

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

2 CFR Part 2424 and 24 CFR Parts 5, 6, 8, 15, 21, 24, 25, 26, 84, 85, 91, 92, 103, 107, 135, 200, 202, 203, 206, 245, 291, 401, 402, 570, 572, 585, 941, 954, 982, 983, 1000, 1003, 1005, 1006, 3282, and 3500

[Docket No. FR-5071-P-01]

RIN 2501-AD29

Implementation of OMB Guidance on Nonprocurement Debarment and Suspension

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would relocate HUD's regulations governing nonprocurement debarment and suspension to a new part in Title 2 of the Code of Federal Regulations. The relocation is part of a governmentwide initiative to create one location where the public can locate both the Office of Management and Budget (OMB) guidance for grants and agreements and the associated federal agency implementing regulations. The proposed new part would adopt the OMB guidance on nonprocurement debarment and suspension and supplement it with HUD-specific clarifications and additions. The proposed rule would also make conforming changes to HUD regulations referencing the nonprocurement debarment and suspension regulations. This proposed regulatory action is an administrative simplification that would make no substantive change in HUD policy or procedures for nonprocurement debarment and suspension.

DATES: *Comment Due Date:* May 22, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Office of General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0001. Communications should refer to the above docket number and title and should contain the information specified in the "Request for Comments" section.

Electronic Submission of Comments. Interested persons may submit comments electronically through the federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic

submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available on www.regulations.gov for viewing by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title.

Public Inspection of Public Comments. All comments and communications submitted to HUD will be available, without charge, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Dane Narode, Assistant General Counsel, Office of Program Enforcement, Administrative Proceedings Division, Department of Housing and Urban Development, 1250 Maryland Avenue, SW., Suite 200, Washington DC 20024-0500; telephone (202) 708-2350 (this is not a toll-free number); e-mail address Dane_M._Narode@hud.gov. Hearing- or speech-impaired individuals may access the telephone number listed above by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

OMB is undertaking to restructure the framework of federal government policies for grants, other financial assistance, and nonprocurement agreements in an effort to make it easier for applicants and recipients to locate and comply with such policies. On May 11, 2004, OMB established a new Title 2 of the Code of Federal Regulations (CFR) (69 FR 26276), which is comprised of two subtitles. Subtitle A, entitled "Government-wide Grants and Agreements," contains OMB policy guidance to federal agencies on grants and agreements. Subtitle B, entitled "Federal Agency Regulations for Grants

and Agreements," will contain the regulations of federal agencies implementing the OMB guidance, as it applies to grants and other financial assistance agreements and nonprocurement transactions. The HUD regulations governing nonprocurement debarment and suspension would be located in Subtitle B at 2 CFR part 2424. Consolidating the OMB guidance and co-locating the agency regulations provides a good foundation for streamlining and simplifying the policies governing grants and agreements.

On August 31, 2005, OMB continued its initiative to create a single location where OMB guidance and federal agency implementing regulations could be found by incorporating four guidance documents into 2 CFR, Subtitle A, and making conforming changes (70 FR 51862). OMB is engaging in a multi-phase process by which it will relocate and revise guidance documents. In the first phase, OMB is relocating its circulars, in their current form, into chapter II of subtitle A. In the second phase, OMB will publish guidance in chapter I of subtitle A after OMB: (1) Proposes for public comment any changes to streamline and simplify the guidance based on recommendations from interagency working groups; and (2) Resolves the comments and finalizes the guidance with the help of the working groups. Part 180 of 2 CFR, entitled "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," has been immediately incorporated into subtitle A, chapter I, because the substance of the guidance is up to date and is not expected to change in the near future. The other three guidance documents have been located in subtitle A, chapter II, pending review and revision.

