

Export-Import Bank of the U.S.

§ 413.120

the Ex-Im Bank enforces an exclusion under this part.

§ 413.75 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 debarment 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 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.

Subpart A—General

§ 413.100 What does this part do?

This part adopts a governmentwide system of debarment and suspension for Ex-Im Bank 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).

§ 413.105 Does this part apply to me?

Portions of this part (see table at § 413.25(b)) apply to you if you are a(n)—

(a) Person who has been, is, or may reasonably be expected to be, a partici-

pant or principal in a covered transaction;

(b) Respondent (a person against whom the Ex-Im Bank has initiated a debarment or suspension action);

(c) Ex-Im Bank debarment or suspending official; or

(d) Ex-Im Bank official who is authorized to enter into covered transactions with non-Federal parties.

§ 413.110 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.

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

With the exceptions stated in §§ 413.120, 413.315, and 413.420, a person who is excluded by the Ex-Im Bank or any other Federal agency may not:

(a) Be a participant in a(n) Ex-Im Bank 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.

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

(a) The Ex-Im Bank agency head or designee may grant an exception permitting an excluded person to participate in a particular covered transaction. If the Ex-Im Bank agency head or designee grants an exception, the exception must be in writing and state