

§ 3016.60

CFR Ch. II). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

Subpart E—Entitlement

SOURCE: 65 FR 49480, Aug. 14, 2000, unless otherwise noted.

§ 3016.60 Special procurement provisions.

(a) Notwithstanding §§ 3016.36(a) and 3016.37(a), States conducting procurements under grants or subgrants under the USDA entitlement programs specified in § 3016.4(b) may elect to follow either the State laws, policies, and procedures as authorized by §§ 3016.36(a) and 3016.37(a), or the procurement standards for other governmental grantees and all governmental subgrantees in accordance with § 3016.36(b) through (i). Regardless of the option selected, States shall ensure that paragraphs (b) and (c) of this section are followed

(b) When conducting a procurement under the USDA entitlement programs specified in § 3016.4(b) of this part, a grantee or subgrantee may enter into a contract with a party that has provided specification information to the grantee or subgrantee for the grantee's or subgrantee's use in developing contract specifications for conducting such a procurement. In order to ensure objective contractor performance and eliminate unfair competitive advantage, however, a person that develops or drafts specifications, requirements, statements of work, invitations for bids, requests for proposals, contract terms and conditions or other documents for use by a grantee or subgrantee in conducting a procurement under the USDA entitlement programs specified in § 3016.4(b) shall be excluded from competing for such procurements. Such persons are ineligible for contract awards resulting from such procurements regardless of the procurement method used. However, prospective contractors may provide grantees or subgrantees with specification information related to a procurement and still compete for the procurement if the grantee or subgrantee, and not the prospective contractor, develops or

7 CFR Ch. XXX (1–1–05 Edition)

drafts the specifications, requirements, statements of work, invitations for bid, and/or requests for proposals used to conduct the procurement.

(c) Procurements under USDA entitlement programs specified in § 3016.4(b) shall be conducted in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographic preferences except as provided for in § 3016.36(c)(2).

§ 3016.61 Financial reporting.

The financial reporting provisions found in § 3016.41 do not apply to any of the USDA entitlement programs listed in § 3016.4(b) except the Food Distribution Program on Indian Reservations. The financial reporting requirements for these entitlement programs are found in the following program regulations:

(a) For the National School Lunch Program, 7 CFR part 210;

(b) For the Special Milk Program for Children, 7 CFR part 215;

(c) For the School Breakfast Program, 7 CFR part 220;

(d) For the Summer Food Service Program for Children, 7 CFR part 225;

(e) For the Child and Adult Care Food Program, 7 CFR part 226;

(f) For State Administrative Expense Funds under section 7 of the Child Nutrition Act of 1966, 7 CFR part 235; and

(g) For State Administrative Expenses under section 16 of the Food Stamp Act of 1977, 7 CFR part 277.

PART 3017—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Sec.

3017.25 How is this part organized?

3017.50 How is this part written?

3017.75 Do terms in this part have special meanings?

Subpart A—General

3017.100 What does this part do?

3017.105 Does this part apply to me?

3017.110 What is the purpose of the non-procurement debarment and suspension system?

3017.115 How does an exclusion restrict a person's involvement in covered transactions?

- 3017.120 May we grant an exception to let an excluded person participate in a covered transaction?
- 3017.125 Does an exclusion under the nonprocurement system affect a person's eligibility for Federal procurement contracts?
- 3017.130 Does exclusion under the Federal procurement system affect a person's eligibility to participate in nonprocurement transactions?
- 3017.135 May the Department of Agriculture exclude a person who is not currently participating in a nonprocurement transaction?
- 3017.140 How do I know if a person is excluded?
- 3017.145 Does this part address persons who are disqualified, as well as those who are excluded from nonprocurement transactions?

Subpart B—Covered Transactions

- 3017.200 What is a covered transaction?
- 3017.205 Why is it important to know if a particular transaction is a covered transaction?
- 3017.210 Which nonprocurement transactions are covered transactions?
- 3017.215 Which nonprocurement transactions are not covered transactions?
- 3017.220 Are any procurement contracts included as covered transactions?
- 3017.225 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

- 3017.300 What must I do before I enter into a covered transaction with another person at the next lower tier?
- 3017.305 May I enter into a covered transaction with an excluded or disqualified person?
- 3017.310 What must I do if a Federal agency excludes a person with whom I am already doing business in a covered transaction?
- 3017.315 May I use the services of an excluded person as a principal under a covered transaction?
- 3017.320 Must I verify that principals of my covered transactions are eligible to participate?
- 3017.325 What happens if I do business with an excluded person in a covered transaction?
- 3017.330 What requirements must I pass down to persons at lower tiers with whom I intend to do business?

Disclosing Information—Primary Tier Participants

- 3017.335 What information must I provide before entering into a covered transaction with the Department of Agriculture?
- 3017.340 If I disclose unfavorable information required under §3017.335, will I be prevented from participating in the transaction?
- 3017.345 What happens if I fail to disclose the information required under §3017.335?
- 3017.350 What must I do if I learn of the information required under §3017.335 after entering into a covered transaction with the Department of Agriculture?

Disclosing Information—Lower Tier Participants

- 3017.355 What information must I provide to a higher tier participant before entering into a covered transaction with that participant?
- 3017.360 What happens if I fail to disclose the information required under §3017.355?
- 3017.365 What must I do if I learn of information required under §3017.355 after entering into a covered transaction with a higher tier participant?

Subpart D—Responsibilities of Department of Agriculture Officials Regarding Transactions

- 3017.400 May I enter into a transaction with an excluded or disqualified person?
- 3017.405 May I enter into a covered transaction with a participant if a principal of the transaction is excluded?
- 3017.410 May I approve a participant's use of the services of an excluded person?
- 3017.415 What must I do if a Federal agency excludes the participant or a principal after I enter into a covered transaction?
- 3017.420 May I approve a transaction with an excluded or disqualified person at a lower tier?
- 3017.425 When do I check to see if a person is excluded or disqualified?
- 3017.430 How do I check to see if a person is excluded or disqualified?
- 3017.435 What must I require of a primary tier participant?
- 3017.440 What method do I use to communicate those requirements to participants?
- 3017.445 What action may I take if a primary tier participant knowingly does business with an excluded or disqualified person?
- 3017.450 What action may I take if a primary tier participant fails to disclose the information required under §3017.335?
- 3017.455 What may I do if a lower tier participant fails to disclose the information

required under §3017.355 to the next higher tier?

Subpart E—Excluded Parties List System

- 3017.500 What is the purpose of the Excluded Parties List System (EPLS)?
 3017.505 Who uses the EPLS?
 3017.510 Who maintains the EPLS?
 3017.515 What specific information is in the EPLS?
 3017.520 Who places the information into the EPLS?
 3017.525 Whom do I ask if I have questions about a person in the EPLS?
 3017.530 Where can I find the EPLS?

Subpart F—General Principles Relating to Suspension and Debarment Actions

- 3017.600 How do suspension and debarment actions start?
 3017.605 How does suspension differ from debarment?
 3017.610 What procedures does the Department of Agriculture use in suspension or debarment actions?
 3017.615 How does the Department of Agriculture notify a person of a suspension and debarment action?
 3017.620 Do Federal agencies coordinate suspension and debarment actions?
 3017.625 What is the scope of a suspension or debarment action?
 3017.630 May the Department of Agriculture impute the conduct of one person to another?
 3017.635 May the Department of Agriculture settle a debarment or suspension action?
 3017.640 May a settlement include a voluntary exclusion?
 3017.645 Do other Federal agencies know if the Department of Agriculture agrees to a voluntary exclusion?