II. This Proposed Rule

A. Adoption of OMB Guidance

This proposed rule would adopt the OMB guidance in subparts A through I of 2 CFR part 180, as supplemented by HUD's policies and procedures for nonprocurement debarment and suspension at 2 CFR part 2424. This implementation would give regulatory effect to the OMB guidance for HUD. The provisions of 2 CFR part 180 are supplemented and clarified to address HUD-specific issues at 2 CFR part 2424. The nonprocurement debarment and suspension standards being codified at 2 CFR part 180 will serve as governmentwide guidance having effect for those federal agencies that adopt them.

Through this proposed rule, HUD is creating a new part at 2 CFR part 2424 that adopts, by reference, the baseline provisions of 2 CFR part 180 and includes HUD-specific supplements, clarifications, and modifications to 2 CFR part 180. Accordingly, HUD's regulations at 24 CFR part 24, entitled "Government-wide Debarment and Suspension (Nonprocurement)," are being supplanted by 2 CFR part 2424. It is important to note that this does not result in a change in HUD policy or procedures since the August 31, 2005, rule promulgating 2 CFR part 180 conformed those OMB requirements to the federal agencies' November 26, 2003, updated version of the nonprocurement debarment and suspension common rule (68 FR 66534), which HUD adopted. The proposed rule would result in entities following the policies and procedures specified in each applicable section of the OMB guidance in subparts A through I of 2 CFR part 180, because that section has been implemented in part 2424.

B. Conforming Changes

This proposed rule would make conforming regulatory changes throughout Title 24 to reflect the new location of HUD's suspension and debarment regulations at 2 CFR part 2424. Various parts of Title 24 have cross-references to the nonprocurement suspension and debarment provisions contained at 24 CFR part 24. This proposed rule replaces the references to 24 CFR part 24 with 2 CFR part 2424. HUD is also revising all references to the Drug Free Workplace Act (the Act). The requirements of the Act were originally included within 24 CFR part 24. The November 26, 2003, final common rule created a new part, 24 CFR part 21, which is where the Act's requirements can now be found. This proposed rule is revising outdated references regarding the Act, replacing references to 24 CFR part 24 with 24 CFR part 21. Neither the conforming regulatory changes nor the revision of references to the Act are intended to have substantive effect on the Department's regulations.

Prior to 1995, HUD required entities to certify that they would comply with the requirements of the Act. The certification requirements, which were contained in the appendices of 24 CFR part 24, were eliminated by HUD in a September 11, 1995, final rule (60 FR 47260) as part of a governmentwide streamlining effort. The elimination of the certification requirement does not absolve entities of complying with the requirements of the Act, as implemented by HUD at 24 CFR part 21. HUD is taking advantage of the

opportunity afforded by this proposed rule in order to revise and remove those parts of Title 24 where the regulations still refer to this certification requirement.

C. Revisions to the Limited Denial of Participation Regulations

HUD is taking the opportunity afforded by this proposed rulemaking to revise its Limited Denial of Participation (LDP) Regulations. The regulations governing LDPs were formerly found at 24 CFR part 24, subpart J. Due to the relocation of part 24, the LDP regulations will now be found at 2 CFR part 2424, subpart J. The LDP regulations are a HUD-specific supplement to the governmentwide nonprocurement debarment and suspension regulations. An LDP is an action taken to immediately exclude a person or entity from participating in a specific program, within a limited geographical area, for a specified period not to exceed 12 months.

HUD is proposing to revise 24 CFR 24.1110 in order to clarify one of the enumerated causes for an LDP. Currently, § 24.1110(a)(8) lists a cause for imposing an LDP as the "commission of an offense listed in § 24.800." The language of the current regulation could be misinterpreted as limiting the incorporated causes to just § 24.800(a), which sets forth causes for debarment based on a conviction or civil judgment for the commission of certain offenses. The proposed change would avoid such confusion by amending the regulation to account for the relocation of the nonprocurement debarment and suspension rules, as well as to clarify that included within the causes for imposing an LDP under new 2 CFR 2424.1110(a)(8) are any acts or omissions that would be cause for debarment under 2 CFR 180.800. Additionally, this proposed rule would remove 24 CFR 24.1110(a)(12), which provides debarment or suspension by another federal agency as a basis for an LDP. That provision is unnecessary in light of the governmentwide effect of the suspension and debarment procedures.

