

## **§ 1125.332**

so (also see optional lower tier coverage in the figure in the appendix to 2 CFR part 180), the Department of Defense does not extend coverage of non-procurement suspension and debarment requirements beyond first-tier procurement contracts under a covered non-procurement transaction.

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

#### **§ 1125.332 What method must I use to pass requirements down to participants at lower tiers with whom I intend to do business?**

You as a participant in a covered transaction must include a term or condition in any lower-tier covered transaction into which you enter, to require the participant of that transaction to—

- (a) Comply with subpart C of the OMB guidance in 2 CFR part 180; and
- (b) Include a similar term or condition in any covered transaction into which it enters at the next lower tier.

### **Subpart D—Responsibilities of DoD Officials Regarding Transactions**

#### **§ 1125.425 When do I check to see if a person is excluded or disqualified?**

In addition to the four instances identified in the OMB guidance at 2 CFR 180.425, you as a DoD Component official must check to see if a person is excluded or disqualified before you obligate additional funding (*e.g.*, through an incremental funding action) for a pre-existing grant or cooperative agreement with an institution of higher education, as provided in 32 CFR 22.520(e)(5).

## **2 CFR Ch. XI (1–1–24 Edition)**

#### **§ 1125.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?**

You as a DoD Component official must include a term or condition in each covered transaction into which you enter, to communicate to the participant the requirements to—

- (a) Comply with subpart C of 2 CFR part 180, as supplemented by subpart C of this part; and
- (b) Include a similar term or condition in any lower-tier covered transactions into which the participant enters.

### **Subparts E–H [Reserved]**

### **Subpart I—Definitions**

#### **§ 1125.930 Debarring official (DoD supplement to Governmentwide definition at 2 CFR 180.930).**

DoD Components' debarring officials for nonprocurement transactions are the same officials identified in 48 CFR part 209, subpart 209.4, as debarring officials for procurement contracts.

#### **§ 1125.937 DoD Component.**

In this part, DoD Component means the Office of the Secretary of Defense, a Military Department, a Defense Agency, a DoD Field Activity, or any other organizational entity of the Department of Defense that is authorized to award or administer grants, cooperative agreements, or other nonprocurement transactions.

#### **§ 1125.1010 Suspending official (DoD supplement to Governmentwide definition at 2 CFR 180.1010).**

DoD Components' suspending officials for nonprocurement transactions are the same officials identified in 48 CFR part 209, subpart 209.4, as suspending officials for procurement contracts.

## SUBCHAPTER D—ADMINISTRATIVE REQUIREMENTS TERMS AND CONDITIONS FOR COST-TYPE GRANTS AND COOPERATIVE AGREEMENTS TO NONPROFIT AND GOVERNMENTAL ENTITIES

SOURCE: 85 FR 51161, Aug. 19, 2020, unless otherwise noted.

### PART 1126—SUBCHAPTER D OVERVIEW

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AUTHORITY: 5 U.S.C. 301 and 10 U.S.C. 113.

SOURCE: 85 FR 51171, Aug. 19, 2020, unless otherwise noted.

#### § 1126.1 Purposes of this subchapter.

This subchapter of the DoD Grant and Agreement Regulations:

(a) Addresses general terms and conditions governing administrative requirements for use by DoD Components when awarding cost-type grants and cooperative agreements to institutions of higher education, nonprofit organizations, States, local governments, and Indian tribes. It does so by providing:

(1) A standard organization of the administrative requirements into articles of general terms and conditions, each of which is in a specific subject area.

(2) Standard wording for those articles; and

(3) Associated prescriptions for DoD Component's use of the standard wording to construct their general terms and conditions, which allow for adding, omitting, or varying in other ways from the standard wording in certain situations.

(b) Thereby implements OMB guidance in 2 CFR part 200 as it relates to general terms and conditions of grants and cooperative agreements to institutions of higher education, nonprofit organizations, States, local governments, and Indian tribes.

#### § 1126.2 Applicability of this subchapter.

(a) *Entities.* This subchapter:

(1) Applies to DoD Components that award cost-type grants and cooperative agreements to institutions of higher education, nonprofit organizations, States, local governments, and Indian tribes.

(2) Does not directly impose requirements on a recipient of a DoD Component's award but does so indirectly, through the DoD Component's compliance with this subchapter when it constructs its general award terms and conditions. The terms and conditions delineate the rights and responsibilities of the recipient and the Federal Government under the award.

(b) *Awards.* This subchapter applies to DoD Components' cost-type grants and cooperative agreements to types of entities identified in paragraph (a)(1) of this section, other than Technology Investment Agreements that are addressed in 32 CFR part 37.

#### § 1126.3 Exceptions from requirements in this subchapter.

(a) *Exceptions that are not permitted.* A DoD Component may not grant any exception to the requirements in this subchapter if the exception is:

(1) Prohibited by statute, executive order, or regulation;

(2) Inconsistent with the OMB implementation of the Single Audit Act in Subpart F of 2 CFR part 200.

(b) *Other exceptions.* Other exceptions are permitted from requirements in this subchapter for institutions of higher education, nonprofit organizations, States, local governments, and Indian tribes as follows:

(1) *Statutory or regulatory exceptions.* A DoD Component's general terms and conditions may incorporate a requirement that is inconsistent with the requirements in this subchapter if that requirement is specifically authorized or required by a statute or regulation