Subpart G—Suspension

- 3017.700 When may the suspending official issue a suspension?
 3017.705 What does the suspending official consider in issuing a suspension?
 3017.710 When does a suspension take effect?
 3017.715 What notice does the suspending official give me if I am suspended?
 3017.720 How may I contest a suspension?
 3017.725 How much time do I have to contest a suspension?
 3017.730 What information must I provide to the suspending official if I contest a suspension?
 3017.735 Under what conditions do I get an additional opportunity to challenge the facts on which the suspension is based?
 3017.740 Are suspension proceedings formal?
 3017.745 How is fact-finding conducted?
 3017.750 What does the suspending official consider in deciding whether to continue or terminate my suspension?

- 3017.755 When will I know whether the suspension is continued or terminated?
 3017.760 How long may my suspension last?
 3017.765 How may I appeal my suspension?

Subpart H—Debarment

- 3017.800 What are the causes for debarment?
 3017.805 What notice does the debarring official give me if I am proposed for debarment?
 3017.810 When does a debarment take effect?
 3017.815 How may I contest a proposed debarment?
 3017.820 How much time do I have to contest a proposed debarment?
 3017.825 What information must I provide to the debarring official if I contest a proposed debarment?
 3017.830 Under what conditions do I get an additional opportunity to challenge the facts on which the proposed debarment is based?
 3017.835 Are debarment proceedings formal?
 3017.840 How is fact-finding conducted?
 3017.845 What does the debarring official consider in deciding whether to debar me?
 3017.850 What is the standard of proof in a debarment action?
 3017.855 Who has the burden of proof in a debarment action?
 3017.860 What factors may influence the debarring official's decision?
 3017.865 How long may my debarment last?
 3017.870 When do I know if the debarring official debars me?
 3017.875 May I ask the debarring official to reconsider a decision to debar me?
 3017.880 What factors may influence the debarring official during reconsideration?
 3017.885 May the debarring official extend a debarment?
 3017.890 How may I appeal my debarment?

Subpart I—Definitions

- 3017.900 Adequate evidence.
 3017.905 Affiliate.
 3017.910 Agency.
 3017.915 Agent or representative.
 3017.920 Civil judgment.
 3017.925 Conviction.
 3017.930 Debarment.
 3017.935 Debarring official.
 3017.940 Disqualified.
 3017.945 Excluded or exclusion.
 3017.950 Excluded Parties List System.
 3017.955 Indictment.
 3017.960 Ineligible or ineligibility.
 3017.965 Legal proceedings.
 3017.970 Nonprocurement transaction.
 3017.975 Notice.
 3017.980 Participant.
 3017.985 Person.
 3017.990 Preponderance of the evidence.
 3017.995 Principal.

- 3017.1000 Respondent.
- 3017.1005 State.
- 3017.1010 Suspending official.
- 3017.1015 Suspension.
- 3017.1020 Voluntary exclusion or voluntarily excluded.

Subpart J [Reserved]

APPENDIX TO PART 3017—COVERED TRANSACTIONS

AUTHORITY: 5 U.S.C. 301; Pub. L. 101-576, 104 Stat. 2838; 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. 12698 (3 CFR, 1989 Comp., p. 235); 7 CFR 2.28.

SOURCE: 68 FR 66544, 66563, Nov. 26, 2003, unless otherwise noted.

§ 3017.25 How is this part organized?

(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 Department of Agriculture 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 Department of Agriculture officials who are authorized to enter into covered transactions.
E	the responsibilities of Federal agencies for the <i>Excluded Parties List System</i> (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	[Reserved]

(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.
(5) a debarring official	A, B, D, E, F, H and I.
(6) a (n) Department of Agriculture official authorized to enter into a covered transaction.	A, B, D, E and I.
(7) Reserved	J.

§ 3017.50 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 Agriculture.

(c) The “Covered Transactions” diagram in the appendix to this part shows the levels or “tiers” at which the Department of Agriculture enforces an exclusion under this part. However, this diagram shows only the general model for the levels or “tiers” at which the Department of Agriculture enforces an exclusion under this part, and the model will vary for certain categories of transactions in accordance with the exclusions from covered transactions in § 3017.215 and § 3017.220.

[68 FR 66544, 66563, Nov. 26, 2003, as amended at 68 FR 66564, Nov. 26, 2003]

§ 3017.75 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 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.