

## Title 24--Housing and Urban Development

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### PART 24--GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

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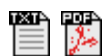
-   24.25 How is this part organized?
-   24.50 How is this part written?
-   24.75 Do terms in this part have special meanings?
-   24.100 What does this part do?
-   24.105 Does this part apply to me?
-   24.110 What is the purpose of the nonprocurement debarment and suspension system?
-   24.115 How does an exclusion restrict a person's involvement in covered transactions?
-   24.120 May we grant an exception to let an excluded person participate in a covered transaction?
-   24.125 Does an exclusion under the nonprocurement system affect a person's eligibility for Federal procurement contracts?
-   24.130 Does exclusion under the Federal procurement system affect a person's eligibility to participate in nonprocurement transactions?
-   24.135 May the Department of Housing and Urban Development exclude a person who is not currently participating in a nonprocurement transaction?
-   24.140 How do I know if a person is excluded?
-   24.145 Does this part address persons who are disqualified, as well as those who are excluded from nonprocurement transactions?
-   24.200 What is a covered transaction?
-   24.205 Why is it important if a particular transaction is a covered transaction?
-   24.210 Which nonprocurement transactions are covered transactions?
-   24.215 Which nonprocurement transactions are not covered transactions?
-   24.220 Are any procurement contracts included as covered transactions?
-   24.225 How do I know if a transaction in which I may participate is a covered transaction?
-   24.300 What must I do before I enter into a covered transaction with another person at the next lower tier?
-   24.305 May I enter into a covered transaction with an excluded or disqualified person?
-   24.310 What must I do if a Federal agency excludes a person with whom I am already doing business in a covered transaction?
- 24.315 May I use the services of an excluded person as a principal under a covered



transaction?



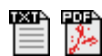
24.320 Must I verify that principals of my covered transactions are eligible to participate?



24.325 What happens if I do business with an excluded person in a covered transaction?



24.330 What requirements must I pass down to persons at lower tiers with whom I intend to do business?



24.335 What information must I provide before entering into a covered transaction with the Department of Housing and Urban Development?



24.340 If I disclose unfavorable information required under 24.335, will I be prevented from participating in the transaction?



24.345 What happens if I fail to disclose information required under 24.335?



24.350 What must I do if I learn of information required under 24.335 after entering into a covered transaction with the Department of Housing and Urban Development?



24.355 What information must I provide to a higher tier participant before entering into a covered transaction with that participant?



24.360 What happens if I fail to disclose the information required under 24.355?



24.365 What must I do if I learn of information required under 24.355 after entering into a covered transaction with a higher tier participant?



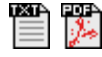
24.400 May I enter into a transaction with an excluded or disqualified person?



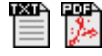
24.405 May I enter into a covered transaction with a participant if a principal of the transaction is excluded?



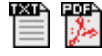
24.410 May I approve a participant's use of the services of an excluded person?



24.415 What must I do if a Federal agency excludes the participant or a principal after I enter into a covered transaction?



24.420 May I approve a transaction with an excluded or disqualified person at a lower tier?



24.425 When do I check to see if a person is excluded or disqualified?



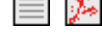
24.430 How do I check to see if a person is excluded or disqualified?



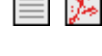
24.435 What must I require of a primary tier participant?



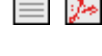
24.440 What method do I use to communicate those requirements to participants?



24.445 What action may I take if a primary tier participant knowingly does business with an excluded or disqualified person?



24.450 What action may I take if a primary tier participant fails to disclose the information required under 24.335?



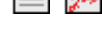
24.455 What may I do if a lower tier participant fails to disclose the information required under 24.355 to the next higher tier?





























































24.500 What is the purpose of the Excluded Parties List System (EPLS)?



24.505 Who uses the EPLS?



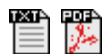
24.510 Who maintains the EPLS?

-   24.515 What specific information is in the EPLS?
-   24.520 Who places the information into the EPLS?
-   24.525 Whom do I ask if I have questions about a person in the EPLS?
-   24.530 Where can I find the EPLS?
-   24.600 How do suspension and debarment actions start?
-   24.605 How does suspension differ from debarment?
-   24.610 What procedures does the Department of Housing and Urban Development use in suspension and debarment actions?
-   24.615 How does the Department of Housing and Urban Development notify a person of a suspension or debarment action?
-   24.620 Do Federal agencies coordinate suspension and debarment actions?
-   24.625 What is the scope of a suspension or debarment?
-   24.630 May the Department of Housing and Urban Development impute conduct of one person to another?
-   24.635 May the Department of Housing and Urban Development settle a debarment or suspension action?
-   24.640 May a settlement include a voluntary exclusion?
-   24.645 Do other Federal agencies know if the Department of Housing and Urban Development agrees to a voluntary exclusion?
-   24.700 When may the suspending official issue a suspension?
-   24.705 What does the suspending official consider in issuing a suspension?
-   24.710 When does a suspension take effect?
-   24.715 What notice does the suspending official give me if I am suspended?
-   24.720 How may I contest a suspension?
-   24.725 How much time do I have to contest a suspension?
-   24.730 What information must I provide to the suspending official if I contest a suspension?
-   24.735 Under what conditions do I get an additional opportunity to challenge the facts on which the suspension is based?
-   24.740 Are suspension proceedings formal?
-   24.745 How is fact-finding conducted?
-   24.750 What does the suspending official consider in deciding whether to continue or terminate my suspension?
-   24.755 When will I know whether the suspension is continued or terminated?
-   24.760 How long may my suspension last?
-   24.800 What are the causes for debarment?
-   24.805 What notice does the debarring official give me if I am proposed for debarment?

-   24.810 When does a debarment take effect?
-   24.815 How may I contest a proposed debarment?
-   24.820 How much time do I have to contest a proposed debarment?
-   24.825 What information must I provide to the debarring official if I contest a proposed debarment?
-   24.830 Under what conditions do I get an additional opportunity to challenge the facts on which a proposed debarment is based?
-   24.835 Are debarment proceedings formal?
-   24.840 How is fact-finding conducted?
-   24.845 What does the debarring official consider in deciding whether to debar me?
-   24.850 What is the standard of proof in a debarment action?
-   24.855 Who has the burden of proof in a debarment action?
-   24.860 What factors may influence the debarring official's decision?
-   24.865 How long may my debarment last?
-   24.870 When do I know if the debarring official debars me?
-   24.875 May I ask the debarring official to reconsider a decision to debar me?
-   24.880 What factors may influence the debarring official during reconsideration?
-   24.885 May the debarring official extend a debarment?
-   24.900 Adequate evidence.
-   24.905 Affiliate.
-   24.910 Agency.
-   24.915 Agent or representative.
-   24.920 Civil judgment.
-   24.925 Conviction.
-   24.930 Debarment.
-   24.935 Debarring official.
-   24.940 Disqualified.
-   24.945 Excluded or exclusion.
-   24.947 Hearing officer.
-   24.950 Excluded Parties List System
-   24.955 Indictment.
-   24.960 Ineligible or ineligibility.
-   24.965 Legal proceedings.
-   24.970 Nonprocurement transaction.
- 24.975 Notice.



24.980 Participant.



24.985 Person.



24.990 Preponderance of the evidence.



24.995 Principal.



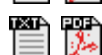
24.1000 Respondent.



24.1005 State.



24.1010 Suspending official.



24.1015 Suspension.



24.1017 Ultimate beneficiaries.



24.1020 Voluntary exclusion or voluntarily excluded.



24.1100 What is a limited denial of participation?



24.1105 Who may issue a limited denial of participation?



24.1110 When may a HUD official issue a limited denial of participation?



24.1115 When does a limited denial of participation take effect?



24.1120 How long may a limited denial of participation last?



24.1125 How does a limited denial of participation start?



24.1130 How may I contest my limited denial of participation?



24.1135 Do federal agencies coordinate limited denial of participation actions?



24.1140 What is the scope of a limited denial of participation?



24.1145 May HUD impute the conduct of one person to another in a limited denial of participation?



24.1150 What is the effect of a suspension or debarment on a limited denial of participation?



24.1155 What is the effect of a limited denial of participation on a suspension or a debarment?



24.1160 May a limited denial of participation be terminated before the term of the limited denial of participation expires?



24.1165 How is a limited denial of participation reported?



[Code of Federal Regulations]  
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[Page 245-248]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table of Contents

Sec. 24.25 How is this part organized?

Sec.

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24.50 How is this part written?

24.75 Do terms in this part have special meanings?

Subpart A\_General

24.100 What does this part do?

24.105 Does this part apply to me?

24.110 What is the purpose of the nonprocurement debarment and suspension system?

24.115 How does an exclusion restrict a person's involvement in covered transactions?

24.120 May we grant an exception to let an excluded person participate in a covered transaction?

24.125 Does an exclusion under the nonprocurement system affect a person's eligibility for federal procurement contracts?

24.130 Does exclusion under the federal procurement system affect a person's eligibility to participate in nonprocurement transactions?

24.135 May the Department of Housing and Urban Development exclude a person who is not currently participating in a nonprocurement transaction?

[[Page 246]]

24.140 How do I know if a person is excluded?

24.145 Does this part address persons who are disqualified, as well as those who are excluded from nonprocurement transactions?

Subpart B\_Covered Transactions

24.200 What is a covered transaction?

24.205 Why is it important to know if a particular transaction is a covered transaction?

24.210 Which nonprocurement transactions are covered transactions?

24.215 Which nonprocurement transactions are not covered transactions?

24.220 Are any procurement contracts included as covered transactions?

24.225 How do I know if a transaction in which I may participate is a covered transaction?

Subpart C\_Responsibilities of Participants Regarding Transactions

Doing Business With Other Persons

24.300 What must I do before I enter into a covered transaction with another person at the next lower tier?

24.305 May I enter into a covered transaction with an excluded or disqualified person?

24.310 What must I do if a federal agency excludes a person with whom I am already doing business in a covered transaction?

24.315 May I use the services of an excluded person as a principal under a covered transaction?

24.320 Must I verify that principals of my covered transactions are eligible to participate?

24.325 What happens if I do business with an excluded person in a covered transaction?

24.330 What requirements must I pass down to persons at lower tiers with whom I intend to do business?

Disclosing Information--Primary Tier Participants

- 24.335 What information must I provide before entering into a covered transaction with the Department of Housing and Urban Development?
- 24.340 If I disclose unfavorable information required under Sec. 24.335, will I be prevented from entering into the transaction?
- 24.345 What happens if I fail to disclose the information required under Sec. 24.335?
- 24.350 What must I do if I learn of the information required under Sec. 24.335 after entering into a covered transaction with the Department of Housing and Urban Development?

Disclosing Information--Lower Tier Participants

- 24.355 What information must I provide to a higher tier participant before entering into a covered transaction with that participant?
- 24.360 What happens if I fail to disclose the information required under Sec. 24.355?
- 24.365 What must I do if I learn of information required under Sec. 24.355 after entering into a covered transaction with a higher tier participant?

