

## § 417.10

417.660 Will administrative agreement information about me in the designated integrity and performance system accessible through SAM be corrected or updated?

### Subpart G—Suspension

417.755 When will I know whether the USDA suspension is continued or terminated?

### Subpart H—Debarment

417.800 What are the USDA causes for debarment?

417.865 How long may my debarment last?

417.870 When do I know if the USDA debarring official debars me?

### Subpart I—Definitions

417.930 Debarring official (USDA supplement to governmentwide definition at 2 CFR 180.930).

417.935 Disqualified (USDA supplement to governmentwide definition at 2 CFR 180.935).

417.970 Nonprocurement transaction.

417.1010 Suspending official (USDA supplement to governmentwide definition at 2 CFR 180.1010).

APPENDIX 1 TO PART 417—COVERED TRANSACTIONS

### Subpart J [Reserved]

AUTHORITY: 5 U.S.C. 301; Pub. L. 101-576, 104 Stat. 2838; Sec. 2455, Pub. L. 103-355, 108 Stat. 3327 (31 U.S.C. 6101 note); 7 U.S.C. 2209j; E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12698 (3 CFR, Comp., p. 235); 7 CFR 2.28.

SOURCE: 75 FR 29185, May 25, 2010, unless otherwise noted.

#### § 417.10 What does this part do?

This part adopts the OMB guidance in subparts A through I of 2 CFR part 180, as supplemented by this part, as the USDA policies and procedures for nonprocurement debarment and suspension. It thereby gives regulatory effect for the USDA 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).

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

Through this part, pertinent portions of the OMB guidance in subparts A

## 2 CFR Ch. IV (1–1–24 Edition)

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 “nonprocurement transaction” at 2 CFR 180.970, as supplemented by §§ 417.215 and 417.220 of this part);

(b) Respondent in a USDA debarment and suspension action;

(c) USDA debarment or suspension official; or

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

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

The USDA policies and procedures that you must follow are the policies and procedures specified in this regulation and 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.*, § 417.220). For any section of OMB guidance in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, USDA policies and procedures are those in the OMB guidance.

### Subpart A—General

#### § 417.137 Who in the USDA may grant an exception to let an excluded person participate in a covered transaction?

Within the USDA, a debarring official may grant an exception to let an excluded person participate in a covered transaction as provided under 2 CFR 180.135.

**Subpart B—Covered Transactions**

**§417.210 Which nonprocurement transactions are covered transactions?**

All nonprocurement transactions, as defined in §417.970, are covered transactions unless listed in §417.215.

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

(a) *Transactions not covered.* In addition to the nonprocurement transactions listed in 2 CFR 180.215, the following nonprocurement transactions are not covered transactions:

(1) An entitlement or mandatory award required by a statute, including a lower tier entitlement or mandatory award that is required by a statute.

(2) The export or substitution of Federal timber governed by the Forest Resources Conservation and Shortage Relief Act of 1990, 16 U.S.C. 620 *et seq.* (The “Export Act”), which prevents a debarred person from entering into any contract for the purchase of unprocessed timber from Federal lands. *See* 16 U.S.C. 620d(d)(1)(A).

(3) The receipt of licenses, permits, certificates, and indemnification under regulatory programs conducted in the interest of public health and safety, and animal and plant health and safety.

(4) The receipt of official grading and inspection services, animal damage control services, public health and safety inspection services, and animal and plant health and safety inspection services.

(5) If the person is a State or local government, the provision of official grading and inspection services, animal damage control services, animal and plant health and safety inspection services.

(6) The receipt of licenses, permits, or certificates under regulatory programs conducted in the interest of ensuring fair trade practices.

(7) Permits, licenses, exchanges and other acquisitions of real property, rights of way, and easements under natural resource management programs.

(8) Any transaction to be implemented outside the United States that is below the primary tier covered transaction in a USDA foreign assistance program.

(9) Any transaction to be implemented outside the United States that is below the primary tier covered transaction in a USDA export credit guarantee program or direct credit program.

(b) *Limited requirement to check EPLS.* Notwithstanding the fact that transactions to be implemented outside the United States that are below the primary tier covered transaction in a USDA foreign assistance program, export credit guarantee program or direct credit program are not covered transactions, pursuant to paragraphs (a)(8) and (9) of this section, primary tier participants under these programs must check the EPLS prior to entering into any transaction with a person at the first lower tier and shall not enter into such a transaction if the person is excluded or disqualified under the EPLS.

(c) *Exception.* A cause for suspension or debarment under §180.700 or §180.800 of this title (as supplemented by §417.800) may be based on the actions of a person with respect to a procurement or nonprocurement transaction under a USDA program even if such transaction has been excluded from covered transaction status by this section or §417.220.

**§417.220 Are any procurement contracts included as covered transactions?**

(a) Covered transactions under this part:

(1) Do not include any procurement contracts awarded directly by a Federal agency; but

(2) Do include some procurement contracts awarded by non-Federal participants in nonprocurement covered transactions (*see* appendix to this part).

(b) Specifically, a contract for goods or services is a covered transaction if any of the following applies:

(1) The contract is awarded by a participant in a nonprocurement transaction that is covered under §417.210, and the amount of the contract is expected to equal or exceed \$25,000.