

§ 180.220

- (1) The application of an exclusion to the transaction is prohibited by law; or
- (2) A Federal agency's regulation exempts it from coverage under this part.

§ 180.220 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.

(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 § 180.210, and the amount of the contract is expected to equal or exceed \$25,000.

(2) The contract requires the consent of an official of a Federal agency. 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.

(c) A subcontract also is a covered transaction if,—

(1) It is awarded by a participant in a procurement transaction under a nonprocurement transaction of a Federal agency that extends the coverage of paragraph (b)(1) of this section to additional tiers of contracts (see the diagram in the appendix to this part showing that optional lower tier coverage); and

(2) The value of the subcontract is expected to equal or exceed \$25,000.

[70 FR 51865, Aug. 31, 2005, as amended at 71 FR 66432, Nov. 15, 2006]

§ 180.225 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 Federal agency

2 CFR Ch. I (1–1–07 Edition)

regulations governing the transaction, the appropriate Federal 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.

Subpart C—Responsibilities of Participants Regarding Transactions Doing Business With Other Persons

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

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; or
- (c) Adding a clause or condition to the covered transaction with that person.

[70 FR 51865, Aug. 31, 2005, as amended at 71 FR 66432, Nov. 15, 2006]

§ 180.305 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 Federal agency responsible for the transaction grants an exception under § 180.135.

(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.

§ 180.310 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