Subpart D\_Responsibilities of HUD Officials Regarding Transactions

- 24.400 May I enter into a transaction with an excluded or disqualified person?
- 24.405 May I enter into a covered transaction with a participant if a principal of the transaction is excluded?
- 24.410 May I approve a participant's use of the services of an excluded person?
- 24.415 What must I do if a federal agency excludes the participant or a principal after I enter into a covered transaction?
- 24.420 May I approve a transaction with an excluded or disqualified person at a lower tier?
- 24.425 When do I check to see if a person is excluded or disqualified?
- 24.430 How do I check to see if a person is excluded or disqualified?
- 24.435 What must I require of a primary tier participant?
- 24.440 What method do I use to communicate those requirements to participants?
- 24.445 What action may I take if a primary tier participant knowingly does business with an excluded or disqualified person?
- 24.450 What action may I take if a primary tier participant fails to disclose the information required under Sec. 24.335?
- 24.455 What may I do if a lower tier participant fails to disclose the information required under Sec. 24.355 to the next higher tier?

Subpart E\_Excluded Parties List System

- 24.500 What is the purpose of the Excluded Parties List System (EPLS)?
- 24.505 Who uses the EPLS?
- 24.510 Who maintains the EPLS?
- 24.515 What specific information is in the EPLS?
- 24.520 Who places the information into the EPLS?
- 24.525 Whom do I ask if I have questions about a person in the EPLS?
- 24.530 Where can I find the EPLS?

[[Page 247]]

Subpart F\_General Principles Relating to Suspension and Debarment Actions

- 24.600 How do suspension and debarment actions start?
- 24.605 How does suspension differ from debarment?
- 24.610 What procedures does the Department of Housing and Urban Development use in suspension and debarment actions?
- 24.615 How does the Department of Housing and Urban Development notify a person of a suspension or debarment action?
- 24.620 Do federal agencies coordinate suspension and debarment actions?
- 24.625 What is the scope of a suspension or debarment action?
- 24.630 May the Department of Housing and Urban Development impute the conduct of one person to another?
- 24.635 May the Department of Housing and Urban Development settle a debarment or suspension action?
- 24.640 May a settlement include a voluntary exclusion?
- 24.645 Do other federal agencies know if the Department of Housing and Urban Development agrees to a voluntary exclusion?

Subpart G Suspension

- 24.700 When may the suspending official issue a suspension?
- 24.705 What does the suspending official consider in issuing a suspension?
- 24.710 When does a suspension take effect?
- 24.715 What notice does the suspending official give me if I am suspended?
- 24.720 How may I contest a suspension?
- 24.725 How much time do I have to contest a suspension?
- 24.730 What information must I provide to the suspending official if I contest a suspension?
- 24.735 Under what conditions do I get an additional opportunity to challenge the facts on which the suspension is based?
- 24.740 Are suspension proceedings formal?
- 24.745 How is fact-finding conducted?
- 24.750 What does the suspending official consider in deciding whether to continue or terminate my suspension?
- 24.755 When will I know whether the suspension is continued or terminated?
- 24.760 How long may my suspension last?

Subpart H\_Debarment

- 24.800 What are the causes for debarment?
- 24.805 What notice does the debarring official give me if I am proposed for debarment?
- 24.810 When does a debarment take effect?
- 24.815 How may I contest a proposed debarment?
- 24.820 How much time do I have to contest a proposed debarment?
- 24.825 What information must I provide to the debarring official if I contest a proposed debarment?
- 24.830 Under what conditions do I get an additional opportunity to challenge the facts on which the proposed debarment is based?
- 24.835 Are debarment proceedings formal?
- 24.840 How is fact-finding conducted?
- 24.845 What does the debarring official consider in deciding whether to debar me?
- 24.850 What is the standard of proof in a debarment action?
- 24.855 Who has the burden of proof in a debarment action?
- 24.860 What factors may influence the debarring official's decision?
- 24.865 How long may my debarment last?
- 24.870 When do I know if the debarring official debars me?
- 24.875 May I ask the debarring official to reconsider a decision to debar me?
- 24.880 What factors may influence the debarring official during reconsideration?
- 24.885 May the debarring official extend a debarment?

Subpart I\_Definitions

- 24.900 Adequate evidence.
- 24.905 Affiliate.
- 24.910 Agency.
- 24.915 Agent or representative.
- 24.920 Civil judgment.
- 24.925 Conviction.
- 24.930 Debarment.
- 24.935 Debarring official.
- 24.940 Disqualified.
- 24.945 Excluded or exclusion.
- 24.947 Hearing officer.
- 24.950 Excluded Parties List System.
- 24.955 Indictment.
- 24.960 Ineligible or ineligibility.
- 24.965 Legal Proceedings.
- 24.970 Nonprocurement transaction.
- 24.975 Notice.
- 24.980 Participant.
- 24.985 Person.
- 24.990 Preponderance of the evidence.
- 24.995 Principal.
- 24.1000 Respondent.
- 24.1005 State.
- 24.1010 Suspending official.
- 24.1015 Suspension.
- 24.1017 Ultimate beneficiaries.
- 24.1020 Voluntary exclusion or voluntarily excluded.

Subpart J--Limited Denial of Participation

- 24.1100 What is a limited denial of participation?



- 24.1105 Who may issue a limited denial of participation?
- 24.1110 When may a HUD official issue a limited denial of participation?
- 24.1115 When does a limited denial of participation take effect?

[[Page 248]]

- 24.1120 How long may a limited denial of participation last?
- 24.1125 How does a limited denial of participation start?
- 24.1130 How may I contest my limited denial of participation?
- 24.1135 Do federal agencies coordinate limited denial of participation actions?
- 24.1140 What is the scope of a limited denial of participation?
- 24.1145 May HUD impute the conduct of one person to another in a limited denial of participation?
- 24.1150 What is the effect of a suspension or debarment on a limited denial of participation?
- 24.1155 What is the effect of a limited denial of participation on a suspension or a debarment?
- 24.1160 May a limited denial of participation be terminated before the term of the limited denial of participation expires?
- 24.1165 How is a limited denial of participation reported?

Appendix to Part 24--Covered Transactions

Authority: 41 U.S.C. 701 et seq.; 42 U.S.C. 3535(d); Sec. 2455, Pub. L. 103-355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235).

Source: 68 FR 66544, 66594, Nov. 26, 2003, unless otherwise noted.

(a) This part is subdivided into ten subparts. Each subpart contains information related to a broad topic or specific audience with special responsibilities, as shown in the following table:

In subpart . . .	You will find provisions related to . . .
A.....	general information about this rule.
B.....	the types of HUD transactions that are covered by the Governmentwide nonprocurement suspension and debarment system.
C.....	the responsibilities of persons who participate in covered transactions.
D.....	the responsibilities of HUD officials who are authorized to enter into covered transactions.
E.....	the responsibilities of Federal agencies for the Excluded Parties List System (Disseminated by the General Services Administration).
F.....	the general principles governing suspension, debarment, voluntary exclusion and settlement.
G.....	suspension actions.
H.....	debarment actions.
I.....	definitions of terms used in this part.
J.....	limited denial of Participation.

(b) The following table shows which subparts may be of special interest to you, depending on who you are:

If you are . . .	See subpart(s) . . .
(1) a participant or principal in a nonprocurement transaction.	A, B, C, and I.
(2) a respondent in a suspension action...	A, B, F, G and I.
(3) a respondent in a debarment action....	A, B, F, H and I.
(4) a suspending official.....	A, B, D, E, F, G and I.

Section

(5) a debarring official..... A, B, D, E, F, H and I.

(6) a (n) HUD official authorized to enter A, B, D, E and I.  
into a covered transaction.

(7) involved in HUD transactions..... J.

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[68 FR 66544, 66594, Nov. 26, 2003; 69 FR 11314, Mar. 10, 2004]

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[Title 24, Volume 1]  
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[Page 248]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Sec. 24.50 How is this part written?

(a) This part uses a ``plain language'' format to make it easier for the general public and business community to use. The section headings and text, often in the form of questions and answers, must be read together.

(b) Pronouns used within this part, such as ``I'' and ``you,'' change from subpart to subpart depending on the audience being addressed. The pronoun ``we'' always is the Department of Housing and Urban Development.

(c) The ``Covered Transactions'' diagram in the appendix to this part shows the levels or ``tiers'' at which the Department of Housing and Urban Development enforces an exclusion under this part.

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[Page 248-249]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table of Contents

Sec. 24.75 Do terms in this part have special meanings?

This part uses terms throughout the text that have special meaning. Those terms are defined in Subpart I of this part. For example, three important terms are--

(a) Exclusion or excluded, which refers only to discretionary actions taken by a suspending or debarring official under this part or the Federal Acquisition Regulation (48 CFR part 9, subpart 9.4);

(b) Disqualification or disqualified, which refers to prohibitions under specific statutes, executive orders (other than Executive Order 12549 and Executive Order 12689), or other authorities.

Disqualifications frequently are not subject to the discretion of an agency official, may have a different scope

[[Page 249]]

than exclusions, or have special conditions that apply to the disqualification; and

(c) Ineligibility or ineligible, which generally refers to a person who is either excluded or disqualified.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
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[CITE: 24CFR24.100]

[Page 249]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart A\_General

Sec. 24.100 What does this part do?

This part adopts a governmentwide system of debarment and suspension for HUD nonprocurement activities. It also provides for reciprocal exclusion of persons who have been excluded under the Federal Acquisition Regulation, and provides for the consolidated listing of all persons who are excluded, or disqualified by statute, executive order, or other legal authority. 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, Public Law 103-355, 108 Stat. 3327).

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[Title 24, Volume 1]  
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[Page 249]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart A\_General

Sec. 24.105 Does this part apply to me?

Portions of this part (see table at Sec. 24.25(b)) apply to you if  
you are a(n)--

- (a) Person who has been, is, or may reasonably be expected to be, a  
participant or principal in a covered transaction;
- (b) Respondent (a person against whom the Department of Housing and  
Urban Development has initiated a debarment or suspension action);
- (c) HUD debarring or suspending official; or
- (d) HUD official who is authorized to enter into covered  
transactions with non-Federal parties.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.110]

[Page 249]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart A\_General

Sec. 24.110 What is the purpose of the nonprocurement debarment and  
suspension system?

(a) To protect the public interest, the Federal Government ensures  
the integrity of Federal programs by conducting business only with  
responsible persons.

(b) A Federal agency uses the nonprocurement debarment and  
suspension system to exclude from Federal programs persons who are not  
presently responsible.

(c) An exclusion is a serious action that a Federal agency may take  
only to protect the public interest. A Federal agency may not exclude a  
person or commodity for the purposes of punishment.

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[Page 249]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart A\_General

Sec. 24.115 How does an exclusion restrict a person's involvement in  
covered transactions?

With the exceptions stated in Sec. Sec. 24.120, 24.315, and 24.420,  
a person who is excluded by the Department of Housing and Urban  
Development or any other Federal agency may not:

- (a) Be a participant in a(n) HUD transaction that is a covered  
transaction under subpart B of this part;
- (b) Be a participant in a transaction of any other Federal agency  
that is a covered transaction under that agency's regulation for  
debarment and suspension; or
- (c) Act as a principal of a person participating in one of those  
covered transactions.



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[Page 249]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart A\_General

Sec. 24.120 May we grant an exception to let an excluded person  
participate in a covered transaction?

