

Department of State

§ 136.5

such proceeds given as charitable contributions) for the sale, disposition or assignment of personal property in excess of the basis for such property.

§ 136.4 Restrictions on dispositions of personal property.

(a) An employee or family member shall not sell, assign or otherwise dispose of personal property within a foreign country except with the prior written approval of the chief of mission or designee, except where the category of dispositions has been authorized to be undertaken without prior written approval in policies, rules or procedures issued by the chief of mission (cf. § 136.5(b)(1)).

(b) An employee or family member shall not retain any profit from the sale, assignment or other disposition within a foreign country of personal property that was imported into or purchased in that foreign country and that, by virtue of the official status of the employee, was exempt from import restrictions, customs duties, or taxes which would otherwise apply, when such sale, assignment or other disposition is made to persons not entitled to exemptions from import restrictions, duties, or taxes. An employee or family member shall not profit from an indirect disposition to persons not entitled to such exemptions, such as sale through a third country diplomat acting as a middleman, where the employee or family member knows or should know that the property is being acquired by the third party for resale to persons not entitled to exemptions, except that this restriction shall not apply to sales of personal property to official agencies of the foreign country in accordance with the laws or regulations of that country.

(c) Profits obtained from dispositions of personal property by an employee or family member that cannot be retained under paragraph (b) of this section including any interest earned by the employee or family member on such profits, shall be disposed of within 90 days of receipt by contribution or gift as defined in section 170(c) of the Internal Revenue Code or by other similar contribution or gift to a bona fide charitable foreign entity as designated by

the chief of mission pursuant to § 136.5(b)(11) of this part.

(d) Except as authorized in advance by the chief of mission on a case-by-case basis, no employee or family member shall sell, assign or otherwise dispose of personal property within a foreign country that was not acquired for bona fide personal use. There shall be a presumption that property that is new, unused or held by the employer or family member in unusual or commercial quantities was not acquired for bona fide personal use. For purposes of this subsection, there is no exemption for items of minimal value § 136.3(h)).

(e) No employee or family member shall import, sell, assign or otherwise dispose of personal property within a foreign country in a manner that violates the law or regulations of that country or governing international law.

(f) Violations of the restrictions or requirements of paragraphs (a) through (e) of this section shall be grounds for disciplinary actions against the employee in accordance with the employing agency's procedures and regulations. Employees shall be responsible for ensuring compliance with these regulations by family members.

(g) For purposes of computing profits on personal property dispositions subject to these regulations, where acquisition and disposition of the property were transacted in different currencies, proceeds received and costs incurred in a foreign currency shall be valued in United States dollars at the time of receipt or payment at the rate of exchange that was in effect for reverse accommodation exchanges at U.S. missions at the time of such receipt or payment. Where property was acquired and sold in the same currency, no conversion is required.

§ 136.5 Chief of mission policies, rules or procedures.

(a) Each chief of mission shall establish a procedure under which employees may request approval for the sale of personal property and for conversion of proceeds of such sale from local currency into U.S. dollars, if applicable. This procedure may be modified to meet local conditions, but must

§ 136.5

22 CFR Ch. I (4-1-01 Edition)

produce a documentary record to be held by the post of the following:

(1) The employee's signed request for permission to sell personal property, and, if applicable, to convert local currency proceeds to U.S. dollars;

(2) A description of each item of personal property having more than minimal value, and the cost basis and actual sales price for each item;

(3) All profits received and whether profit is retainable;

(4) Donation to charities or other authorized recipients of non-retainable profits;

(5) Approvals to sell and, if applicable, to exchange proceeds, with any restrictions or refusals of the employee's request noted, signed by the chief of mission or designee; and

(6) For privately owned vehicle transactions, data on purchaser and statement that customs requirements have been met and title has been transferred or arranged with an agent identified on document.

(b) In order to ensure that due account is taken of local conditions, including applicable laws, markets, exchange rate factors, and accommodation exchange facilities, the chief of mission to each foreign country is authorized to establish policies, rules, and procedures governing the disposition of personal property by employees and family members in that country under the chief of mission's jurisdiction. Policies, rules and procedures issued by the chief of mission shall be consistent with the general restrictions set forth in §136.4 and may include at least the following:

(1) Identification of categories of dispositions (e.g., sales of minimal value items) that may be made without prior written approval;

(2) Identification of categories of individuals or entities to whom sales of personal property can be made without restrictions on profits (e.g., other employees, third country diplomats), individuals or entities to whom sales can be made but profits not retained, and individuals or entities to whom sales may not be made;

(3) Requirements to report the total estimated and actual proceeds for all minimal value items, even if such

items are otherwise exempted from limitations on profits of sale;