When the governmentwide nonprocurement debarment and suspension regulations were amended on November 26, 2003, HUD inadvertently removed reference to the information that is to be considered in deciding whether to terminate, modify, or affirm an LDP. This proposed rule would redesignate the provision at 24 CFR 24.1130 to 2 CFR 24.1130 and amend it by reincorporating paragraph (c) to specify that the applicable factors found in 2 CFR 180.860 may be considered by the Departmental official

or designee in deciding whether to terminate, modify, or affirm an LDP. In addition, the Departmental Hearing Officer may also consider the factors listed at 2 CFR 180.860 in making any recommended decision.

D. Technical and Clarifying Changes

HUD proposes to make a clarifying change to § 5.105, in which the term "participant" is being added. This modification is consistent with HUD's current usage and interpretation of entities and activities covered by the suspension and debarment regulations.

HUD is making a technical correction to 24 CFR 21.605, which currently contains an incorrect reference. Section 21.605(a)(2) currently states that OMB circular A-102 is implemented at 24 CFR part 24. The reference would state that OMB Circular A-102 is implemented at 24 CFR part 85.

HUD would also make a technical amendment to § 84.13 to remove HUD as a regulated entity under part 84. In serving as HUD's implementation of OMB circulars, part 84 applies to federal grants and agreements awarded to institutions of higher education, hospitals, and other non-profit organizations. This technical amendment would not alter HUD's obligations under 2 CFR part 2424 or 24 CFR part 21.

III. Specific Invitation To Comment

HUD is proposing the new part 2424 in 2 CFR in order to adopt the OMB guidelines, by making the same additions and clarifications as were made to HUD's codification of the common rule on nonprocurement suspension and debarment in the November 26, 2003, final common rule. HUD's clarification of the term "covered transaction," adding that each salary payment under an employment contract constitutes a separate covered transaction, has been relocated to the definition of "Nonprocurement Transaction" for ease of use. All other clarifications and additions remain as described in the November 26, 2003, final rule. HUD has added a new § 2424.137, which codifies existing agency practice as required by the OMB Guidelines at 2 CFR 180.25(b)(1). Therefore, in soliciting comments on this proposed rule, HUD is not seeking to revisit substantive issues that were addressed during the preparation of the 2003 final common rule. However, because the new part is not intended to make any changes in current policies and procedures, HUD specifically invites comments on any unintended changes in substantive content that the

new part in 2 CFR would make relative to 24 CFR part 24.

IV. Findings and Certifications

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The regulatory amendments that would be made by this proposed rule are procedural. This proposed rule would relocate HUD's regulations governing nonprocurement debarment and suspension to a new part in Title 2 of the Code of Federal Regulations. The relocation is part of a governmentwide initiative to create one location where the public can find both the OMB requirements for grants and agreements and the associated federal agency implementing regulations. The proposed rule would also make conforming changes to HUD regulations referencing the nonprocurement debarment and suspension regulations. This proposed regulatory action is an administrative simplification that would make no substantive change in HUD policy or procedures for nonprocurement debarment and suspension. The rule would not have any impact on the substantive rights or duties of small entities because the policies and procedures are being relocated, while remaining substantively the same. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Notwithstanding HUD's determination that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Environmental Impact

This proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this proposed rule is categorically excluded from the requirements of the National

Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This proposed rule does not impose any federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of UMRA.

List of Subjects

24 CFR Part 2424

Administrative practice and procedure, Debarment and suspension, Grant programs, Reporting and recordkeeping requirements.

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Crime, Government contracts, Grant programs—housing and community development, Individuals with disabilities, Intergovernmental relations, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Penalties, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 6

Administrative practice and procedure, Civil rights, Equal employment opportunity, Grant programs—housing and community development, Investigations, Loan programs—housing and community development, Reporting and recordkeeping requirements.

