

## PART 1400—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

1400.10 What does this part do?

1400.20 When does this part apply to me?

1400.30 What policies and procedures must I follow?

### Subpart A—General

1400.137 Who in the Department of the Interior may grant an exception to let an excluded person participate in a covered transaction?

### Subpart B—Covered Transactions

1400.215 Which nonprocurement transactions, in addition to those listed in 2 CFR 180.215, are not covered transactions?

1400.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

### Subpart C—Responsibilities of Participants Regarding Transactions

1400.332 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

1400.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

### Subparts E–H [Reserved]

### Subpart I—Definitions

1400.930 Debarring official (Department of the Interior supplement to the definition at 2 CFR 180.930).

1400.970 Nonprocurement transaction (Department of the Interior supplement to the definition at 2 CFR 180.970).

1400.1010 Suspending official (Department of the Interior supplement to the definition at 2 CFR 180.930).

AUTHORITY: E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235); sec. 2455 Pub. L. 103-355, 108 Stat. 3327 (31 U.S.C. 6101 note); 5 U.S.C. 301.

SOURCE: 72 FR 33384, June 18, 2007, unless otherwise noted.

#### § 1400.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) guidance in

subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of the Interior policies and procedures for nonprocurement debarment and suspension. It thereby gives regulatory effect 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).

#### § 1400.20 When does this part apply to me?

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

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970, as supplemented by subpart B and § 1400.970);

(b) Respondent in a Department of the Interior suspension or debarment action;

(c) Department of the Interior debarment or suspension official, i.e., the Director, Office of Acquisition and Property Management; or

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

#### § 1400.30 What policies and procedures must I follow?

(a) The Department of the Interior policies and procedures that you must follow are specified in:

(1) Each applicable section of the OMB guidance in subparts A through I of 2 CFR part 180; and

(2) The supplement to each section of the OMB guidance that is found in this part under 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., Sec. 1400.220)).

**§ 1400.137**

(b) For any section of OMB guidance in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, Department of the Interior policies and procedures are those in the OMB guidance.

**Subpart A—General**

**§ 1400.137 Who in the Department of the Interior may grant an exception to let an excluded person participate in a covered transaction?**

Within the Department of the Interior, the Director, Office of Acquisition and Property Management has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB guidance at 2 CFR 180.135.

**Subpart B—Covered Transactions**

**§ 1400.215 Which nonprocurement transactions, in addition to those listed in 2 CFR 180.215, are not covered transactions?**

(a) Transactions entered into pursuant to Public Law 93-638, 88 Stat. 2203.

(b) Under natural resource management programs, permits, licenses, exchanges, and other acquisitions of real property, rights-of-way, and easements.

(c) Transactions concerning mineral patent claims entered into pursuant to 30 U.S.C. 22 *et seq.*; and

(d) Water service contracts and repayments entered into pursuant to 43 U.S.C. 485.

**§ 1400.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?**

Although the OMB guidance at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in the appendix to 2 CFR part 180), the Department of the Interior does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

**2 CFR Ch. XIV (1-1-16 Edition)**

**Subpart C—Responsibilities of Participants Regarding Transactions**

**§ 1400.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?**

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of the OMB guidance in 2 CFR part 180.

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

**§ 1400.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?**

To communicate to a participant the requirements described in 2 CFR 180.435 of the OMB guidance, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

**Subparts E-H [Reserved]**

**Subpart I—Definitions**

**§ 1400.930 Debarring official (Department of the Interior supplement to the definition at 2 CFR 180.930).**

The Debarring Official for the Department of the Interior is the Director, Office of Acquisition and Property Management.

**§ 1400.970 Nonprocurement transaction (Department of the Interior supplement to the definition at 2 CFR 180.970).**

In addition to those listed in 2 CFR 180.970, the Department of the Interior includes the following as nonprocurement transactions:

(a) Federal acquisition of a leasehold interest or any other interest in real property;

(b) Concession contracts;

## Department of the Interior

## § 1401.100

(c) Disposition of Federal real and personal property and natural resources; and

(d) Any other nonprocurement transactions between the Department and a person.

### **§ 1400.1010 Suspending official (Department of the Interior supplement to the definition at 2 CFR 180.930).**

The Suspending Official for the Department of the Interior is the Director, Office of Acquisition and Property Management.

### **Subpart J [Reserved]**

## **PART 1401—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)**

### **Subpart A—Purpose and Coverage**

Sec.

- 1401.100 What does this part do?
- 1401.105 Does this part apply to me?
- 1401.110 What policies and procedures must I follow?
- 1401.115 Are any of my Federal assistance awards exempt from this part?
- 1401.120 Does this part affect the Federal contracts that I receive?

### **Subpart B—Definitions**

- 1401.205 Award.
- 1401.210 Controlled substance.
- 1401.215 Conviction.
- 1401.220 Cooperative agreement.
- 1401.225 Criminal drug statute.
- 1401.230 Debarment.
- 1401.235 Drug-free workplace.
- 1401.240 Employee.
- 1401.245 Federal agency or agency.
- 1401.250 Grant.
- 1401.255 Individual.
- 1401.260 Recipient.
- 1401.265 State.
- 1401.270 Suspension.

### **Subpart C—Requirements for Recipients Other Than Individuals**

- 1401.300 What must I do to comply with this part?
- 1401.305 What must I include in my drug-free workplace statement?
- 1401.310 To whom must I distribute my drug-free workplace statement?
- 1401.315 What must I include in my drug-free awareness program?

1401.320 By when must I publish my drug-free workplace statement and establish my drug-free awareness program?

1401.325 What actions must I take concerning employees who are convicted of drug violations in the workplace?

1401.330 How and when must I identify workplaces?

1401.335 Whom in the DOI does a recipient other than an individual notify about a criminal drug conviction?

### **Subpart D—Requirements for Recipients Who Are Individuals**

1401.400 What must I do to comply with this part if I am an individual recipient?

1401.401 Whom in the DOI does a recipient who is an individual notify about a criminal drug conviction?

### **Subpart E—Responsibilities of Department of the Interior Awarding Officials**

1401.500 What are my responsibilities as a DOI awarding official?

### **Subpart F—Violations of this Part and Consequences**

1401.600 How are violations of this part determined for recipients other than individuals?

1401.605 How are violations of this part determined for recipients who are individuals?

1401.610 What actions will the Federal Government take against a recipient determined to have violated this part?

1401.615 Are there any exceptions to those actions?

AUTHORITY: 5 U.S.C. 301; 31 U.S.C. 6101 note, 7501; 41 U.S.C. 252a; 41 U.S.C. 701-707.

SOURCE: 75 FR 71008, Nov. 22, 2010, unless otherwise noted.

### **Subpart A—Purpose and Coverage**

#### **§ 1401.100 What does this part do?**

This part requires that the award and administration of the DOI grants and cooperative agreements comply with Office of Management and Budget (OMB) guidance implementing the portion of the Drug-Free Workplace Act of 1988, 41 U.S.C. 701-707, as amended (hereinafter, “the Act”) that applies to grants. It thereby—

(a) Gives regulatory effect to the OMB guidance (Subparts A through F of 2 CFR Part 182) for DOI’s grants and cooperative agreements; and