

Export-Import Bank of the U.S.

§ 413.735

§ 413.715 What notice does the suspending official give me if I am suspended?

After deciding to suspend you, the suspending official promptly sends you a Notice of Suspension advising you—

- (a) That you have been suspended;
- (b) That your suspension is based on—
 - (1) An indictment;
 - (2) A conviction;
 - (3) Other adequate evidence that you have committed irregularities which seriously reflect on the propriety of further Federal Government dealings with you; or
 - (4) Conduct of another person that has been imputed to you, or your affiliation with a suspended or debarred person;
 - (c) Of any other irregularities in terms sufficient to put you on notice without disclosing the Federal Government's evidence;
 - (d) Of the cause(s) upon which we relied under § 413.700 for imposing suspension;
 - (e) That your suspension is for a temporary period pending the completion of an investigation or resulting legal or debarment proceedings;
 - (f) Of the applicable provisions of this subpart, Subpart F of this part, and any other Ex-Im Bank procedures governing suspension decision making; and
 - (g) Of the governmentwide effect of your suspension from procurement and nonprocurement programs and activities.

§ 413.720 How may I contest a suspension?

If you as a respondent wish to contest a suspension, you or your representative must provide the suspending official with information in opposition to the suspension. You may do this orally or in writing, but any information provided orally that you consider important must also be submitted in writing for the official record.

§ 413.725 How much time do I have to contest a suspension?

(a) As a respondent you or your representative must either send, or make arrangements to appear and present, the information and argument to the sus-

pending official within 30 days after you receive the Notice of Suspension.

(b) We consider the notice to be received by you—

- (1) When delivered, if we mail the notice to the last known street address, or five days after we send it if the letter is undeliverable;
- (2) When sent, if we send the notice by facsimile or five days after we send it if the facsimile is undeliverable; or
- (3) When delivered, if we send the notice by e-mail or five days after we send it if the e-mail is undeliverable.

§ 413.730 What information must I provide to the suspending official if I contest a suspension?

(a) In addition to any information and argument in opposition, as a respondent your submission to the suspending official must identify—

- (1) Specific facts that contradict the statements contained in the Notice of Suspension. A general denial is insufficient to raise a genuine dispute over facts material to the suspension;
- (2) All existing, proposed, or prior exclusions under regulations implementing E.O. 12549 and all similar actions taken by Federal, state, or local agencies, including administrative agreements that affect only those agencies;
- (3) All criminal and civil proceedings not included in the Notice of Suspension that grew out of facts relevant to the cause(s) stated in the notice; and
- (4) All of your affiliates.

(b) If you fail to disclose this information, or provide false information, the Ex-Im Bank may seek further criminal, civil or administrative action against you, as appropriate.

§ 413.735 Under what conditions do I get an additional opportunity to challenge the facts on which the suspension is based?

(a) You as a respondent will not have an additional opportunity to challenge the facts if the suspending official determines that—

- (1) Your suspension is based upon an indictment, conviction, civil judgment, or other finding by a Federal, State, or local body for which an opportunity to contest the facts was provided;