24 CFR Part 8

Administrative practice and procedure, Civil rights, Equal employment opportunity, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Reporting and recordkeeping requirements.

24 CFR Part 15

Classified information, Courts, Freedom of information, Government employees, Reporting and recordkeeping requirements.

24 CFR Part 21

Administrative practice and procedure, Drug abuse, Grant programs, Loan programs, Reporting and recordkeeping requirements.

24 CFR Part 24

Administrative practice and procedure, Government contracts, Grant programs, Loan programs, Technical assistance, Reporting and recordkeeping requirements.

24 CFR Part 25

Administrative practice and procedure, Loan programs—housing and community development, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

24 CFR Part 26

Administrative practice and procedure.

24 CFR Part 84

Accounting, Colleges and universities, Grant programs, Hospitals, Nonprofit organizations, Reporting and recordkeeping requirements.

24 CFR Part 85

Accounting, Grant programs, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

24 CFR Part 91

Aged, Grant programs—housing and community development, Homeless, Individuals with disabilities, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 92

Administrative practice and procedure, Grant programs—housing and community development, Low and moderate income housing, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 103

Administrative practice and procedure, Aged, Fair housing, Individuals with disabilities, Intergovernmental relations, Investigations, Mortgages, Penalties, Reporting and recordkeeping requirements.

24 CFR Part 107

Administrative practice and procedure, Fair housing, Grant programs—housing and community development, Loan programs—housing and community development, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination.

24 CFR Part 135

Administrative practice and procedure, Community development, Equal employment opportunity, Government contracts, Grant programs—housing and community development, Housing, Loan programs—housing and community development, Reporting and recordkeeping requirements, Small businesses.

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Lead poisoning, Loan programs—housing and community development, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 202

Administrative practice and procedure, Home improvement, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 206

Aged, Condominiums, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 245

Condominiums, Cooperatives, Grant programs—housing and community

development, Loan programs—housing and community development, Low and moderate income housing, Rent subsidies, Reporting and recordkeeping requirements, Utilities.

24 CFR Part 291

Community facilities, Homeless, Low and moderate income housing, Mortgages, Reporting and recordkeeping requirements, Surplus government property.

24 CFR Part 401

Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Mortgages, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 402

Low and moderate income housing, Rent subsidies.

24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Loan programs—housing and community development, Low and moderate income housing, Northern Mariana Islands, Pacific Islands Trust Territory, Puerto Rico, Reporting and recordkeeping requirements, Student aid, Virgin Islands.

24 CFR Part 572

Government property, Grant programs—housing and community development, Low and moderate income housing, Nonprofit organizations, Reporting and recordkeeping requirements.

24 CFR Part 585

Community facilities, Grant programs—housing and community development, Homeless, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 941

Grant programs—housing and community development, Loan programs—housing and community development, Public housing.

24 CFR Part 954

Administrative practice and procedure, Grant programs—housing and community development, Grant programs—Indians, Indians, Low and moderate income housing, Manufactured homes, Rent subsidies,

Reporting and recordkeeping requirements.

24 CFR Part 982

Grant programs—housing and community development, Grant programs—Indians, Indians, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 983

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 1000

Aged, Community development block grants, Grant programs—housing and community development, Grant programs—Indians, Indians, Individuals with disabilities, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 1003

Alaska, Community development block grants, Grant programs—housing and community development, Grant programs—Indians, Indians, Reporting and recordkeeping requirements.

24 CFR Part 1005

Indians, Loan programs—Indians, Reporting and recordkeeping requirements.

24 CFR Part 1006

Community development block grants, Grant programs—housing and community development, Grant programs—Indians, Hawaiian Natives, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 3282

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Investigations, Manufactured homes, Reporting and recordkeeping requirements.

24 CFR Part 3500

Consumer protection, Housing, Mortgages, Reporting and recordkeeping requirements.

