

Department of Agriculture

§ 417.625

§ 417.530 Where can I find SAM Exclusions?

You may access SAM Exclusions through the internet, currently at <https://www.sam.gov>.

Subpart F—General Principles Relating to Suspension and Debarment Actions

SOURCE: 84 FR 52994, Oct. 4, 2019, unless otherwise noted.

§ 417.600 How do suspension and debarment actions start?

When Federal agency officials receive information from any source concerning a cause for suspension or debarment, they will promptly report it and the agency will investigate. The officials refer the question of whether to suspend or debar you to their suspending or debarring official for consideration, if appropriate.

§ 417.605 How does suspension differ from debarment?

SUSPENSION DIFFERS FROM DEBARMENT IN THAT—

A suspending official . . .	A debarring official . . .
(a) Imposes suspension as a temporary status of ineligibility for procurement and nonprocurement transactions, pending completion of an investigation or legal proceedings.	Imposes debarment for a specified period as a final determination that a person is not presently responsible.
(b) Must— <ul style="list-style-type: none"> (1) Have “adequate evidence” that there may be a cause for debarment of a person; and. (2) Conclude that “immediate action” is necessary to protect the Federal interest. 	Must conclude, based on a “preponderance of the evidence,” that the person has engaged in conduct that warrants debarment.
(c) Usually imposes the suspension “first,” and then promptly notifies the suspended person, giving the person an opportunity to contest the suspension and have it lifted.	Imposes debarment “after” giving the respondent notice of the action and an opportunity to contest the proposed debarment.

§ 417.610 What procedures does a Federal agency use in suspension and debarment actions?

In deciding whether to suspend or debar you, a Federal agency handles the actions as informally as practicable, consistent with principles of fundamental fairness.

(a) For suspension actions, a Federal agency uses the procedures in this subpart and subpart G of this part.

(b) For debarment actions, a Federal agency uses the procedures in this subpart and subpart H of this part.

§ 417.615 How does a Federal agency notify a person of a suspension or debarment action?

(a) The suspending or debarring official sends a written notice to the last known street address, facsimile number, or email address of—

(1) You or your identified counsel; or

(2) Your agent for service of process, or any of your partners, officers, directors, owners, or joint venturers.

(b) The notice is effective if sent to any of these persons.

§ 417.620 Do Federal agencies coordinate suspension and debarment actions?

Yes, when more than one Federal agency has an interest in a suspension or debarment, the agencies may consider designating one agency as the lead agency for making the decision. Agencies are encouraged to establish methods and procedures for coordinating their suspension and debarment actions.

§ 417.625 What is the scope of a suspension or debarment?

If you are suspended or debarred, the suspension or debarment is effective as follows:

(a) Your suspension or debarment constitutes suspension or debarment of all of your divisions and other organizational elements from all covered transactions, unless the suspension or debarment decision is limited—

(1) By its terms to one or more specifically identified individuals, divisions, or other organizational elements; or

(2) To specific types of transactions.

§ 417.630

(b) Any affiliate of a participant may be included in a suspension or debarment action if the suspending or debarring official—

(1) Officially names the affiliate in the notice; and

(2) Gives the affiliate an opportunity to contest the action.

§ 417.630 May a Federal agency impute the conduct of one person to another?

For purposes of actions taken under this part, a Federal agency may impute conduct as follows:

(a) *Conduct imputed from an individual to an organization.* A Federal agency may impute the fraudulent, criminal, or other improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with an organization, to that organization when the improper conduct occurred in connection with the individual's performance of duties for or on behalf of that organization, or with the organization's knowledge, approval or acquiescence. The organization's acceptance of the benefits derived from the conduct is evidence of knowledge, approval or acquiescence.

(b) *Conduct imputed from an organization to an individual, or between individuals.* A Federal agency may impute the fraudulent, criminal, or other improper conduct of any organization to an individual, or from one individual to another individual, if the individual to whom the improper conduct is imputed either participated in, had knowledge of, or reason to know of the improper conduct.

(c) *Conduct imputed from one organization to another organization.* A Federal agency may impute the fraudulent, criminal, or other improper conduct of one organization to another organization when the improper conduct occurred in connection with a partnership, joint venture, joint application, association or similar arrangement, or when the organization to whom the improper conduct is imputed has the power to direct, manage, control, or influence the activities of the organization responsible for the improper conduct. Acceptance of the benefits derived from the conduct is evidence of knowledge, approval, or acquiescence.

2 CFR Ch. IV (1–1–24 Edition)

§ 417.635 May a Federal agency settle a debarment or suspension action?

Yes, a Federal agency may settle a debarment or suspension action at any time if it is in the best interest of the Federal Government.

§ 417.640 May a settlement include a voluntary exclusion?

Yes, if a Federal agency enters into a settlement with you in which you agree to be excluded, it is called a voluntary exclusion and has government-wide effect.

§ 417.645 Do other Federal agencies know if an agency agrees to a voluntary exclusion?

(a) Yes, the Federal agency agreeing to the voluntary exclusion enters information about it into SAM Exclusions.

(b) Also, any agency or person may contact the Federal agency that agreed to the voluntary exclusion to find out the details of the voluntary exclusion.

§ 417.650 May an administrative agreement be the result of a settlement?

Yes, a Federal agency may enter into an administrative agreement with you as part of the settlement of a debarment or suspension action.

§ 417.655 How will other Federal awarding agencies know about an administrative agreement that is the result of a settlement?

The suspending or debarring official who enters into an administrative agreement with you must report information about the agreement to the designated integrity and performance system within three business days after entering into the agreement. This information is required by section 872 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (41 U.S.C. 2313).

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

Yes, the suspending or debarring official who entered information into the designated integrity and performance system about an administrative agreement with you: