

POLICY TITLE: FEDERAL DEBARMENT AND SUSPENSION

Policy Purpose

For all Agency programs receiving federal funds, the Agency shall comply with all applicable Federal regulations that restrict or prohibit transactions using Federal funds with all persons or entities that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

This limitation is directed by Executive Order 12549 which provides that “a person who is debarred or suspended shall be excluded from Federal financial and nonfinancial assistance and benefits under Federal programs and activities.” Thus, the Agency shall refrain from entering into any transaction with a person or entity which has been suspended or debarred by the U.S. Department of Education, or other federal agency from which the Agency has received federal funds.

Covered Federal Non-Procurement Transactions

Federal funds received by the Agency that are covered by this policy include, but are not necessarily limited to funds received from the following transactions:

1. Grants;
2. Cooperative agreements;
3. Scholarships;
4. Fellowships;
5. Contracts of assistance;
6. Loans;
7. Loan guarantees;
8. Subsidies;
9. Insurances;
10. Payments for specified uses; and
11. Donation agreements.

Agency's Covered Transactions with Third Parties

This Policy applies to circumstances where the Agency enters into a procurement contract with a third party for goods and/or services, and intends to use covered federal funds to partially or fully purchase such goods and/or services, as more specifically described below:

A contract for goods or services is a “covered transaction” if any of the following applies:

1. The contract is awarded to the Agency pursuant to a non-procurement transaction listed above and the amount of the contract is expected to equal or exceed \$30,000; or
2. The contract requires the consent of an official of a federal agency. In that case, the contract, regardless of the amount, is always considered a covered transaction, and it does not matter who awarded it. For example, it could be a subcontract awarded by a contractor at a tier below the Agency's non-procurement transaction; or
3. The contract is for Federally-required audit services.

In addition, a subcontract is also a covered transaction if:

1. It is awarded by a participant in a procurement transaction under a non-procurement transaction of a Federal agency that extends the coverage of Item 1 above, under "Agency's Covered Transactions with Third Parties"; and
2. The value of the subcontract is expected to equal or exceed \$30,000.

Agency Responsibilities before Entering Into Covered Transactions - Prohibition

Prior to entering into a "covered transaction" with a third party, the Agency shall verify the person or entity with whom it intends to do business is not excluded or disqualified by performing any one of the following:

1. Checking the Excluded Parties List System (EPLS);*
2. Collecting a certification from that person; or
3. Adding a clause or condition to the covered transaction with that person.

** The General Services Administration maintains the EPLS and makes it available to requesting parties. When a Federal agency takes an action to exclude a person under the non-procurement or procurement debarment and suspension system, the agency enters the information about the excluded person into the EPLS. The EPLS may be accessed online at: <http://epls.arnet.gov> or <http://www.epls.gov>. If the Agency has a question about any person or entity on the EPLS, it should contact the point of contact for the federal agency that placed the person's name into the EPLS. The agency's point of contact is identified in the EPLS.*

In the event the third party is on the EPLS, the Agency shall not enter into the contemplated transaction unless and until the federal agency responsible for providing the Agency with the Federal funds grants a written exception.

LEGAL REFERENCE:

- 2 CFR § 200.213 Suspension and debarment
2 CFR § 180 Guidelines to Agencies on Government-Wide Debarment and
Suspension (Non-procurement)
- 13 CFR § 400.109 Government-wide Debarment and Suspension
- 31 U.S.C. § 6503 Intergovernmental financing (Cash Management Improvement Act
of 1990)

POLICY HISTORY:

Adopted: August 16, 2021