Accordingly, for the reasons discussed in the preamble, HUD proposes to amend 24 CFR part 2424 and 24 CFR parts 5, 6, 8, 15, 21, 24, 25, 26, 84, 91, 92, 103, 107, 135, 200, 202, 203, 206, 245, 291, 401, 402, 570, 572, 585, 941, 954, 982, 983, 1000, 1003, 1005, 1006, 3282, and 3500 to read as follows:

TITLE 2—GRANTS AND AGREEMENTS

Subtitle B—Federal Agency Regulations for Grants and Agreements

PART 2424—NONPROCUREMENT DEBARMENT AND SUSPENSION; DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

1. Under the authority of 42 U.S.C. 3535(d), add Chapter XXIV consisting of part 2424 to Subtitle B to read as follows:

CHAPTER XXIV—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 2424—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

2424.10 What does this part do?

2424.20 Does this part apply to me?

2424.30 What policies and procedures must I follow?

Subpart A—General

2424.137 Who in HUD may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

2424.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

2424.300 What must I do before I enter into a covered transaction with another person at the next lower tier (HUD supplement to governmentwide definition at 2 CFR 180.300)?

2424.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

2424.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

Subpart E—[Reserved]

Subpart F—[Reserved]

Subpart G—Suspension

2424.747 Who conducts fact finding for HUD suspensions?

Subpart H—Debarment

2424.842 Who conducts fact finding for HUD debarments?

Subpart I—Definitions

2424.952 Hearing officer.

2424.970 Nonprocurement transaction (HUD supplement to governmentwide definition at 2 CFR 180.970).

2424.995 Principal (HUD supplement to governmentwide definition at 2 CFR 180.995).

2424.1017 Ultimate beneficiary.

Subpart J—Limited Denial of Participation

2424.1100 What is a limited denial of participation?

2424.1105 Who may issue a limited denial of participation?

2424.1110 When may a HUD official issue a limited denial of participation?

2424.1115 When does a limited denial of participation take effect?

2424.1120 How long may a limited denial of participation last?

2424.1125 How does a limited denial of participation start?

2424.1130 How may I contest my limited denial of participation?

2424.1135 Do Federal agencies coordinate limited denial of participation actions?

2424.1140 What is the scope of a limited denial of participation?

2424.1145 May HUD impute the conduct of one person to another in a limited denial of participation?

2424.1150 What is the effect of a suspension or debarment on a limited denial of participation?

2424.1155 What is the effect of a limited denial of participation on a suspension or a debarment?

2424.1160 May a limited denial of participation be terminated before the term of the limited denial of participation expires?

2424.1165 How is a limited denial of participation reported?

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

§ 2424.10 What does this part do?

In this part, HUD adopts, as HUD policies, procedures, and requirements for nonprocurement debarment and suspension, the OMB guidance in subparts A through I of 2 CFR part 180, as supplemented by this part. This adoption thereby gives regulatory effect for HUD to the OMB guidance as supplemented by this part. 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, Pub. L. 103–355, 108 Stat. 3327).

§ 2424.20 Does this part apply to me?

This part and, through this part, pertinent portions of subparts A through I of 2 CFR part 180 (see table at 2 CFR 180.100(b)), apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970, as supplemented by § 2424.970 of this part);

(b) Respondent in a HUD suspension or debarment action;

(c) HUD debarment or suspension official; or

(d) HUD grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 2424.30 What policies and procedures must I follow?

The HUD policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB guidance in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by section 220 of the OMB guidance (i.e., 2 CFR 180.220) as supplemented by section 220 in this part (i.e., § 2424.220). For any section of OMB guidance in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, HUD policies and procedures are those in the OMB guidance.

Subpart A—General

§ 2424.137 Who in HUD may grant an exception to let an excluded person participate in a covered transaction?

The Secretary, the Director of the Enforcement Center, or a designee may grant an exception permitting an excluded person to participate in a particular covered transaction. If the Secretary, the Director of the Enforcement Center, or a designee grants an exception, the exception must be in writing and state the reason(s) for deviating from the governmentwide policy in Executive Order 12549.

