classified as an individual, firm, or entity.

² Exclusions can be from procurement actions, nonprocurement actions, or both (reciprocal).

³ The action date is the date that an exclusion became active.

⁴ The termination date is the date that an exclusion is scheduled to expire.

⁵ The delete date is the date that, if the exclusion ended prior to the scheduled termination date, the exclusion was removed from EPLS.

our case studies, we analyzed matches between EPLS and FPDS-NG, obtained and reviewed agency documentation related to exclusion actions, and obtained and evaluated agency justifications for awards made to excluded parties. We did not conduct a comprehensive review of each agency's internal controls.

To assess the reliability of EPLS data provided by GSA, we (1) reviewed control totals provided by GSA, (2) matched a sample of records provided by GSA to records located at EPLS's Web site to determine if the data were exported correctly, (3) performed electronic testing of the required data elements for obvious errors in completeness, and (4) interviewed agency officials knowledgeable about the data. As a result of electronic testing, we found missing and illogical entries in required data fields. In addition, EPLS information may have been incomplete for our purposes because of the loss of historic record information. We found several instances in which the action date of an existing record was changed, effectively deleting all evidence of the original record. For example, agency EPLS users can modify almost all information related to existing records. Should an agency need to amend or update an entity's suspension or debarment record, EPLS does not archive the record that was altered. We were able to confirm this issue with GSA. We found the data to be insufficiently reliable for determining how many excluded parties received new federal awards during their period of exclusion because of the number of missing entries in certain data fields and the lack of an historical archive that results from record modifications; however, the data were sufficient to identify case studies for further investigation.

We conducted our audit work and investigative work from December 2007 through November 2008. We conducted our audit work in accordance with U.S. generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We performed our investigative work in accordance with standards prescribed by the President's Council on Integrity and Efficiency.

Appendix II: Additional Case Studies Show That Agencies Are Awarding Funds to Excluded Parties

The first 15 cases, numbered 1 through 15, are listed in table 1.

Table 2: Case Studies Show That Agencies Are Awarding Funds to Excluded Parties

Case	Nature of work	Excluding agency and reason for exclusion	Case details
16	Cleaning services	<ul style="list-style-type: none"> Air Force, October 2003 Submission of false billings for services not provided. 	<ul style="list-style-type: none"> The Air Force awarded the company \$7,000 in FY 2006 after a properly conducted EPLS search failed to reveal the company's debarment.
17	Military supply	<ul style="list-style-type: none"> Navy, August 2007 Violation of federal antitrust statutes. 	<ul style="list-style-type: none"> DLA made a \$12,000 purchase from the company in September 2007 through an automated purchasing system that does not interface with EPLS.
18	Refinery	<ul style="list-style-type: none"> EPA, August 2007 Conspiracy to violate the Clean Water Act. 	<ul style="list-style-type: none"> Energy awarded the company \$10,000 after the suspension date, but before the suspension was entered into EPLS.
19	Microwave technology	<ul style="list-style-type: none"> Navy, June 2006 Indictment on multiple charges, including 29 counts of wire fraud. 	<ul style="list-style-type: none"> The Navy made two purchases totaling \$11,000 from the company using simplified acquisition procedures without checking contractor eligibility in EPLS.
20	Construction services	<ul style="list-style-type: none"> Army, June 2006 Indictment on multiple charges, including conspiracy to commit fraud. 	<ul style="list-style-type: none"> The Navy modified an existing contract to add \$1,000 in goods during August 2006 without performing an EPLS search.
21	Computer services	<ul style="list-style-type: none"> Navy, November 2006 Failure to disclose a conflict of interest related to prior military service. 	<ul style="list-style-type: none"> Interior awarded a \$200,000 contract modification during FY 2007 based on the company's oral representation of eligibility, without conducting an independent query of EPLS. The Navy and USDA awarded contracting modifications worth \$580,000 without checking EPLS.
22	Construction	<ul style="list-style-type: none"> Army, October 2005 Engaging in a bid rigging scheme. 	<ul style="list-style-type: none"> The Army made three awards to the company totaling \$300,000 during FY 2006 based on an EPLS search conducted during FY 2003.
23	Construction	<ul style="list-style-type: none"> Army, September 2005 Bribery and kickbacks related to federal contracts. 	<ul style="list-style-type: none"> Army was unable to provide any justification for over \$100,000 in contracts awarded to the company during October 2005.
24	Computer services	<ul style="list-style-type: none"> Air Force, July 2007 Perpetrating a phantom bidding scheme. 	<ul style="list-style-type: none"> Army made five awards during FY 2007 totaling \$150,000 after EPLS searches by name failed to reveal the company's debarment.
25	Manufacturing	<ul style="list-style-type: none"> DLA, February 1997 Indictment for mail fraud. 	<ul style="list-style-type: none"> Army was unable to provide any justification for \$25,000 in awards to the company made during FY 2006 and 2007.