(4) Categories of items of personal property excluded from restrictions on disposition because generally exempt from taxation and import duties under local law;

(5) More restrictive definition of "minimal value" (see §136.3(h) of this part);

(6) Limitations on manner of disposition (e.g., restrictions on advertising or yard sales);

(7) Limitations on total proceeds that may be generated by dispositions of personal property, including limitations on proceeds from disposition of "minimal value" items;

(8) Limitations on total profits that may be generated by dispositions of personal property, including limitations on profits from dispositions of "minimal value" items;

(9) Limitations on total proceeds from dispositions of personal property that may be converted into dollars by reverse accommodation exchange;

(10) Limitations on the timing and number of reverse accommodation exchanges permitted for proceeds of dispositions of personal property (e.g., only in last six months of tour and no more than two exchange conversions);

(11) Designation of bona fide charitable foreign entities to whom an employee or family member may donate profits that cannot be retained under these regulations.

(12) Designation of post officials authorized to approve on behalf of chief of mission employee requests for permission to sell personal property and requests to convert local currency proceeds of sale to U.S. dollars by reverse accommodation exchange.

(c) All policies, rules, and procedures that are issued by the chief of mission pursuant to paragraphs (a) and (b) of this section shall be announced by notice circulated to all affected mission employees and copies of all such policies, rules and procedures shall be made readily accessible to all affected employees and family members.

(d) Violations of restrictions or requirements established by a chief of mission in policies, rules, or procedures issued by a chief of mission pursuant to paragraphs (a) and (b) of this section

Department of State

§ 137.100

shall be grounds for disciplinary actions against the employee in accordance with the employing agency's procedures and regulations. Employees shall ensure compliance by family members with policies, rules or procedures issued by the chief of mission.

§ 136.6 Contractors.

To the extent that contractors enjoy importation or tax privileges in a foreign country because of their contractual relationship to the United States Government, contracting agencies shall include provisions in their contracts that require the contractors to observe the requirements of these regulations and all policies, rules, and procedures issued by the chief of mission in that foreign country.

PART 137—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Subpart A—General

- Sec.
- 137.100 Purpose.
- 137.105 Definitions.
- 137.110 Coverage.
- 137.115 Policy.

Subpart B—Effect of Action

- 137.200 Debarment or suspension.
- 137.205 Ineligible persons.
- 137.210 Voluntary exclusion.
- 137.215 Exception provision.
- 137.220 Continuation of covered transactions.
- 137.225 Failure to adhere to restrictions.

Subpart C—Debarment

- 137.300 General.
- 137.305 Causes for debarment.
- 137.310 Procedures.
- 137.311 Investigation and referral.
- 137.312 Notice of proposed debarment.
- 137.313 Opportunity to contest proposed debarment.
- 137.314 Debarring official's decision.
- 137.315 Settlement and voluntary exclusion.
- 137.320 Period of debarment.
- 137.325 Scope of debarment.

Subpart D—Suspension

- 137.400 General.

- 137.405 Causes for suspension.
- 137.410 Procedures.
- 137.411 Notice of suspension.
- 137.412 Opportunity to contest suspension.
- 137.413 Suspending official's decision.
- 137.415 Period of suspension.
- 137.420 Scope of suspension.

Subpart E—Responsibilities of GSA, Agency and Participants

- 137.500 GSA responsibilities.
- 137.505 Department responsibilities.
- 137.510 Participants' responsibilities.

Subpart F—Drug-Free Workplace Requirements (Grants)

- 137.600 Purpose.
- 137.605 Definitions.
- 137.610 Coverage.
- 137.615 Grounds for suspension of payments, suspension or termination of grants, or suspension or debarment.
- 137.620 Effect of violation.
- 137.625 Exception provision.
- 137.630 Certification requirements and procedures.
- 137.635 Reporting of and employee sanctions for convictions of criminal drug offenses.

APPENDIX A TO PART 137—CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS—PRIMARY COVERED TRANSACTIONS

APPENDIX B TO PART 137—CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER TIER COVERED TRANSACTIONS

APPENDIX C TO PART 137—CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

AUTHORITY: E.O. 12549; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 et seq.); 22 U.S.C. 2658.

SOURCE: 53 FR 19178 and 19204, May 26, 1988, unless otherwise noted.

CROSS REFERENCE: See also Office of Management and Budget notices published at 55 FR 21679, May 25, 1990 and 60 FR 33036, June 26, 1995.

Subpart A—General

§ 137.100 Purpose.

(a) Executive Order (E.O.) 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a government-wide system for nonprocurement debarment and suspension. A person who is debarred or suspended shall be excluded