

## § 180.30

## 2 CFR Ch. I (1–1–07 Edition)

(1) Identify either the Federal agency head or the title of the designated official who is authorized to grant exceptions under §180.135 to let an excluded person participate in a covered transaction.

(2) State whether the agency includes as covered transactions an additional tier of contracts awarded under covered nonprocurement transactions, as permitted under §180.220(c).

(3) Identify the method(s) an agency official may use, when entering into a covered transaction with a primary tier participant, to communicate to the participant the requirements described in §180.435. Examples of methods are an award term that requires compliance as a condition of the award; an assurance of compliance obtained at time of application; or a certification.

(4) State whether the Federal agency specifies a particular method that participants must use to communicate compliance requirements to lower-tier participants, as described in §180.330(a). If there is a specified method, the regulation needs to require agency officials, when entering into covered transactions with primary tier participants, to communicate that requirement.

(c) May also, at the agency's option:

(1) Identify any specific types of transactions that the Federal agency includes as “nonprocurement transactions” in addition to the examples provided in §180.970.

(2) Identify any types of nonprocurement transactions that the Federal agency exempts from coverage under these guidelines, as authorized under §180.215(g)(2).

(3) Identify specific examples of types of individuals who would be “principals” under the Federal agency's nonprocurement programs and transactions, in addition to the types of individuals described at §180.995.

(4) Specify the Federal agency's procedures, if any, by which a respondent may appeal a suspension or debarment decision.

(5) Identify by title the officials designated by the Federal agency head as debarring officials under §180.930 or suspending officials under §180.1010.

(6) Include a subpart covering disqualifications, as authorized in §180.45.

(7) Include any provisions authorized by OMB.

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

### **§ 180.30 Where does a Federal agency implement these guidelines?**

Each Federal agency that participates in the governmentwide nonprocurement debarment and suspension system must issue a regulation implementing these guidelines within its chapter in subtitle B of this title of the Code of Federal Regulations.

### **§ 180.35 By when must a Federal agency implement these guidelines?**

Federal agencies must submit proposed regulations to the OMB for review within nine months of the issuance of these guidelines and issue final regulations within eighteen months of these guidelines.

### **§ 180.40 How are these guidelines maintained?**

The Interagency Committee on Debarment and Suspension established by section 4 of E.O. 12549 recommends to the OMB any needed revisions to the guidelines in this part. The OMB publishes proposed changes to the guidelines in the FEDERAL REGISTER for public comment, considers comments with the help of the Interagency Committee on Debarment and Suspension, and issues the final guidelines.

### **§ 180.45 Do these guidelines cover persons who are disqualified, as well as those who are excluded from nonprocurement transactions?**

A Federal agency may add a subpart covering disqualifications to its regulation implementing these guidelines, but the guidelines in subparts A through I of this part—

(a) Address 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) Do not specify the—

(1) 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 a disqualification applies; or

(3) Process that a Federal agency uses to disqualify a person. Unlike exclusion under subparts A through I of this part, disqualification is frequently not a discretionary action that a Fed-

eral agency takes, and may include special procedures.

**Subpart A—General**

**§ 180.100 How are subparts A through I organized?**

(a) 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 Subparts A through I of this part.
B .....	the types of 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 Federal agency officials who are authorized to enter into covered transactions.
E .....	the responsibilities of Federal agencies for entering information into the EPLS
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.

(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, E, F, G and I.
(5) a debarring official .....	A, B, D, F, H and I.
(6) an Federal agency official authorized to enter into a covered transaction .....	A, B, D, E and I.

**§ 180.105 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.

(c) The “Covered Transactions” diagram in the appendix to this part shows the levels or “tiers” at which a Federal agency may enforce an exclusion.

**§ 180.110 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 Executive Order 12549 and Executive Order 12689 or under 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 a Federal agency official, may have a different scope 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.