(a) The Secretary or designee may grant an exception permitting an  
excluded person to participate in a particular covered transaction. If  
the Secretary or 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.

(b) An exception granted by one agency for an excluded person does  
not extend to the covered transactions of another agency.

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[Page 249]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart A\_General

Sec. 24.125 Does an exclusion under the nonprocurement system affect  
a person's eligibility for Federal procurement contracts?

If any Federal agency excludes a person under its nonprocurement  
common rule on or after August 25, 1995, the excluded person is also  
ineligible to participate in Federal procurement transactions under the  
FAR. Therefore, an exclusion under this part has reciprocal effect in  
Federal procurement transactions.

[[Page 250]]

[Code of Federal Regulations]  
[Title 24, Volume 1]  
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From the U.S. Government Printing Office via GPO Access  
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[Page 250]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart A\_General

Sec. 24.130 Does exclusion under the Federal procurement system affect  
a person's eligibility to participate in nonprocurement transactions?

If any Federal agency excludes a person under the FAR on or after  
August 25, 1995, the excluded person is also ineligible to participate  
in nonprocurement covered transactions under this part. Therefore, an  
exclusion under the FAR has reciprocal effect in Federal nonprocurement  
transactions.

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[Title 24, Volume 1]  
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[Page 250]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart A\_General

Sec. 24.135 May the Department of Housing and Urban Development exclude  
a person who is not currently participating in a nonprocurement transaction?

Given a cause that justifies an exclusion under this part, we may  
exclude any person who has been involved, is currently involved, or may  
reasonably be expected to be involved in a covered transaction.

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[Page 250]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart A\_General

Sec. 24.140 How do I know if a person is excluded?

Check the Excluded Parties List System (EPLS) to determine whether a person is excluded. The General Services Administration (GSA) maintains the EPLS and makes it available, as detailed in subpart E of this part. When a Federal agency takes an action to exclude a person under the nonprocurement or procurement debarment and suspension system, the agency enters the information about the excluded person into the EPLS.

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From the U.S. Government Printing Office via GPO Access  
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[Page 250]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart A\_General

Sec. 24.145 Does this part address persons who are disqualified, as well as those who are excluded from nonprocurement transactions?

Except if provided for in Subpart J of this part, this part--

(a) Addresses disqualified persons only to--

(1) Provide for their inclusion in the EPLS; and

(2) State responsibilities of Federal agencies and participants to check for disqualified persons before entering into covered transactions.

(b) Does not specify the--

(1) HUD transactions for which a disqualified person is ineligible. Those transactions vary on a case-by-case basis, because they depend on the language of the specific statute, Executive order, or regulation that caused the disqualification;

(2) Entities to which the disqualification applies; or

(3) Process that the agency uses to disqualify a person. Unlike exclusion, disqualification is frequently not a discretionary action that a Federal agency takes.

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[Page 250]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart B\_Covered Transactions

Sec. 24.200 What is a covered transaction?

A covered transaction is a nonprocurement or procurement transaction that is subject to the prohibitions of this part. It may be a transaction at--

- (a) The primary tier, between a Federal agency and a person (see appendix to this part); or
- (b) A lower tier, between a participant in a covered transaction and another person.
- (c) In the case of employment contracts that are covered transactions, each salary payment under the contract is a separate covered transaction.

[68 FR 66544, 66594, 66596, Nov. 26, 2003]

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[Page 250-251]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart B\_Covered Transactions

Sec. 24.205 Why is it important if a particular transaction is a  
covered transaction?

The importance of a covered transaction depends upon who you are.

(a) As a participant in the transaction, you have the responsibilities laid out in Subpart C of this part. Those include responsibilities to the person or Federal agency at the next higher tier from whom you received the transaction, if any. They also include responsibilities if you subsequently enter into other covered transactions with persons at the next lower tier.

(b) As a Federal official who enters into a primary tier transaction, you have the responsibilities laid out in subpart D of this part.

(c) As an excluded person, you may not be a participant or principal in the transaction unless--

(1) The person who entered into the transaction with you allows you to continue your involvement in a transaction that predates your exclusion, as permitted under Sec. 24.310 or Sec. 24.415; or

[[Page 251]]

(2) A(n) HUD official obtains an exception from the Secretary or designee to allow you to be involved in the transaction, as permitted under Sec. 24.120.



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[Title 24, Volume 1]  
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[Page 251]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart B\_Covered Transactions

Sec. 24.210 Which nonprocurement transactions are covered transactions?

All nonprocurement transactions, as defined in Sec. 24.970, are covered transactions unless listed in Sec. 24.215. (See appendix to this part.)

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[Title 24, Volume 1]  
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From the U.S. Government Printing Office via GPO Access  
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[Page 251]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart B\_Covered Transactions

Sec. 24.215 Which nonprocurement transactions are not covered transactions?

The following types of nonprocurement transactions are not covered transactions:

- (a) A direct award to--
  - (1) A foreign government or foreign governmental entity;
  - (2) A public international organization;
  - (3) An entity owned (in whole or in part) or controlled by a foreign government; or
  - (4) Any other entity consisting wholly or partially of one or more foreign governments or foreign governmental entities.
- (b) A benefit to an individual as a personal entitlement without regard to the individual's present responsibility (but benefits received in an individual's business capacity are not excepted). For example, if a person receives social security benefits under the Supplemental Security Income provisions of the Social Security Act, 42 U.S.C. 1301 et seq., those benefits are not covered transactions and, therefore, are not affected if the person is excluded.
- (c) Federal employment.
- (d) A transaction that the Department of Housing and Urban Development needs to respond to a national or agency-recognized emergency or disaster.
- (e) A permit, license, certificate, or similar instrument issued as a means to regulate public health, safety, or the environment, unless the Department of Housing and Urban Development specifically designates it to be a covered transaction.
- (f) An incidental benefit that results from ordinary governmental operations.
- (g) Any other transaction if the application of an exclusion to the transaction is prohibited by law.

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[Page 251]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart B\_Covered Transactions

Sec. 24.220 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 Sec. 24.210, and the amount of the  
contract is expected to equal or exceed \$25,000.

(2) The contract requires the consent of a(n) HUD official. In that  
case, the contract, regardless of the amount, always is a covered  
transaction, and it does not matter who awarded it. For example, it  
could be a subcontract awarded by a contractor at a tier below a  
nonprocurement transaction, as shown in the appendix to this part.

(3) The contract is for federally-required audit services.

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[Page 251]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart B\_Covered Transactions

Sec. 24.225 How do I know if a transaction in which I may participate  
is a covered transaction?

As a participant in a transaction, you will know that it is a  
covered transaction because the agency regulations governing the  
transaction, the appropriate agency official, or participant at the next  
higher tier who enters into the transaction with you, will tell you that  
you must comply with applicable portions of this part.

[[Page 252]]

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
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[Page 252]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table of Contents

Subpart C Responsibilities of Participants Regarding Transactions

Sec. 24.300 What must I do before I enter into a covered transaction with another person at the next lower tier?

Doing Business With Other Persons

When you enter into a covered transaction with another person at the next lower tier, you must verify that the person with whom you intend to do business is not excluded or disqualified. You do this by:

- (a) Checking the EPLS; or
- (b) Collecting a certification from that person if allowed by this rule; or
- (c) Adding a clause or condition to the covered transaction with that person.
- (d) 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. You may, but are not required to, check the EPLS.
- (e) 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.

[68 FR 66544, 66594, 66596, Nov. 26, 2003]

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[Page 252]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart C Responsibilities of Participants Regarding Transactions

Sec. 24.305 May I enter into a covered transaction with an excluded  
or disqualified person?

(a) You as a participant may not enter into a covered transaction  
with an excluded person, unless the Department of Housing and Urban  
Development grants an exception under Sec. 24.120.

(b) You may not enter into any transaction with a person who is  
disqualified from that transaction, unless you have obtained an  
exception under the disqualifying statute, Executive order, or  
regulation.

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[Page 252]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart C Responsibilities of Participants Regarding Transactions

Sec. 24.310 What must I do if a Federal agency excludes a person with whom I am already doing business in a covered transaction?

(a) You as a participant may continue covered transactions with an excluded person if the transactions were in existence when the agency excluded the person. However, you are not required to continue the transactions, and you may consider termination. You should make a decision about whether to terminate and the type of termination action, if any, only after a thorough review to ensure that the action is proper and appropriate.

(b) You may not renew or extend covered transactions (other than no-cost time extensions) with any excluded person, unless the Department of Housing and Urban Development grants an exception under Sec. 24.120.

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[Page 252]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart C Responsibilities of Participants Regarding Transactions

Sec. 24.315 May I use the services of an excluded person as a principal  
under a covered transaction?

(a) You as a participant may continue to use the services of an  
excluded person as a principal under a covered transaction if you were  
using the services of that person in the transaction before the person  
was excluded. However, you are not required to continue using that  
person's services as a principal. You should make a decision about  
whether to discontinue that person's services only after a thorough  
review to ensure that the action is proper and appropriate.

(b) You may not begin to use the services of an excluded person as a  
principal under a covered transaction unless the Department of Housing  
and Urban Development grants an exception under Sec. 24.120.



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[Page 252]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart C Responsibilities of Participants Regarding Transactions

Sec. 24.320 Must I verify that principals of my covered transactions  
are eligible to participate?

Yes, you as a participant are responsible for determining whether  
any of your principals of your covered transactions is excluded or  
disqualified from participating in the transaction. You may decide the  
method and frequency by which you do so. You may, but you are not  
required to, check the EPLS.

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[Page 252]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart C Responsibilities of Participants Regarding Transactions

Sec. 24.325 What happens if I do business with an excluded person in  
a covered transaction?

If as a participant you knowingly do business with an excluded  
person, we may disallow costs, annul or terminate the transaction, issue  
a stop work order, debar or suspend you, or take other remedies as  
appropriate.

[[Page 253]]

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
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[Page 253]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart C Responsibilities of Participants Regarding Transactions

Sec. 24.330 What requirements must I pass down to persons at lower  
tiers with whom I intend to do business?

Before entering into a covered transaction with a participant at the  
next lower tier, you must require that participant to--

(a) Comply with this subpart as a condition of participation in the  
transaction. You may do so using any method(s), unless Sec. 24.440  
requires you to use specific methods.

(b) Pass the requirement to comply with this subpart to each person  
with whom the participant enters into a covered transaction at the next  
lower tier.

Disclosing Information--Primary Tier Participants

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[Page 253]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart C Responsibilities of Participants Regarding Transactions

Sec. 24.335 What information must I provide before entering into a covered transaction with the Department of Housing and Urban Development?

Before you enter into a covered transaction at the primary tier, you as the participant must notify the HUD office that is entering into the transaction with you, if you know that you or any of the principals for that covered transaction:

- (a) Are presently excluded or disqualified;
- (b) Have been convicted within the preceding three years of any of the offenses listed in Sec. 24.800(a) or had a civil judgment rendered against you for one of those offenses within that time period;
- (c) Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses listed in Sec. 24.800(a); or
- (d) Have had one or more public transactions (Federal, State, or local) terminated within the preceding three years for cause or default.

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[Page 253]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart C Responsibilities of Participants Regarding Transactions

Sec. 24.340 If I disclose unfavorable information required under  
Sec. 24.335, will I be prevented from participating in the transaction?