Source: GAO.

Appendix III: Comments from the General Services Administration



GSA Administrator

February 11, 2009

The Honorable Gene L. Dodaro
Acting Comptroller General
of the United States
Government Accountability Office
Washington, DC 20548

Dear Mr. Dodaro:

The U.S. General Services Administration (GSA) appreciates the opportunity to review and comment on the draft report, "Excluded Parties List System: Suspended and Debarred Businesses and Individuals Improperly Receive Federal Funds" (GAO-09-174). We regret the delay in forwarding our response to you and appreciate the Government Accountability Office's (GAO) willingness to accept our delayed response. We agree with the findings and recommendations and will use the report's findings to strengthen controls over the Excluded Parties List System (EPLS). Substantive comments to the findings and recommendations are provided below:

The GAO recommends that the Administrator of General Services take the following five actions:

1. Issue guidance to procurement officials on the requirement to check EPLS prior to awarding contracts and to suspension and debarment officials on the 5-day entry and contractor identification number requirements.

GSA recognizes this recommendation as a training concern of all Federal agency procurement and acquisition communities. The Federal Acquisition Regulation (FAR) provides guidance at FAR Section 9.405 regarding the requirements to review the EPLS. In addition, the EPLS "Frequently Asked Questions (FAQ)" webpage provides further information on the requirements for using the EPLS at <https://www.epls.gov/epls/jsp/FAQ.jsp#4> and is provided as an attachment to support this answer and close this recommendation. (Enclosure 1).

Also, FAR Section 9.404(c)(5) requires agencies to enter information into EPLS within 5 days after the action becomes effective.

U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405-0002
Telephone: (202) 501-0800
Fax: (202) 219-1243
www.gsa.gov

**Appendix III: Comments from the General
Services Administration**

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2. Ensure that the EPLS database requires contractor identification numbers for all actions entered into the system.

On June 29, 2007, the Data Universal Numbering System (DUNS) for organizations and contractors was made mandatory and the Dun and Bradstreet (D&B) Lookup process was incorporated into the EPLS. The Central Contractor Registration DUNS Lookup has been available since October 31, 2006. The EPLS release notes for fiscal year 2007 is provided as an attachment to support this answer and close this recommendation. (Enclosure 2).

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3. Strengthen EPLS search capabilities to include common search operators, such as AND, NOT, and OR.

The EPLS supports the search operators AND, NOT, and OR as part of the EPLS Advanced Search functionality. The advanced search tips are available for review at <https://www.epis.gov/epis/jsp/advancedSearchHelp.jsp>. A copy of the advanced search tips is provided as an attachment to support this answer and close this recommendation. (Enclosure 3).

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4. Take steps to ensure that the EPLS points of contact list is updated.

While GSA maintains responsibility for updating the EPLS points of contact list, it is the responsibility of each agency to notify GSA of any changes or updates to their individual Point of Contact (POC) information. This responsibility of each agency has been addressed during Interagency Suspension and Debarment Committee meetings and EPLS Advisory Group meetings. In addition, the EPLS includes an automated e-mail process that generates semi-annual notifications, to the POC e-mail addresses provided, to verify their POC status for their agency. Lastly, the EPLS help desk also provides support in identifying current information in response to public user reports of outdated POC information or forwards the concern to the GSA EPLS Project Manager for handling. We believe these actions sufficiently address the recommendation and warrant closure to this recommendation.

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5. Place a warning on the Federal Supply Schedule (*sic*) Web site indicating that prospective purchasers need to check EPLS to determine whether vendors are excluded and explore the feasibility of removing or identifying excluded entities that are listed on the GSA Schedule.


**Appendix III: Comments from the General
Services Administration**

GSA agrees with the need to take actions to mitigate against customers placing orders with Schedule vendors who appear on EPLS. GSA's Federal Acquisition Service (FAS) plans to take the following actions: (1) add reminders to customer-facing eCommerce systems to ensure prospective purchasers are aware of potential excluded parties prior to placing task orders; (2) establish and place messages within the websites to remind purchasers to check the EPLS website prior to placing a task order; and (3) provide direct access links to the EPLS website within GSA Advantage, eBuy, and eLibrary allowing purchasers easy access to information.

Also included in recommendation 5 was the need to explore the feasibility of removing or identifying excluded entities that are listed on the GSA Schedule. The appropriate GSA Contracting Officer works with GSA's Office of General Counsel on a case-by-case basis to determine what type of contractual action may be appropriate, in accordance with FAR 9.405-1, "Continuation of current contracts." Current contracts may be continued despite administrative action, unless the agency head directs otherwise. It is only after consultation with legal counsel and others as prescribed by the FAR that the GSA Contracting Officer may take such action as terminating a contractor's Schedule contract. Finally, pursuant to FAR 9.405-1(b), unless an agency head determines that there are compelling reasons in ordering from a vendor that has been debarred, suspended or proposed for debarment, ordering activities should not place orders. We believe these actions sufficiently address the recommendation and warrant closure to this recommendation.

Should you have any questions, please contact me. Staff inquiries may be directed to Earl J. Warrington, Director, Acquisition Environment Division, at 703-605-3404.

Sincerely,



Paul F. Prouty
Acting Administrator

Enclosures

cc: Gregory D. Kutz
Managing Director, Forensic Audits and Special Investigations

Enclosure 1
EPLS FAQ to support
guidance on the requirements to check EPLS

4. What are the requirements for using EPLS?

FAR Subpart 9.405(d)(1) requires contracting officers to review the EPLS after the opening of bids or receipt of proposals. FAR Subpart 9.405(d)(4) requires contracting officers to review the EPLS again, immediately prior to award, to ensure that no award is made to a listed contractor. FAR 9.405-1(b) also requires contracting officers to check the EPLS prior to awarding "new work" as defined in this provision.

Subpart D of the Government-wide Nonprocurement Suspension and Debarment Common Rule requires agency officials to check the EPLS before they enter into a primary tier covered transaction, approve a principal in a primary tier covered transaction, approve a lower tier participant when agency approval is required, or approve a principal in a lower tier transaction if agency approval of the principal is required.

Appendix III: Comments from the General Services Administration

EPLS Release Notes FY 2007						
Release Number	Release Type	Release Category	Features Added/Enhanced	Date Released	Status	Comments
3.1	Private	3.1	-CCR Lookup - allows Debar Users to lookup records in the CCR and add them to EPLS based on DUNS number. Records related to one another may also be added through this interface.	10/31/2006	Completed	
3.2	Public	3.1	-Data Element modification - changes made to the length of the city and state data elements; Address.City is now 35 character lengths instead of 50 and Address.State is now 2 character lengths instead of 5. -MyEPLS additions -allows the user to redefine the front page to their specific use by selecting or deselecting categories and options currently available on the EPLS. -Multiple Name Search -added back to EPLS as requested by EPLS beta testers and the user community. -Action Status change - to reflect the create and modified date for a record listed in the current list of exclusions; and the delete date for records listed in the archive list of past exclusions.	1/9/2007	Completed	
3.3	Private	3.1	-D&B Data Reconciliation - added a DUNS to approximately 9000 active and archive Debar records based on a report generated by Dun and Bradstreet -D&B Lookup - added three processes integrated with the Dun and Bradstreet toolkit to enable Debar Users to find records: 1) search by DUNS, 2) search by address, and 3) launch an investigation to find or assign a DUNS -Required DUNS - DUNS is now a required field for all new Debar records with a "Firm" classification. Saving a "Firm" without a DUNS through the Debar interface will generate a temporary DUNS and launch a D&B investigation.	6/29/2007	Completed	
3.4	Private	3.2	Changed the behavior of cross-reference associations so that the first record entered is designated as the primary and all tagged records are designated as cross-references.	9/28/2007	Completed	
			Provided a more user-friendly administrative interface for updating the FAQ.	9/28/2007	Completed	
			Created an automated process for updating temporary DUNS numbers in EPLS with the results of D&B investigations.	9/28/2007	Completed	
3.4	Public	3.2	Added functionality to the printer-friendly options to allow users to print only a single page or a subset of pages from a larger set of search results.	9/28/2007	Completed	
			Modified the POC page layout to match the layout of other EPLS pages.	9/28/2007	Completed	
			Added alphabetical search results links to enable users to navigate through large sets of search results.	9/28/2007	Completed	
			Default the search results to the "Full Record List."	9/28/2007	Completed	
			Disable wildcard searching in the DUNS and Cage Code fields.	9/28/2007	Completed	

Last Updated: 11/30/2008

Advanced Search Tips

The following information is provided to assist in performing searches on EPLS.

Term Modifiers

The search engine supports a wide range of searching options.

Wildcard Searches

To perform a single character wildcard search use the "?" symbol.

To perform a multiple character wildcard search use the "*" symbol.

The single character wildcard search looks for terms that match that with the single character replaced. For example, to search for "text" or "test" you can use the search:

te?t

Multiple character wildcard searches looks for 0 or more characters. For example, to search for test, tests or tester, you can use the search:

test*

You can also use the wildcard searches in the middle of a term.

te*t

Note: You cannot use a * or ? symbol as the first character of a search.

Fuzzy Searches

To do a fuzzy search use the tilde, "~", symbol at the end of a Single word Term. For example to search for a term similar in spelling to "roam" use the fuzzy search:

roam~

This search will find terms like foam and roams

Proximity Searches

Finding words are a within a specific distance away. To do a proximity search use the tilde, "~", symbol at the end of a Phrase. For example to search for a "john" and "doe" within 10 words of each other in a document use the search:

"john doe"~10

Boolean operators

Boolean operators allow terms to be combined through logic operators. We support AND, "+", OR, NOT and "-" as Boolean operators(Note: Boolean operators must be ALL CAPS).

OR

The OR operator is the default conjunction operator. This means that if there is no Boolean operator between two terms, the OR operator is used. The OR operator links two terms and finds a matching document if either of the terms exist in a document. This is equivalent to a union using sets. The symbol || can be used in place of the word OR.

To search for documents that contain either "john doe" or just "john" use the query:

"john doe" john

or

"john doe" OR john

AND

The AND operator matches documents where both terms exist anywhere in the text of a single document. This is equivalent to an intersection using sets. The symbol && can be used in place of the word AND.

To search for documents that contain "john doe" and "jane doe" use the query:

"john doe" AND "jane doe"

+

The "+" or required operator requires that the term after the "+" symbol exist somewhere in a the field of a single document.

To search for documents that must contain "doe" and may contain "john" use the query:

`+doe john`

NOT

The NOT operator excludes documents that contain the term after NOT. This is equivalent to a difference using sets. The symbol ! can be used in place of the word NOT.

To search for documents that contain "john doe" but not "anonymous" use the query:

`"john doe" NOT "anonymous"`

Note: The NOT operator cannot be used with just one term. For example, the following search will return no results:

`NOT "john doe"`

-

The "-" or prohibit operator excludes documents that contain the term after the "-" symbol.

To search for documents that contain "john doe" but not "anonymous" use the query:

`"john doe" -"anonymous"`

Grouping

The search engine supports using parentheses to group clauses to form sub queries. This can be very useful if you want to control the boolean logic for a query.

To search for either "john" or "doe" and "anonymous" use the query:

`(john OR doe) AND anonymous`

This eliminates any confusion and makes sure you that anonymous must exist and either term john or doe may exist.

Escaping Special Characters

Escaping special characters that are part of the query syntax. The current list special characters are

+ - & | ! () { } [] ^ " ~ * ? : \

To escape these character use the \ before the character. For example to search for (1+1):2 use the query:

`\(1+1\):2`

This eliminates any confusion and makes sure you that anonymous must exist and either term john or doe may exist.

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