Subpart B—Covered Transactions

§ 2424.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

In addition to the contracts covered under 2 CFR 180.220(b) of the OMB guidance, this part applies to any contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the contract is to be funded or provided by HUD under a covered nonprocurement transaction and the amount of the contract is expected to equal or exceed \$25,000. This extends the coverage of the HUD nonprocurement suspension and debarment requirements to all lower tiers of subcontracts under covered nonprocurement transactions, as permitted under the OMB guidance at 2 CFR 180.220(c) (see optional lower-tier coverage in the figure in the Appendix to 2 CFR part 180).

Subpart C—Responsibilities of Participants Regarding Transactions

§ 2424.300 What must I do before I enter into a covered transaction with another person at the next lower tier (HUD supplement to governmentwide definition at 2 CFR 180.300)?

(a) You, as a participant, are responsible for determining whether you are entering into a covered transaction with an excluded or disqualified person. You may decide the method by which you do so.

(1) You may, but are not required to, check the Excluded Parties List System (EPLS).

(2) You may, but are not required to, collect a certification from that person.

(b) In the case of an employment contract, HUD does not require employers to check the EPLS prior to making salary payments pursuant to that contract.

§ 2424.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

To communicate the requirements to lower-tier participants, you must include a term or condition in the transaction requiring compliance with subpart C of the OMB guidance in 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 2424.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435 of the OMB guidance, you must include a term or condition in the transaction that requires the participant to: comply with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and include a similar term or condition in lower-tier covered transactions.

Subpart E—[Reserved]

Subpart F—[Reserved]

Subpart G—Suspension

§ 2424.747 Who conducts fact finding for HUD suspensions?

In all HUD suspensions, the official receiving the referral for findings of fact regarding disputed material facts must be a hearing officer.

Subpart H—Debarment

§ 2424.842 Who conducts fact finding for HUD debarments?

In all HUD debarments, the official receiving the referral for findings of fact regarding disputed material facts must be a hearing officer.

Subpart I—Definitions

§ 2424.952 Hearing officer.

Hearing Officer means an Administrative Law Judge or Board of Contract Appeals Judge authorized by HUD's Secretary or by the Secretary's designee to conduct proceedings under this part.

§ 2424.970 Nonprocurement transaction (HUD supplement to governmentwide definition at 2 CFR 180.970).

In the case of employment contracts that are covered transactions, each salary payment under the contract is a separate covered transaction.

§ 2424.995 Principal (HUD supplement to governmentwide definition at 2 CFR 180.995).

A person who has a critical influence on, or substantive control over, a covered transaction, whether or not employed by the participant. Persons who have a critical influence on, or substantive control over, a covered transaction may include, but are not limited to:

- (a) Loan officers;
- (b) Staff appraisers and inspectors;
- (c) Underwriters;
- (d) Bonding companies;
- (e) Borrowers under programs financed by HUD or with loans guaranteed, insured, or subsidized through HUD programs;
- (f) Purchasers of properties with HUD-insured or Secretary-held mortgages;
- (g) Recipients under HUD assistance agreements;
- (h) Ultimate beneficiaries of HUD programs;
- (i) Fee appraisers and inspectors;
- (j) Real estate agents and brokers;
- (k) Management and marketing agents;
- (l) Accountants, consultants, investment bankers, architects, engineers, and attorneys who are in a business relationship with participants in connection with a covered transaction under a HUD program;
- (m) Contractors involved in the construction or rehabilitation of properties financed by HUD, with HUD-insured loans or acquired properties, including properties held by HUD as mortgagee-in-possession;
- (n) Closing agents;

(o) Turnkey developers of projects financed by or with financing insured by HUD;

(p) Title companies;

(q) Escrow agents;

(r) Project owners;

(s) Administrators of hospitals, nursing homes, and projects for the elderly financed or insured by HUD; and

(t) Developers, sellers, or owners of property financed with loans insured under Title I or Title II of the National Housing Act.