As a primary tier participant, your disclosure of unfavorable information about yourself or a principal under Sec. 24.335 will not necessarily cause us to deny your participation in the covered transaction. We will consider the information when we determine whether to enter into the covered transaction. We also will consider any additional information or explanation that you elect to submit with the disclosed information.

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[Page 253]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart C Responsibilities of Participants Regarding Transactions

Sec. 24.345 What happens if I fail to disclose information required  
under Sec. 24.335?

If we later determine that you failed to disclose information under  
Sec. 24.335 that you knew at the time you entered into the covered  
transaction, we may--

(a) Terminate the transaction for material failure to comply with  
the terms and conditions of the transaction; or

(b) Pursue any other available remedies, including suspension and  
debarment.

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[Page 253]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart C Responsibilities of Participants Regarding Transactions

Sec. 24.350 What must I do if I learn of information required under

Sec. 24.335 after entering into a covered transaction with the  
Department of Housing and  
Urban Development?

At any time after you enter into a covered transaction, you must  
give immediate written notice to the HUD office with which you entered  
into the transaction if you learn either that--

(a) You failed to disclose information earlier, as required by Sec.  
24.335; or

(b) Due to changed circumstances, you or any of the principals for  
the transaction now meet any of the criteria in Sec. 24.335.

Disclosing Information--Lower Tier Participants

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[Page 253]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart C Responsibilities of Participants Regarding Transactions

Sec. 24.355 What information must I provide to a higher tier participant  
before entering into a covered transaction with that participant?

Before you enter into a covered transaction with a person at the  
next higher tier, you as a lower tier participant must notify that  
person if you know that you or any of the principals are presently  
excluded or disqualified.



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[Page 253-254]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart C Responsibilities of Participants Regarding Transactions

Sec. 24.360 What happens if I fail to disclose the information required  
under Sec. 24.355?

If we later determine that you failed to tell the person at the  
higher tier that you were excluded or disqualified

[[Page 254]]

at the time you entered into the covered transaction with that person,  
we may pursue any available remedies, including suspension and  
debarment.

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[Title 24, Volume 1]  
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[Page 254]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart C Responsibilities of Participants Regarding Transactions

Sec. 24.365 What must I do if I learn of information required under

Sec. 24.355 after entering into a covered transaction with a higher  
tier participant?

At any time after you enter into a lower tier covered transaction  
with a person at a higher tier, you must provide immediate written  
notice to that person if you learn either that--

(a) You failed to disclose information earlier, as required by Sec.  
24.355; or

(b) Due to changed circumstances, you or any of the principals for  
thetransaction now meet any of the criteria in Sec. 24.355.

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[Page 254]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart D Responsibilities of HUD Officials Regarding Transactions

Sec. 24.400 May I enter into a transaction with an excluded or  
disqualified person?

(a) You as an agency official may not enter into a covered  
transaction with an excluded person unless you obtain an exception under  
Sec. 24.120.

(b) You may not enter into any transaction with a person who is  
disqualified from that transaction, unless you obtain a waiver or  
exception under the statute, Executive order, or regulation that is the  
basis for the person's disqualification.

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[Page 254]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart D Responsibilities of HUD Officials Regarding Transactions

Sec. 24.405 May I enter into a covered transaction with a participant  
if a principal of the transaction is excluded?

As an agency official, you may not enter into a covered transaction  
with a participant if you know that a principal of the transaction is  
excluded, unless you obtain an exception under Sec. 24.120.

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[Page 254]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart D Responsibilities of HUD Officials Regarding Transactions

Sec. 24.410 May I approve a participant's use of the services of an  
excluded person?

After entering into a covered transaction with a participant, you as  
an agency official may not approve a participant's use of an excluded  
person as a principal under that transaction, unless you obtain an  
exception under Sec. 24.120.

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[Page 254]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart D Responsibilities of HUD Officials Regarding Transactions

Sec. 24.415 What must I do if a Federal agency excludes the participant  
or a principal after I enter into a covered transaction?

(a) You as an agency official may continue covered transactions with  
an excluded person, or under which an excluded person is a principal, if  
the transactions were in existence when the person was excluded. You are  
not required to continue the transactions, however, and you may consider  
termination. You should make a decision about whether to terminate and  
the type of termination action, if any, only after a thorough review to  
ensure that the action is proper.

(b) You may not renew or extend covered transactions (other than no-  
cost time extensions) with any excluded person, or under which an  
excluded person is a principal, unless you obtain an exception under  
Sec. 24.120.

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[Page 254]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart D Responsibilities of HUD Officials Regarding Transactions

Sec. 24.420 May I approve a transaction with an excluded or disqualified  
person at a lower tier?

If a transaction at a lower tier is subject to your approval, you as  
an agency official may not approve--

(a) A covered transaction with a person who is currently excluded,  
unless you obtain an exception under Sec. 24.120; or

(b) A transaction with a person who is disqualified from that  
transaction, unless you obtain a waiver or exception under the statute,  
Executive order, or regulation that is the basis for the person's  
disqualification.

[Code of Federal Regulations]  
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[Page 254]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart D Responsibilities of HUD Officials Regarding Transactions

Sec. 24.425 When do I check to see if a person is excluded or disqualified?

As an agency official, you must check to see if a person is excluded  
or disqualified before you--

- (a) Enter into a primary tier covered transaction;
- (b) Approve a principal in a primary tier covered transaction;
- (c) Approve a lower tier participant if agency approval of the lower  
tier participant is required; or
- (d) Approve a principal in connection with a lower tier transaction  
if agency approval of the principal is required.

[[Page 255]]



[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
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[Page 255]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart D Responsibilities of HUD Officials Regarding Transactions

Sec. 24.430 How do I check to see if a person is excluded or disqualified?

You check to see if a person is excluded or disqualified in two  
ways:

(a) You as an agency official must check the EPLS when you take any  
action listed in Sec. 24.425.

(b) You must review information that a participant gives you, as  
required by Sec. 24.335, about its status or the status of the  
principals of a transaction.

[Code of Federal Regulations]  
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[Page 255]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart D Responsibilities of HUD Officials Regarding Transactions

Sec. 24.435 What must I require of a primary tier participant?

You as an agency official must require each participant in a primary  
tier covered transaction to--

- (a) Comply with subpart C of this part as a condition of  
participation in the transaction; and
- (b) Communicate the requirement to comply with Subpart C of this  
part to persons at the next lower tier with whom the primary tier  
participant enters into covered transactions.

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[Page 255]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart D Responsibilities of HUD Officials Regarding Transactions

Sec. 24.440 What method do I use to communicate those requirements to  
participants?

To communicate the requirements to participants, you must include a  
term or condition in the transaction requiring the participants'  
compliance with subpart C of this part and requiring them to include a  
similar term or condition in lower tier covered transactions.

[68 FR 66596, Nov. 26, 2003]

[Code of Federal Regulations]  
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[Page 255]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart D Responsibilities of HUD Officials Regarding Transactions

Sec. 24.445 What action may I take if a primary tier participant knowingly  
does business with an excluded or disqualified person?

If a participant knowingly does business with an excluded or  
disqualified person, you as an agency official may refer the matter for  
suspension and debarment consideration. You may also disallow costs,  
annul or terminate the transaction, issue a stop work order, or take any  
other appropriate remedy.

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[Page 255]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart D\_Responsibilities of HUD Officials Regarding Transactions

Sec. 24.450 What action may I take if a primary tier participant fails  
to disclose the information required under Sec. 24.335?

If you as an agency official determine that a participant failed to  
disclose information, as required by Sec. 24.335, at the time it  
entered into a covered transaction with you, you may--

- (a) Terminate the transaction for material failure to comply with  
the terms and conditions of the transaction; or
- (b) Pursue any other available remedies, including suspension and  
debarment.

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[Page 255]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart D Responsibilities of HUD Officials Regarding Transactions

Sec. 24.455 What may I do if a lower tier participant fails to disclose  
the information required under Sec. 24.355 to the next higher tier?

If you as an agency official determine that a lower tier participant  
failed to disclose information, as required by Sec. 24.355, at the time  
it entered into a covered transaction with a participant at the next  
higher tier, you may pursue any remedies available to you, including the  
initiation of a suspension or debarment action.

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[Page 255]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart E Excluded Parties List System

Sec. 24.500 What is the purpose of the Excluded Parties List System (EPLS)?

The EPLS is a widely available source of the most current information about persons who are excluded or disqualified from covered transactions.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
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[Page 255]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart E Excluded Parties List System

Sec. 24.505 Who uses the EPLS?

(a) Federal agency officials use the EPLS to determine whether to enter into a transaction with a person, as required under Sec. 24.430.

(b) Participants also may, but are not required to, use the EPLS to determine if--

(1) Principals of their transactions are excluded or disqualified, as required under Sec. 24.320; or

(2) Persons with whom they are entering into covered transactions at the next lower tier are excluded or disqualified.

(c) The EPLS is available to the general public.



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From the U.S. Government Printing Office via GPO Access  
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[Page 255-256]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart E Excluded Parties List System

Sec. 24.510 Who maintains the EPLS?

In accordance with the OMB guidelines, the General Services  
Administration (GSA) maintains the EPLS. When

[[Page 256]]

a Federal agency takes an action to exclude a person under the  
nonprocurement or procurement debarment and suspension system, the  
agency enters the information about the excluded person into the EPLS.

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[Title 24, Volume 1]  
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From the U.S. Government Printing Office via GPO Access  
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[Page 256]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart E\_Excluded Parties List System

Sec. 24.515 What specific information is in the EPLS?

(a) At a minimum, the EPLS indicates--

(1) The full name (where available) and address of each excluded or disqualified person, in alphabetical order, with cross references if more than one name is involved in a single action;

(2) The type of action;

(3) The cause for the action;

(4) The scope of the action;

(5) Any termination date for the action;

(6) The agency and name and telephone number of the agency point of contact for the action; and

(7) The Dun and Bradstreet Number (DUNS), or other similar code approved by the GSA, of the excluded or disqualified person, if available.

(b)(1) The database for the EPLS includes a field for the Taxpayer Identification Number (TIN) (the social security number (SSN) for an individual) of an excluded or disqualified person.

(2) Agencies disclose the SSN of an individual to verify the identity of an individual, only if permitted under the Privacy Act of 1974 and, if appropriate, the Computer Matching and Privacy Protection Act of 1988, as codified in 5 U.S.C. 552(a).

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[Page 256]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart E\_Excluded Parties List System

Sec. 24.520 Who places the information into the EPLS?

Federal officials who take actions to exclude persons under this part or officials who are responsible for identifying disqualified persons must enter the following information about those persons into the EPLS:

- (a) Information required by Sec. 24.515(a);
- (b) The Taxpayer Identification Number (TIN) of the excluded or disqualified person, including the social security number (SSN) for an individual, if the number is available and may be disclosed under law;
- (c) Information about an excluded or disqualified person, generally within five working days, after--
  - (1) Taking an exclusion action;
  - (2) Modifying or rescinding an exclusion action;
  - (3) Finding that a person is disqualified; or
  - (4) Finding that there has been a change in the status of a person who is listed as disqualified.

