

## PART 2424—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

2424.10 What does this part do?

2424.20 Does this part apply to me?

2424.30 What policies and procedures must I follow?

### Subpart A—General

2424.137 Who in HUD may grant an exception to let an excluded person participate in a covered transaction?

### Subpart B—Covered Transactions

2424.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

### Subpart C—Responsibilities of Participants Regarding Transactions

2424.300 What must I do before I enter into a covered transaction with another person at the next lower tier (HUD supplement to governmentwide definition at 2 CFR 180.300)?

2424.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

### Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

2424.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

### Subparts E–F [Reserved]

### Subpart G—Suspension

2424.747 Who conducts fact finding for HUD suspensions?

### Subpart H—Debarment

2424.842 Who conducts fact finding for HUD debarments?

### Subpart I—Definitions

2424.952 Hearing officer.

2424.970 Nonprocurement transaction (HUD supplement to governmentwide definition at 2 CFR 180.970).

2424.995 Principal (HUD supplement to governmentwide definition at 2 CFR 180.995).

2424.1017 Ultimate beneficiary.

### Subpart J—Limited Denial of Participation

2424.1100 What is a limited denial of participation?

2424.1105 Who may issue a limited denial of participation?

2424.1110 When may a HUD official issue a limited denial of participation?

2424.1115 When does a limited denial of participation take effect?

2424.1120 How long may a limited denial of participation last?

2424.1125 How does a limited denial of participation start?

2424.1130 How may I contest my limited denial of participation?

2424.1135 Do Federal agencies coordinate limited denial of participation actions?

2424.1140 What is the scope of a limited denial of participation?

2424.1145 May HUD impute the conduct of one person to another in a limited denial of participation?

2424.1150 What is the effect of a suspension or debarment on a limited denial of participation?

2424.1155 What is the effect of a limited denial of participation on a suspension or a debarment?

2424.1160 May a limited denial of participation be terminated before the term of the limited denial of participation expires?

2424.1165 How is a limited denial of participation reported?

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### § 2424.10 What does this part do?

In this part, HUD adopts, as HUD policies, procedures, and requirements for nonprocurement debarment and suspension, the OMB guidance in subparts A through I of 2 CFR part 180, as supplemented by this part. This adoption thereby gives regulatory effect for HUD to the OMB guidance, as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Section 2455, Pub. L. 103-355, 108 Stat. 3327).

### § 2424.20 Does this part apply to me?

This part and, through this part, pertinent portions of subparts A through I of 2 CFR part 180 (see table at 2 CFR 180.100(b)), apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of

## § 2424.30

“nonprocurement transaction” at 2 CFR 180.970, as supplemented by § 2424.970 of this part);

(b) Respondent in a HUD suspension or debarment action;

(c) HUD debarment or suspension official; or

(d) HUD grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

### § 2424.30 What policies and procedures must I follow?

The HUD policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB guidance in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by section 220 of the OMB guidance (i.e., 2 CFR 180.220), as supplemented by section 220 in this part (i.e., § 2424.220). For any section of OMB guidance in subparts A through I of 2 CFR 180 that has no corresponding section in this part, HUD policies and procedures are those in the OMB guidance.

### Subpart A—General

#### § 2424.137 Who in HUD may grant an exception to let an excluded person participate in a covered transaction?

The Secretary or designee may grant an exception permitting an excluded person to participate in a particular covered transaction. If the Secretary or a designee grants an exception, the exception must be in writing and state the reason(s) for deviating from the governmentwide policy in Executive Order 12549.

### Subpart B—Covered Transactions

#### § 2424.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

In addition to the contracts covered under 2 CFR 180.220(b) of the OMB guidance, this part applies to any contract, regardless of tier, that is awarded by a

## 2 CFR Ch. XXIV (1–1–10 Edition)

contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the contract is to be funded or provided by HUD under a covered nonprocurement transaction and the amount of the contract is expected to equal or exceed \$25,000. This extends the coverage of the HUD nonprocurement suspension and debarment requirements to all lower tiers of subcontracts under covered nonprocurement transactions, as permitted under the OMB guidance at 2 CFR 180.220(c) (see optional lower-tier coverage in the figure in the appendix to 2 CFR part 180).

### Subpart C—Responsibilities of Participants Regarding Transactions

#### § 2424.300 What must I do before I enter into a covered transaction with another person at the next lower tier (HUD supplement to governmentwide definition at 2 CFR 180.300)?

(a) You, as a participant, are responsible for determining whether you are entering into a covered transaction with an excluded or disqualified person. You may decide the method by which you do so.

(1) You may, but are not required to, check the Excluded Parties List System (EPLS).

(2) You may, but are not required to, collect a certification from that person.

(b) In the case of an employment contract, HUD does not require employers to check the EPLS prior to making salary payments pursuant to that contract.

#### § 2424.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

To communicate the requirements to lower-tier participants, you must include a term or condition in the transaction requiring compliance with subpart C of the OMB guidance in 2 CFR part 180, as supplemented by this subpart.