

# REINSTATEMENT CONSIDERATIONS GUIDANCE

January 8, 2015

The below items may prove helpful to the Suspension and Debarment Division in developing its recommendation to the SDO on a reinstatement petition and to the Suspension and Debarment Official when determining whether a Petitioner has corrected the technical and non-technical causes that led to a Clean Water Act or Clean Air Act conviction and should be reinstated. While this information may prove helpful and useful for reinstatement purposes and Respondents are encouraged to provide it as applicable, there is no requirement that they do so and Respondents may also choose to provide additional information that they believe is relevant for reinstatement purposes and that relates to the technical and non-technical causes that led to the conviction.

## **When petitioner is a company (non-individual), the following considerations may apply**

### Company information

1. Provide a history or general background of the company.
2. Describe the corporate ownership structure.
3. Provide a copy of the company's organizational chart.
4. What is the current number of employees, including part-time, full-time, or seasonal, for the company?
5. Does the company have any current, potential or previous (within the past 15 years) state or federal government contracts, grants or loans in which the company is currently engaged or intends to pursue? If so, please provide a list and summary of all contracts, grants or loans.
6. Does the company use subcontractors?
7. Identify any affiliates as defined by 2 C.F.R. § 180.905.
8. Has the company or any affiliates been suspended or debarred by any state or federal agency or entered into an administrative agreement in order to resolve a suspension or debarment action?

### Violation and underlying conditions

9. Describe in your own words how the violation(s) underlying the conviction occurred.
10. Describe the conditions giving rise to the conviction. Please include the technical and non-technical causes.
11. Has the company corrected the technical conditions that led to the violation? If so, please describe actions taken to correct conditions and dates such actions were taken. Have the non-technical conditions been corrected-please describe how and when?
12. Please provide dates, a description of, and documentation for any remedial efforts taken by the company to correct the conditions that led to the violation.
13. Has information regarding the violation(s) been discussed with the employees?
14. Has the company issued any policy statements to employees since the violation(s) occurred?
15. Describe any mitigating or aggravating factors at issue in this case pursuant to 2 C.F.R. §§ 1532.1220(b) and 180.860.
16. What is the status and content of any Plea Agreement or probation concerning the violation(s).
17. What are the potential fines and/or restitution involved?
18. Provide the name of and contact information for an agency (federal, state or local) representative familiar with this company/facility who has knowledge about the status of the underlying technical conditions related to the criminal violation and the company/facility's overall compliance history and can provide input as to whether the technical conditions that led to the violation have been corrected.

19. Provide letter or other documentation from probation officer or the court on the current status of probation—whether company is in compliance with probation terms or has successfully completed probation.
20. Provide information related to any other issue of noncompliance either before or after conviction.

#### Environmental compliance and Ethics program

21. Please identify the company management personnel with environmental compliance responsibilities and describe in detail those responsibilities.
22. Is there a central management point of contact for environmental compliance?
23. Please identify the company employees who have job responsibilities with environmental impact and describe in detail those responsibilities.
24. Please describe and provide a copy of any corporate environmental compliance program/corporate oversight program. How long has this program, if any, been in place?
25. Does the company have a hotline program in place? If so, describe how the hotline operates.
26. Describe and provide documentation of any environmental training program before and after the violation(s).
27. Describe and provide documentation of any ethics training program before and after the violation(s).
28. Do all employees read and speak English? If not, how does the company ensure that employees understand company communications such as training and policies and procedures?
29. Has the company had any other environmental notices of violation, incidents, or pending issues associated with the company since the date of the violation underlying the conviction?
30. Does the company use any independent auditors or consultants to assist in environmental compliance?

#### Other

31. Please provide any other information that the company deems relevant to whether the technical and non-technical causes for the conviction have been corrected and whether the company should be reinstated.

#### **When petitioner is an individual, the following considerations may apply**

##### Employment history and experience information

1. Provide a history or general background of individual's education and employment experience.
2. Provide information related to any certifications or licenses or equivalent issued to or obtained by individual, for example attorney, engineer, accountant, wastewater operator license.
3. Provide information related to individual's employer at time of violation, if applicable. What was individual's role at company at time of violation. Where was individual in overall organizational structure of company.
4. Is individual currently employed at company where violation occurred? If so, in what capacity? If not, explain circumstances surrounding departure.
5. Provide information related to current employment and any employment since date of violation. Include dates and job description.

##### Violation and underlying conditions

6. Describe in your own words how the violation(s) underlying the conviction occurred.
7. Describe the conditions giving rise to the conviction. Please include the technical and non-technical causes.

8. Describe any mitigating or aggravating factors at issue in this case pursuant to 2 C.F.R. § 180.860.
9. What is the status and content of any Plea Agreement or probation concerning the violation(s).
10. What are the potential fines and/or restitution involved?
11. If available to individual, provide the name of and contact information for an agency (federal, state or local) representative familiar with this company/facility who has knowledge about the status of the underlying technical conditions related to the criminal violation and the company/facility's overall compliance history and can provide input as to whether the technical conditions that led to the violation have been corrected. If such information is not available to individual, please explain why information is not available.
12. Provide letter or other documentation from probation officer or the court on the current status of probation—whether individual is in compliance with probation terms or has successfully completed probation.
13. Provide information relating to any other issue of noncompliance either before or after conviction.

#### Training

14. Provide information related to any training taken by individual since the date of the misconduct. Such information should include the date(s) of training; information related to the credentials of the trainer; the length of training; and the subject matter of the training.

#### Other

15. Please provide any other information that the individual deems relevant to whether the technical and non-technical causes for the conviction have been corrected and whether the individual should be reinstated.