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[Page 256]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart E\_Excluded Parties List System

Sec. 24.525 Whom do I ask if I have questions about a person in the EPLS?

If you have questions about a person in the EPLS, ask the point of contact for the Federal agency that placed the person's name into the EPLS. You may find the agency point of contact from the EPLS.

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[Page 256]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart E Excluded Parties List System

Sec. 24.530 Where can I find the EPLS?

(a) You may access the EPLS through the Internet, currently at  
<http://epls.arnet.gov>.

(b) As of November 26, 2003, you may also subscribe to a printed  
version. However, we anticipate discontinuing the printed version. Until  
it is discontinued, you may obtain the printed version by purchasing a  
yearly subscription from the Superintendent of Documents, U.S.  
Government Printing Office, Washington, DC 20402, or by calling the  
Government Printing Office Inquiry and Order Desk at (202) 783-3238.

[Code of Federal Regulations]  
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[Page 256]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart F\_General Principles Relating to Suspension and Debarment  
Actions

Sec. 24.600 How do suspension and debarment actions start?

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

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[Page 256-257]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table of Contents

Subpart F\_General Principles Relating to Suspension and Debarment Actions

Sec. 24.605 How does suspension differ from debarment?

Suspension differs from debarment in that--

[[Page 257]]

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-- (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.

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[Page 257]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart F General Principles Relating to Suspension and Debarment  
Actions

Sec. 24.610 What procedures does the Department of Housing and Urban  
Development use in suspension and debarment actions?

In deciding whether to suspend or debar you, we handle the actions  
as informally as practicable, consistent with principles of fundamental  
fairness.

(a) For suspension actions, we use the procedures in this subpart  
and subpart G of this part.

(b) For debarment actions, we use the procedures in this subpart and  
subpart H of this part.



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[Page 257]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart F\_General Principles Relating to Suspension and Debarment  
Actions

Sec. 24.615 How does the Department of Housing and Urban Development  
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 e-mail 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.

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[CITE: 24CFR24.620]

[Page 257]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart F General Principles Relating to Suspension and Debarment  
Actions

Sec. 24.620 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.

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[Page 257]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart F\_General Principles Relating to Suspension and Debarment  
Actions

Sec. 24.625 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.

(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.

[Code of Federal Regulations]  
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[Page 257-258]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart F\_General Principles Relating to Suspension and Debarment  
Actions

Sec. 24.630 May the Department of Housing and Urban Development impute  
conduct of one person to another?

For purposes of actions taken under this rule, we may impute conduct  
as follows:

(a) Conduct imputed from an individual to an organization. We 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.

[[Page 258]]

(b) Conduct imputed from an organization to an individual, or  
between individuals. We 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.  
We 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.

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[CITE: 24CFR24.635]

[Page 258]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart F\_General Principles Relating to Suspension and Debarment  
Actions

Sec. 24.635 May the Department of Housing and Urban Development settle  
a debarment or suspension action?

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

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[Page 258]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart F General Principles Relating to Suspension and Debarment  
Actions

Sec. 24.640 May a settlement include a voluntary exclusion?

Yes, if we enter into a settlement with you in which you agree to be  
excluded, it is called a voluntary exclusion and has governmentwide  
effect.

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[Page 258]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart F\_General Principles Relating to Suspension and Debarment  
Actions

Sec. 24.645 Do other Federal agencies know if the Department of Housing  
and Urban Development agrees to a voluntary exclusion?

(a) Yes, we enter information regarding a voluntary exclusion into  
the EPLS.

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

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[CITE: 24CFR24.700]

[Page 258]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart G\_Suspension

Sec. 24.700 When may the suspending official issue a suspension?

Suspension is a serious action. Using the procedures of this subpart and subpart F of this part, the suspending official may impose suspension only when that official determines that--

- (a) There exists an indictment for, or other adequate evidence to suspect, an offense listed under Sec. 24.800(a), or
- (b) There exists adequate evidence to suspect any other cause for debarment listed under Sec. 24.800(b) through (d); and
- (c) Immediate action is necessary to protect the public interest.



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[Title 24, Volume 1]  
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[Page 258]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart G\_Suspension

Sec. 24.705 What does the suspending official consider in issuing a  
suspension?

(a) In determining the adequacy of the evidence to support the  
suspension, the suspending official considers how much information is  
available, how credible it is given the circumstances, whether or not  
important allegations are corroborated, and what inferences can  
reasonably be drawn as a result. During this assessment, the suspending  
official may examine the basic documents, including grants, cooperative  
agreements, loan authorizations, contracts, and other relevant  
documents.

(b) An indictment, conviction, civil judgment, or other official  
findings by Federal, State, or local bodies that determine factual and/  
or legal matters, constitutes adequate evidence for purposes of  
suspension actions.

(c) In deciding whether immediate action is needed to protect the  
public interest, the suspending official has wide discretion. For  
example, the suspending official may infer the necessity for immediate  
action to protect the public interest either from the nature of the  
circumstances giving rise to a cause for suspension or from potential  
business relationships or involvement with a program of the Federal  
Government.

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[Page 258]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart G\_Suspension

Sec. 24.710 When does a suspension take effect?

A suspension is effective when the suspending official signs the  
decision to suspend.

[[Page 259]]

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
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[Page 259]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart G\_Suspension

Sec. 24.715 What notice does the suspending official give me if I am  
suspended?

After deciding to suspend you, the suspending official promptly  
sends you a Notice of Suspension advising you--

- (a) That you have been suspended;
- (b) That your suspension is based on--
  - (1) An indictment;
  - (2) A conviction;
  - (3) Other adequate evidence that you have committed irregularities  
which seriously reflect on the propriety of further Federal Government  
dealings with you; or
  - (4) Conduct of another person that has been imputed to you, or your  
affiliation with a suspended or debarred person;
- (c) Of any other irregularities in terms sufficient to put you on  
notice without disclosing the Federal Government's evidence;
- (d) Of the cause(s) upon which we relied under Sec. 24.700 for  
imposing suspension;
- (e) That your suspension is for a temporary period pending the  
completion of an investigation or resulting legal or debarment  
proceedings;
- (f) Of the applicable provisions of this subpart, Subpart F of this  
part, and any other HUD procedures governing suspension decision making;  
and
- (g) Of the governmentwide effect of your suspension from procurement  
and nonprocurement programs and activities.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
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[Page 259]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart G\_Suspension

Sec. 24.720 How may I contest a suspension?

If you as a respondent wish to contest a suspension, you or your representative must provide the suspending official with information in opposition to the suspension. You may do this orally or in writing, but any information provided orally that you consider important must also be submitted in writing for the official record.

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[Page 259]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart G\_Suspension

Sec. 24.725 How much time do I have to contest a suspension?

(a) As a respondent you or your representative must either send, or make arrangements to appear and present, the information and argument to the suspending official within 30 days after you receive the Notice of Suspension.

(b) We consider the notice to be received by you--

(1) When delivered, if we mail the notice to the last known street address, or five days after we send it if the letter is undeliverable;

(2) When sent, if we send the notice by facsimile or five days after we send it if the facsimile is undeliverable; or

(3) When delivered, if we send the notice by e-mail or five days after we send it if the e-mail is undeliverable.

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[Page 259]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart G\_Suspension

Sec. 24.730 What information must I provide to the suspending official  
if I contest a suspension?

(a) In addition to any information and argument in opposition, as a  
respondent your submission to the suspending official must identify--

(1) Specific facts that contradict the statements contained in the  
Notice of Suspension. A general denial is insufficient to raise a  
genuine dispute over facts material to the suspension;

(2) All existing, proposed, or prior exclusions under regulations  
implementing E.O. 12549 and all similar actions taken by Federal, state,  
or local agencies, including administrative agreements that affect only  
those agencies;

(3) All criminal and civil proceedings not included in the Notice of  
Suspension that grew out of facts relevant to the cause(s) stated in the  
notice; and

(4) All of your affiliates.

(b) If you fail to disclose this information, or provide false  
information, the Department of Housing and Urban Development may seek  
further criminal, civil or administrative action against you, as  
appropriate.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
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[Page 259-260]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart G\_Suspension

Sec. 24.735 Under what conditions do I get an additional opportunity to  
challenge the facts on which the suspension is based?

(a) You as a respondent will not have an additional opportunity to  
challenge the facts if the suspending official determines that--

(1) Your suspension is based upon an indictment, conviction, civil  
judgment, or other finding by a Federal, State, or local body for which  
an opportunity to contest the facts was provided;

[[Page 260]]

(2) Your presentation in opposition contains only general denials to  
information contained in the Notice of Suspension;

(3) The issues raised in your presentation in opposition to the  
suspension are not factual in nature, or are not material to the  
suspending official's initial decision to suspend, or the official's  
decision whether to continue the suspension; or

(4) On the basis of advice from the Department of Justice, an office  
of the United States Attorney, a State attorney general's office, or a  
State or local prosecutor's office, that substantial interests of the  
government in pending or contemplated legal proceedings based on the  
same facts as the suspension would be prejudiced by conducting fact-  
finding.

(b) You will have an opportunity to challenge the facts if the  
suspending official determines that--

(1) The conditions in paragraph (a) of this section do not exist;  
and

(2) Your presentation in opposition raises a genuine dispute over  
facts material to the suspension.

(c) If you have an opportunity to challenge disputed material facts  
under this section, the suspending official or designee must conduct  
additional proceedings to resolve those facts.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
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[Page 260]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart G\_Suspension

Sec. 24.740 Are suspension proceedings formal?

(a) Suspension proceedings are conducted in a fair and informal manner. The suspending official may use flexible procedures to allow you to present matters in opposition. In so doing, the suspending official is not required to follow formal rules of evidence or procedure in creating an official record upon which the official will base a final suspension decision.

(b) You as a respondent or your representative must submit any documentary evidence you want the suspending official to consider.



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[Page 260]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart G\_Suspension

Sec. 24.745 How is fact-finding conducted?

(a) If fact-finding is conducted--

(1) You may present witnesses and other evidence, and confront any  
witness presented; and

(2) The fact-finder must prepare written findings of fact for the  
record.

(b) A transcribed record of fact-finding proceedings must be made,  
unless you as a respondent and the Department of Housing and Urban  
Development agree to waive it in advance. If you want a copy of the  
transcribed record, you may purchase it.

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[Title 24, Volume 1]  
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[CITE: 24CFR24.750]

[Page 260]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart G\_Suspension

Sec. 24.750 What does the suspending official consider in deciding  
whether to continue or terminate my suspension?

(a) The suspending official bases the decision on all information  
contained in the official record. The record includes--

(1) All information in support of the suspending official's initial  
decision to suspend you;

(2) Any further information and argument presented in support of, or  
opposition to, the suspension; and

(3) Any transcribed record of fact-finding proceedings.

(b) The suspending official may refer disputed material facts to  
another official for findings of fact. The suspending official may  
reject any resulting findings, in whole or in part, only after  
specifically determining them to be arbitrary, capricious, or clearly  
erroneous.

(c) The official receiving the referral for findings of fact  
regarding disputed material facts must be a hearing officer in all HUD  
suspensions.

[68 FR 66544, 66594, 66596, Nov. 26, 2003]

[Code of Federal Regulations]  
[Title 24, Volume 1]  
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[Page 260]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart G\_Suspension

Sec. 24.755 When will I know whether the suspension is continued or  
terminated?

The suspending official must make a written decision whether to  
continue, modify, or terminate your suspension within 45 days of closing  
the official record. The official record closes upon the suspending  
official's receipt of final submissions, information and findings of  
fact, if any. The suspending official may extend that period for good  
cause.

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[Page 260-261]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart G\_Suspension

Sec. 24.760 How long may my suspension last?

(a) If legal or debarment proceedings are initiated at the time of,  
or during your suspension, the suspension may continue until the  
conclusion of those

[[Page 261]]

proceedings. However, if proceedings are not initiated, a suspension may  
not exceed 12 months.

(b) The suspending official may extend the 12 month limit under  
paragraph (a) of this section for an additional 6 months if an office of  
a U.S. Assistant Attorney General, U.S. Attorney, or other responsible  
prosecuting official requests an extension in writing. In no event may a  
suspension exceed 18 months without initiating proceedings under  
paragraph (a) of this section.

(c) The suspending official must notify the appropriate officials  
under paragraph (b) of this section of an impending termination of a  
suspension at least 30 days before the 12 month period expires to allow  
the officials an opportunity to request an extension.

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[Page 261]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.800 What are the causes for debarment?

We may debar a person for--

(a) Conviction of or civil judgment for--

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;

(2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or

(4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as--

(1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;

(2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or

(3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(c) Any of the following causes:

(1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under Sec. 24.120;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(4) Violation of a material provision of a voluntary exclusion agreement entered into under Sec. 24.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701); or

(d) Any other cause of so serious or compelling a nature that it affects your present responsibility.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
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From the U.S. Government Printing Office via GPO Access  
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[Page 261-262]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.805 What notice does the debarring official give me if I am  
proposed for debarment?

After consideration of the causes in Sec. 24.800 of this subpart,  
if the debarring official proposes to debar you, the official sends you  
a Notice of Proposed Debarment, pursuant to Sec. 24.615, advising you--

(a) That the debarring official is considering debarring you;

(b) Of the reasons for proposing to debar you in terms sufficient to  
put you on notice of the conduct or transactions upon which the proposed  
debarment is based;

(c) Of the cause(s) under Sec. 24.800 upon which the debarring  
official relied for proposing your debarment;

[[Page 262]]

(d) Of the applicable provisions of this subpart, Subpart F of this  
part, and any other HUD procedures governing debarment; and

(e) Of the governmentwide effect of a debarment from procurement and  
nonprocurement programs and activities.

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[Page 262]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.810 When does a debarment take effect?

A debarment is not effective until the debarring official issues a decision. The debarring official does not issue a decision until the respondent has had an opportunity to contest the proposed debarment.

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[Page 262]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.815 How may I contest a proposed debarment?

If you as a respondent wish to contest a proposed debarment, you or your representative must provide the debarring official with information in opposition to the proposed debarment. You may do this orally or in writing, but any information provided orally that you consider important must also be submitted in writing for the official record.



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[Page 262]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.820 How much time do I have to contest a proposed debarment?

(a) As a respondent you or your representative must either send, or make arrangements to appear and present, the information and argument to the debarring official within 30 days after you receive the Notice of Proposed Debarment.

(b) We consider the Notice of Proposed Debarment to be received by you--

(1) When delivered, if we mail the notice to the last known street address, or five days after we send it if the letter is undeliverable;

(2) When sent, if we send the notice by facsimile or five days after we send it if the facsimile is undeliverable; or

(3) When delivered, if we send the notice by e-mail or five days after we send it if the e-mail is undeliverable.

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[Page 262]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.825 What information must I provide to the debarring official  
if I contest a proposed debarment?

(a) In addition to any information and argument in opposition, as a  
respondent your submission to the debarring official must identify--

(1) Specific facts that contradict the statements contained in the  
Notice of Proposed Debarment. Include any information about any of the  
factors listed in Sec. 24.860. A general denial is insufficient to  
raise a genuine dispute over facts material to the debarment;

(2) All existing, proposed, or prior exclusions under regulations  
implementing E.O. 12549 and all similar actions taken by Federal, State,  
or local agencies, including administrative agreements that affect only  
those agencies;

(3) All criminal and civil proceedings not included in the Notice of  
Proposed Debarment that grew out of facts relevant to the cause(s)  
stated in the notice; and

(4) All of your affiliates.

(b) If you fail to disclose this information, or provide false  
information, the Department of Housing and Urban Development may seek  
further criminal, civil or administrative action against you, as  
appropriate.

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[Page 262-263]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.830 Under what conditions do I get an additional opportunity to  
challenge the facts on which a proposed debarment is based?

(a) You as a respondent will not have an additional opportunity to  
challenge the facts if the debarring official determines that--

- (1) Your debarment is based upon a conviction or civil judgment;
- (2) Your presentation in opposition contains only general denials to  
information contained in the Notice of Proposed Debarment; or
- (3) The issues raised in your presentation in opposition to the  
proposed debarment are not factual in nature, or are not material to the  
debarring official's decision whether to debar.

(b) You will have an additional opportunity to challenge the facts  
if the debarring official determines that--

- (1) The conditions in paragraph (a) of this section do not exist;  
and
- (2) Your presentation in opposition raises a genuine dispute over  
facts material to the proposed debarment.

(c) If you have an opportunity to challenge disputed material facts

[[Page 263]]

under this section, the debarring official or designee must conduct  
additional proceedings to resolve those facts.

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[Page 263]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.835 Are debarment proceedings formal?

(a) Debarment proceedings are conducted in a fair and informal manner. The debarring official may use flexible procedures to allow you as a respondent to present matters in opposition. In so doing, the debarring official is not required to follow formal rules of evidence or procedure in creating an official record upon which the official will base the decision whether to debar.

(b) You or your representative must submit any documentary evidence you want the debarring official to consider.

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[Page 263]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.840 How is fact-finding conducted?

(a) If fact-finding is conducted--

(1) You may present witnesses and other evidence, and confront any witness presented; and

(2) The fact-finder must prepare written findings of fact for the record.

(b) A transcribed record of fact-finding proceedings must be made, unless you as a respondent and the Department of Housing and Urban Development agree to waive it in advance. If you want a copy of the transcribed record, you may purchase it.

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[Page 263]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.845 What does the debarring official consider in deciding whether  
to debar me?

(a) The debarring official may debar you for any of the causes in  
Sec. 24.800. However, the official need not debar you even if a cause  
for debarment exists. The official may consider the seriousness of your  
acts or omissions and the mitigating or aggravating factors set forth at  
Sec. 24.860.

(b) The debarring official bases the decision on all information  
contained in the official record. The record includes--

(1) All information in support of the debarring official's proposed  
debarment;

(2) Any further information and argument presented in support of, or  
in opposition to, the proposed debarment; and

(3) Any transcribed record of fact-finding proceedings.

(c) The debarring official may refer disputed material facts to  
another official for findings of fact. The debarring official may reject  
any resultant findings, in whole or in part, only after specifically  
determining them to be arbitrary, capricious, or clearly erroneous.

(d) The official receiving the referral for findings of fact  
regarding disputed material facts must be a hearing officer in all HUD  
debarments.

[68 FR 66544, 66594, 66596, Nov. 26, 2003]

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[CITE: 24CFR24.850]

[Page 263]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.850 What is the standard of proof in a debarment action?

(a) In any debarment action, we must establish the cause for  
debarment by a preponderance of the evidence.

(b) If the proposed debarment is based upon a conviction or civil  
judgment, the standard of proof is met.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
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[Page 263]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.855 Who has the burden of proof in a debarment action?

(a) We have the burden to prove that a cause for debarment exists.

(b) Once a cause for debarment is established, you as a respondent have the burden of demonstrating to the satisfaction of the debarring official that you are presently responsible and that debarment is not necessary.



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[Page 263-264]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.860 What factors may influence the debarring official's decision?

This section lists the mitigating and aggravating factors that the debarring official may consider in determining whether to debar you and the length of your debarment period. The debarring official may consider other factors if appropriate in light of the circumstances of a particular case. The existence or nonexistence of any factor, such as one of those set forth in this section, is not necessarily determinative of your present responsibility. In making a debarment decision, the debarring official may consider the following factors:

- (a) The actual or potential harm or impact that results or may result from the wrongdoing.
- (b) The frequency of incidents and/or duration of the wrongdoing.

[[Page 264]]

(c) Whether there is a pattern or prior history of wrongdoing. For example, if you have been found by another Federal agency or a State agency to have engaged in wrongdoing similar to that found in the debarment action, the existence of this fact may be used by the debarring official in determining that you have a pattern or prior history of wrongdoing.

(d) Whether you are or have been excluded or disqualified by an agency of the Federal Government or have not been allowed to participate in State or local contracts or assistance agreements on a basis of conduct similar to one or more of the causes for debarment specified in this part.

(e) Whether you have entered into an administrative agreement with a Federal agency or a State or local government that is not governmentwide but is based on conduct similar to one or more of the causes for debarment specified in this part.

(f) Whether and to what extent you planned, initiated, or carried out the wrongdoing.

(g) Whether you have accepted responsibility for the wrongdoing and recognize the seriousness of the misconduct that led to the cause for debarment.

(h) Whether you have paid or agreed to pay all criminal, civil and administrative liabilities for the improper activity, including any investigative or administrative costs incurred by the government, and have made or agreed to make full restitution.

(i) Whether you have cooperated fully with the government agencies during the investigation and any court or administrative action. In determining the extent of cooperation, the debarring official may consider when the cooperation began and whether you disclosed all pertinent information known to you.

(j) Whether the wrongdoing was pervasive within your organization.

(k) The kind of positions held by the individuals involved in the wrongdoing.

(l) Whether your organization took appropriate corrective action or remedial measures, such as establishing ethics training and implementing programs to prevent recurrence.

(m) Whether your principals tolerated the offense.

(n) Whether you brought the activity cited as a basis for the debarment to the attention of the appropriate government agency in a timely manner.

(o) Whether you have fully investigated the circumstances surrounding the cause for debarment and, if so, made the result of the investigation available to the debarring official.

(p) Whether you had effective standards of conduct and internal control systems in place at the time the questioned conduct occurred.

(q) Whether you have taken appropriate disciplinary action against the individuals responsible for the activity which constitutes the cause for debarment.

(r) Whether you have had adequate time to eliminate the

circumstances within your organization that led to the cause for the debarment.

(s) Other factors that are appropriate to the circumstances of a particular case.

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[Title 24, Volume 1]  
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[CITE: 24CFR24.865]

[Page 264]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H Debarment

Sec. 24.865 How long may my debarment last?

(a) If the debarring official decides to debar you, your period of debarment will be based on the seriousness of the cause(s) upon which your debarment is based. Generally, debarment should not exceed three years. However, if circumstances warrant, the debarring official may impose a longer period of debarment.

(b) In determining the period of debarment, the debarring official may consider the factors in Sec. 24.860. If a suspension has preceded your debarment, the debarring official must consider the time you were suspended.

(c) If the debarment is for a violation of the provisions of the Drug-Free Workplace Act of 1988, your period of debarment may not exceed five years.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.870]

[Page 264-265]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.870 When do I know if the debarring official debars me?

(a) The debarring official must make a written decision whether to debar within 45 days of closing the official record. The official record closes upon the debarring official's receipt of final submissions, information and findings

[[Page 265]]

of fact, if any. The debarring official may extend that period for good cause.

(b) The debarring official sends you written notice, pursuant to Sec. 24.615 that the official decided, either--

(1) Not to debar you; or

(2) To debar you. In this event, the notice:

(i) Refers to the Notice of Proposed Debarment;

(ii) Specifies the reasons for your debarment;

(iii) States the period of your debarment, including the effective dates; and

(iv) Advises you that your debarment is effective for covered transactions and contracts that are subject to the Federal Acquisition Regulation (48 CFR chapter 1), throughout the executive branch of the Federal Government unless an agency head or an authorized designee grants an exception.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.875]

[Page 265]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.875 May I ask the debarring official to reconsider a decision  
to debar me?

Yes, as a debarred person you may ask the debarring official to  
reconsider the debarment decision or to reduce the time period or scope  
of the debarment. However, you must put your request in writing and  
support it with documentation.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.880]

[Page 265]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.880 What factors may influence the debarring official during  
reconsideration?

The debarring official may reduce or terminate your debarment based  
on--

- (a) Newly discovered material evidence;
- (b) A reversal of the conviction or civil judgment upon which your  
debarment was based;
- (c) A bona fide change in ownership or management;
- (d) Elimination of other causes for which the debarment was imposed;

or

- (e) Other reasons the debarring official finds appropriate.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.885]

[Page 265]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart H\_Debarment

Sec. 24.885 May the debarring official extend a debarment?

(a) Yes, the debarring official may extend a debarment for an additional period, if that official determines that an extension is necessary to protect the public interest.

(b) However, the debarring official may not extend a debarment solely on the basis of the facts and circumstances upon which the initial debarment action was based.

(c) If the debarring official decides that a debarment for an additional period is necessary, the debarring official must follow the applicable procedures in this subpart, and subpart F of this part, to extend the debarment.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.900]

[Page 265]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.900 Adequate evidence.

Adequate evidence means information sufficient to support the  
reasonable belief that a particular act or omission has occurred.



[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.905]

[Page 265]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.905 Affiliate.

Persons are affiliates of each other if, directly or indirectly, either one controls or has the power to control the other or a third person controls or has the power to control both. The ways we use to determine control include, but are not limited to--

- (a) Interlocking management or ownership;
- (b) Identity of interests among family members;
- (c) Shared facilities and equipment;
- (d) Common use of employees; or
- (e) A business entity which has been organized following the exclusion of a person which has the same or similar management, ownership, or principal employees as the excluded person.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.910]

[Page 265]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.910 Agency.

Agency means any United States executive department, military department, defense agency, or any other agency of the executive branch. Other agencies of the Federal government are not considered ``agencies'' for the purposes of this part unless they issue regulations adopting the governmentwide Debarment and Suspension system under Executive orders 12549 and 12689.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.915]

[Page 265]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.915 Agent or representative.

Agent or representative means any person who acts on behalf of, or  
who is authorized to commit, a participant in a covered transaction.

[[Page 266]]

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.920]

[Page 266]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.920 Civil judgment.

Civil judgment means the disposition of a civil action by any court of competent jurisdiction, whether by verdict, decision, settlement, stipulation, other disposition which creates a civil liability for the complained of wrongful acts, or a final determination of liability under the Program Fraud Civil Remedies Act of 1988 (31 U.S.C. 3801-3812).

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.925]

[Page 266]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.925 Conviction.

Conviction means--

(a) A judgment or any other determination of guilt of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or plea, including a plea of nolo contendere; or

(b) Any other resolution that is the functional equivalent of a judgment, including probation before judgment and deferred prosecution. A disposition without the participation of the court is the functional equivalent of a judgment only if it includes an admission of guilt.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.930]

[Page 266]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.930 Debarment.

Debarment means an action taken by a debarring official under subpart H of this part to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.935]

[Page 266]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.935 Debarring official.

(a) Debarring official means an agency official who is authorized to  
impose debarment. A debarring official is either--

- (1) The agency head; or
  - (2) An official designated by the agency head.
- (b) [Reserved]

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.940]

[Page 266]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.940 Disqualified.

Disqualified means that a person is prohibited from participating in specified Federal procurement or nonprocurement transactions as required under a statute, Executive order (other than Executive Orders 12549 and 12689) or other authority. Examples of disqualifications include persons prohibited under--

- (a) The Davis-Bacon Act (40 U.S.C. 276(a));
- (b) The equal employment opportunity acts and Executive orders; or
- (c) The Clean Air Act (42 U.S.C. 7606), Clean Water Act (33 U.S.C. 1368) and Executive Order 11738 (3 CFR, 1973 Comp., p. 799).



[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.945]

[Page 266]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.945 Excluded or exclusion.

Excluded or exclusion means--

(a) That a person or commodity is prohibited from being a participant in covered transactions, whether the person has been suspended; debarred; proposed for debarment under 48 CFR part 9, subpart 9.4; voluntarily excluded; or

(b) The act of excluding a person.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.947]

[Page 266]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.947 Hearing officer.

Hearing officer means an Administrative Law Judge or Board of  
Contract Appeals Judge authorized by HUD's Secretary or by the  
Secretary's designee, to conduct proceedings under this part.

[68 FR 66596, Nov. 26, 2003]

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.950]

[Page 266]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.950 Excluded Parties List System

Excluded Parties List System (EPLS) means the list maintained and disseminated by the General Services Administration (GSA) containing the names and other information about persons who are ineligible. The EPLS system includes the printed version entitled, ``List of Parties Excluded or Disqualified from Federal Procurement and Nonprocurement Programs,`` so long as published.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.955]

[Page 266]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.955 Indictment.

Indictment means an indictment for a criminal offense. A presentment, information, or other filing by a competent authority charging a criminal offense shall be given the same effect as an indictment.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.960]

[Page 266]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.960 Ineligible or ineligibility.

Ineligible or ineligibility means that a person or commodity is prohibited from covered transactions because of an exclusion or disqualification.

[[Page 267]]

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.965]

[Page 267]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.965 Legal proceedings.

Legal proceedings means any criminal proceeding or any civil judicial proceeding, including a proceeding under the Program Fraud Civil Remedies Act (31 U.S.C. 3801-3812), to which the Federal Government or a State or local government or quasi-governmental authority is a party. The term also includes appeals from those proceedings.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.970]

[Page 267]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.970 Nonprocurement transaction.

(a) Nonprocurement transaction means any transaction, regardless of type (except procurement contracts), including, but not limited to the following:

- (1) Grants.
- (2) Cooperative agreements.
- (3) Scholarships.
- (4) Fellowships.
- (5) Contracts of assistance.
- (6) Loans.
- (7) Loan guarantees.
- (8) Subsidies.
- (9) Insurances.
- (10) Payments for specified uses.
- (11) Donation agreements.

(b) A nonprocurement transaction at any tier does not require the transfer of Federal funds.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.975]

[Page 267]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.975 Notice.

Notice means a written communication served in person, sent by certified mail or its equivalent, or sent electronically by e-mail or facsimile. (See Sec. 24.615.)



[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.980]

[Page 267]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.980 Participant.

Participant means any person who submits a proposal for or who enters into a covered transaction, including an agent or representative of a participant.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.985]

[Page 267]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.985 Person.

Person means any individual, corporation, partnership, association,  
unit of government, or legal entity, however organized.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.990]

[Page 267]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.990 Preponderance of the evidence.

Preponderance of the evidence means proof by information that,  
compared with information opposing it, leads to the conclusion that the  
fact at issue is more probably true than not.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.995]

[Page 267-268]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.995 Principal.

Principal means--

(a) An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or

(b) A consultant or other person, whether or not employed by the participant or paid with Federal funds, who--

(1) Is in a position to handle Federal funds;

(2) Is in a position to influence or control the use of those funds;

or,

(3) Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

(c) A person who has a critical influence on, or substantive control over, a covered transaction, whether or not employed by the participant. Persons who have a critical influence on, or substantive control over, a covered transaction may include, but are not limited to:

(1) Loan officers;

(2) Staff appraisers and inspectors;

(3) Underwriters;

(4) Bonding companies;

(5) Borrowers under programs financed by HUD or with loans guaranteed, insured, or subsidized through HUD programs;

(6) Purchasers of properties with HUD-insured or Secretary-held mortgages;

(7) Recipients under HUD assistance agreements;

(8) Ultimate beneficiaries of HUD programs;

(9) Fee appraisers and inspectors;

(10) Real estate agents and brokers;

(11) Management and marketing agents;

(12) Accountants, consultants, investment bankers, architects, engineers, and attorneys who are in a business relationship with participants in connection with a covered transaction under a HUD program;

(13) Contractors involved in the construction or rehabilitation of properties financed by HUD, with HUD insured loans, or acquired properties, including properties held by HUD as mortgagee-in-possession;

(14) Closing agents;

[[Page 268]]

(15) Turnkey developers of projects financed by or with financing insured by HUD;

(16) Title companies;

(17) Escrow agents;

(18) Project owners;

(19) Administrators of hospitals, nursing homes, and projects for the elderly financed or insured by HUD; and

(20) Developers, sellers or owners of property financed with loans insured under title I or title II of the National Housing Act.

[68 FR 66544, 66594, 66596, Nov. 26, 2003]

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.1000]

[Page 268]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.1000 Respondent.

Respondent means a person against whom an agency has initiated a  
debarment or suspension action.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.1005]

[Page 268]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.1005 State.

(a) State means--

- (1) Any of the states of the United States;
- (2) The District of Columbia;
- (3) The Commonwealth of Puerto Rico;
- (4) Any territory or possession of the United States; or
- (5) Any agency or instrumentality of a state.

(b) For purposes of this part, State does not include institutions  
of higher education, hospitals, or units of local government.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.1010]

[Page 268]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.1010 Suspending official.

(a) Suspending official means an agency official who is authorized  
to impose suspension. The suspending official is either:

- (1) The agency head; or
  - (2) An official designated by the agency head.
- (b) [Reserved]

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.1015]

[Page 268]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.1015 Suspension.

Suspension is an action taken by a suspending official under subpart G of this part that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended.



[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.1017]

[Page 268]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.1017 Ultimate beneficiaries.

Ultimate beneficiaries of HUD programs include, but are not limited to, subsidized tenants and subsidized mortgagors, such as those assisted under Section 8 Housing Assistance Payment contracts, by Section 236 Rental Assistance, or by Rent Supplement payments.

[69 FR 53978, Sept. 3, 2004]

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.1020]

[Page 268]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart I\_Definitions

Sec. 24.1020 Voluntary exclusion or voluntarily excluded.

(a) Voluntary exclusion means a person's agreement to be excluded under the terms of a settlement between the person and one or more agencies. Voluntary exclusion must have governmentwide effect.

(b) Voluntarily excluded means the status of a person who has agreed to a voluntary exclusion.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.1100]

[Page 268]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart J\_Limited Denial of Participation

Sec. 24.1100 What is a limited denial of participation?

Source: 68 FR 66597, Nov. 26, 2003, unless otherwise noted.

A limited denial of participation excludes a specific person from participating in a specific program, or programs, within a HUD field office's geographic jurisdiction, for a specific period of time. A limited denial of participation is normally issued by a HUD field office, but may be issued by a Headquarters office. The decision to impose a limited denial of participation is discretionary and in the best interests of the government.

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.1105]

[Page 268]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart J\_Limited Denial of Participation

Sec. 24.1105 Who may issue a limited denial of participation?

The Secretary designates HUD officials who are authorized to impose a limited denial of participation, affecting any participant and/or their affiliates, except FHA-approved mortgagees.

[[Page 269]]

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.1110]

[Page 269]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart J\_Limited Denial of Participation

Sec. 24.1110 When may a HUD official issue a limited denial of participation?

(a) An authorized HUD official may issue a limited denial of participation against a person based upon adequate evidence of any of the following causes:

- (1) Approval of an applicant for insurance would constitute an unsatisfactory risk;
- (2) Irregularities in a person's past performance in a HUD program;
- (3) Failure of a person to maintain the prerequisites of eligibility to participate in a HUD program;
- (4) Failure to honor contractual obligations or to proceed in accordance with contract specifications or HUD regulations;
- (5) Failure to satisfy, upon completion, the requirements of an assistance agreement or contract;
- (6) Deficiencies in ongoing construction projects;
- (7) Falsely certifying in connection with any HUD program, whether or not the certification was made directly to HUD;
- (8) Commission of an offense listed in Sec. 24.800;
- (9) Violation of any law, regulation, or procedure relating to the application for financial assistance, insurance, or guarantee, or to the performance of obligations incurred pursuant to a grant of financial assistance or pursuant to a conditional or final commitment to insure or guarantee;
- (10) Making or procuring to be made any false statement for the purpose of influencing in any way an action of the Department;
- (11) Imposition of a limited denial of participation by any other HUD office; or
- (12) Debarment or suspension by another federal agency for any cause substantially the same as provided in Sec. 24.800.

(b) Filing of a criminal Indictment or Information shall constitute adequate evidence for the purpose of limited denial of participation actions. The Indictment or Information need not be based on offenses against HUD.

(c) Imposition of a limited denial of participation by any other HUD office shall constitute adequate evidence for a concurrent limited denial of participation. Where such a concurrent limited denial of participation is imposed, participation may be restricted on the same basis without the need for additional conference or further hearing.

(d) An affiliate or organizational element may be included in a limited denial of participation solely on the basis of its affiliation, and regardless of its knowledge of or participation in the acts providing cause for the sanction. The burden of proving that a particular affiliate or organizational element is currently responsible and not controlled by the primary sanctioned party (or by an entity that itself is controlled by the primary sanctioned party) is on the affiliate or organizational element.

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[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
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[Page 269]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart J\_Limited Denial of Participation

Sec. 24.1115 When does a limited denial of participation take effect?

A limited denial of participation is effective immediately upon  
issuance of the notice.

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From the U.S. Government Printing Office via GPO Access  
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[Page 269]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart J\_Limited Denial of Participation

Sec. 24.1120 How long may a limited denial of participation last?

A limited denial of participation may remain effective up to 12  
months.

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[Title 24, Volume 1]  
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[Page 269]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart J\_Limited Denial of Participation

Sec. 24.1125 How does a limited denial of participation start?

A limited denial of participation is made effective by providing the person, and any specifically named affiliate, with notice:

- (a) That the limited denial of participation is being imposed;
- (b) Of the cause(s) under Sec. 24.1110 for the sanction;
- (c) Of the potential effect of the sanction, including the length of the sanction and the HUD program(s) and geographic area affected by the sanction;
- (d) Of the right to request, in writing, within 30 days of receipt of the notice, a conference under Sec. 24.1130; and
- (e) Of the right to contest the limited denial of participation under Sec. 24.1130.



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[Page 269-270]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table of Contents

Subpart J\_Limited Denial of Participation

Sec. 24.1130 How may I contest my limited denial of participation?

(a) Within 30 days after receiving a notice of limited denial of participation, you may request a conference

[[Page 270]]

with the official who issued such notice. The conference shall be held within 15 days after the Department's receipt of the request for a conference, unless you waive this time limit. The official or designee who imposed the sanction shall preside. At the conference, you may appear with a representative and may present all relevant information and materials to the official or designee. Within 20 days after the conference, or within 20 days after any agreed upon extension of time for submission of additional materials, the official or designee shall, in writing, advise you of the decision to terminate, modify, or affirm the limited denial of participation. If all or a portion of the remaining period of exclusion is affirmed, the notice of affirmation shall advise you of the opportunity to contest the notice and request a hearing before a Departmental Hearing Officer. You have 30 days after receipt of the notice of affirmation to request this hearing. If the official or designee does not issue a decision within the 20-day period, you may contest the sanction before a Departmental Hearing Officer. Again, you have 30 days from the expiration of the 20-day period to request this hearing. If you request a hearing before the Departmental Hearing Officer, you must submit your request to the Debarment Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW, B-133 Portals 200, Washington DC 20410-0500.

(b) You may skip the conference with the official and you may request a hearing before a Departmental Hearing Officer. This must also be done within 30 days after receiving a notice of limited denial of participation. If you opt to have a hearing before a Departmental Hearing Officer, you must submit your request to the Debarment Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW, B-133 Portals 200, Washington DC 20410-0500. The hearing before the Departmental Hearing Officer is more formal than the conference before the sanctioning official described above. The hearing before the Departmental Hearing Officer will be conducted in accordance with 24 CFR part 26, subpart A. The Departmental Hearing Officer will issue findings of fact and make a recommended decision. The sanctioning official will then make a final decision as promptly as possible after the Departmental hearing Officer recommended decision is issued. The sanctioning official may reject the recommended decision or any findings of fact, only after specifically determining the decision or any of the facts to be arbitrary or capricious or clearly erroneous.

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From the U.S. Government Printing Office via GPO Access  
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[Page 270]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart J\_Limited Denial of Participation

Sec. 24.1135 Do federal agencies coordinate limited denial of  
participation actions?

Federal agencies do not coordinate limited denial of participation  
actions. As stated in Sec. 24.1100, a limited denial of participation  
is a HUD-specific action and applies only to HUD activities.

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From the U.S. Government Printing Office via GPO Access  
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[Page 270]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart J\_Limited Denial of Participation

Sec. 24.1140 What is the scope of a limited denial of participation?

The scope of a limited denial of participation is as follows:

(a) A limited denial of participation generally extends only to participation in the program under which the cause arose. A limited denial of participation may, at the discretion of the authorized official, extend to other programs, initiatives, or functions within the jurisdiction of an Assistant Secretary. The authorized official, however, may determine that the sanction shall apply to all programs throughout HUD where the sanction is based on an indictment or conviction.

(b) For purposes of this subpart, participation includes receipt of any benefit or financial assistance through grants or contractual arrangements; benefits or assistance in the form of loan guarantees or insurance; and awards of procurement contracts.

(c) The sanction may be imposed for a period not to exceed 12 months, and shall be effective within the geographic jurisdiction of the office imposing it, unless the sanction is imposed by an Assistant Secretary or Deputy Assistant Secretary in which case the sanction may be imposed on either a nationwide or a more restricted basis.

[[Page 271]]

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2005]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 24CFR24.1145]

[Page 271]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart J\_Limited Denial of Participation

Sec. 24.1145 May HUD impute the conduct of one person to another in a  
limited denial of participation?

For purposes of determining a limited denial of participation, HUD  
may impute conduct as follows:

(a) Conduct imputed from an individual to an organization. HUD 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. HUD 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.  
HUD 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.

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[Page 271-272]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table of Contents

Subpart J\_Limited Denial of Participation

Sec. 24.1150 What is the effect of a suspension or debarment on a limited denial of participation?

If you have submitted a request for a hearing pursuant to Sec. 24.1130 of this section, and you also receive, pursuant to subpart G or H of this part, a notice of proposed debarment or suspension that is based on the same transaction(s) or conduct as the limited denial of participation, as determined by the debarring or suspending official, the following rules shall apply:

(a) During the 30-day period after you receive a proposed debarment or suspension, during which you may elect to contest the debarment under Sec. 24.815, or the suspension pursuant to Sec. 24.720, all proceedings in the limited denial of participation, including discovery, are automatically stayed.

(b) If you do not contest the proposed debarment pursuant to Sec. 24.815, or the suspension pursuant to Sec. 24.720, the final imposition of the debarment or suspension shall also constitute a final decision with respect to the limited denial of participation to the extent that the debarment or suspension is based on the same transaction(s) or conduct as the limited denial of participation.

(c) If you contest the proposed debarment pursuant to Sec. 24.815, or the suspension pursuant to Sec. 24.720, then:

(1) Those parts of the limited denial of participation and the debarment or suspension based on the same transaction(s) or conduct, as determined by the debarring or suspending official, shall be immediately consolidated before the debarring or suspending official;

(2) Proceedings under the consolidated portions of the limited denial of participation shall be stayed before the hearing officer until the suspending or debarring official makes a determination as to whether the consolidated matters should be referred to a hearing officer. Such a determination must be made within 90 days of the date of the issuance of the suspension or proposed debarment, unless the suspending/debarring official extends the period for good cause.

(i) If the suspending or debarring official determines that there is a genuine dispute as to material facts regarding the consolidated matter, the entire consolidated matter will be referred to the hearing officer hearing the limited denial of participation, for additional proceedings pursuant to 24 CFR 24.750 or Sec. 24.845.

(ii) If the suspending or debarring official determines that there is no dispute as to material facts regarding the

[[Page 272]]

consolidated matter, jurisdiction of the hearing officer under 24 CFR part 24, subpart J, to hear those parts of the limited denial of participation based on the same transaction[s] or conduct as the debarment or suspension, as determined by the debarring or suspending official, will be transferred to the debarring or suspending official, and the hearing officer responsible for hearing the limited denial of participation shall transfer the administrative record to the debarring or suspending official.

(3) The suspending or debarring official shall hear the entire consolidated case under the procedures governing suspensions and debarments, and shall issue a final decision as to both the limited denial of participation and the suspension or debarment.

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[Page 272]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart J\_Limited Denial of Participation

Sec. 24.1155 What is the effect of a limited denial of participation  
on a suspension or a debarment?

The imposition of a limited denial of participation does not affect  
the right of the Department to suspend or debar any person under this  
part.

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[Page 272]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24\_GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart J\_Limited Denial of Participation

Sec. 24.1160 May a limited denial of participation be terminated before  
the term of the limited denial of participation expires?

If the cause for the limited denial of participation is resolved  
before the expiration of the 12-month period, the official who imposed  
the sanction may terminate it.

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[Page 272-273]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 24 GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)--Table  
of Contents

Subpart J\_Limited Denial of Participation

Sec. 24.1165 How is a limited denial of participation reported?

When a limited denial of participation has been made final, or the period for requesting a conference pursuant to Sec. 24.1130 has expired without receipt of such a request, the official imposing the limited denial of participation shall notify the Director of the Compliance Division in the Departmental Enforcement Center of the scope of the limited denial of participation.

[[Page 273]]

Appendix to Part 24--Covered Transactions

[GRAPHIC] [TIFF OMITTED] TR26NO03.000