§ 2424.1017 Ultimate beneficiary.

Ultimate beneficiaries of HUD programs include, but are not limited to, subsidized tenants and subsidized mortgagors, such as those assisted under Section 8 Housing Assistance Payment contracts, by Section 236 Rental Assistance, or by Rent Supplement payments.

Subpart J—Limited Denial of Participation

§ 2424.1100 What is a limited denial of participation?

A limited denial of participation excludes a specific person from participating in a specific program, or programs, within a HUD field office's geographic jurisdiction, for a specific period of time. A limited denial of participation is normally issued by a HUD field office, but may be issued by a Headquarters office. The decision to impose a limited denial of participation is discretionary and based on the best interests of the Federal government.

§ 2424.1105 Who may issue a limited denial of participation?

The Secretary designates HUD officials who are authorized to impose a limited denial of participation, affecting any participant and/or their affiliates, except mortgagees approved by the Federal Housing Administration (FHA).

§ 2424.1110 When may a HUD official issue a limited denial of participation?

- (a) An authorized HUD official may issue a limited denial of participation against a person, based upon adequate evidence of any of the following causes:
- (1) Approval of an applicant for insurance would constitute an unsatisfactory risk;
 - (2) There are irregularities in a person's past performance in a HUD program;
 - (3) The person has failed to maintain the prerequisites of eligibility to participate in a HUD program;
 - (4) The person has failed to honor contractual obligations or to proceed in

accordance with contract specifications or HUD regulations;

(5) The person has failed to satisfy, upon completion, the requirements of an assistance agreement or contract;

(6) The person has deficiencies in ongoing construction projects;

(7) The person has falsely certified in connection with any HUD program, whether or not the certification was made directly to HUD;

(8) The person has committed any act or omission that would be cause for debarment under 2 CFR 180.800;

(9) The person has violated any law, regulation, or procedure relating to the application for financial assistance, insurance, or guarantee, or to the performance of obligations incurred pursuant to a grant of financial assistance or pursuant to a conditional or final commitment to insure or guarantee;

(10) The person has made or procured to be made any false statement for the purpose of influencing in any way an action of the Department; or

(11) Imposition of a limited denial of participation by any other HUD office.

(b) Filing of a criminal Indictment or Information shall constitute adequate evidence for the purpose of limited denial of participation actions. The Indictment or Information need not be based on offenses against HUD.

(c) Imposition of a limited denial of participation by any other HUD office shall constitute adequate evidence for a concurrent limited denial of participation. Where such a concurrent limited denial of participation is imposed, participation may be restricted on the same basis without the need for additional conference or further hearing.

(d) An affiliate or organizational element may be included in a limited denial of participation solely on the basis of its affiliation, and regardless of its knowledge of or participation in the acts providing cause for the sanction. The burden of proving that a particular affiliate or organizational element is currently responsible and not controlled by the primary sanctioned party (or by an entity that itself is controlled by the primary sanctioned party) is on the affiliate or organizational element.

§ 2424.1115 When does a limited denial of participation take effect?

A limited denial of participation is effective immediately upon issuance of the notice.

§ 2424.1120 How long may a limited denial of participation last?

A limited denial of participation may remain in effect up to 12 months.

§ 2424.1125 How does a limited denial of participation start?

A limited denial of participation is made effective by providing the person, and any specifically named affiliate, with notice:

(a) That the limited denial of participation is being imposed;

(b) Of the cause(s) under § 2424.1110 for the sanction;

(c) Of the potential effect of the sanction, including the length of the sanction and the HUD program(s) and geographic area affected by the sanction;

(d) Of the right to request, in writing, within 30 days of receipt of the notice, a conference under § 2424.1130; and

(e) Of the right to contest the limited denial of participation under § 2424.1130.

§ 2424.1130 How may I contest my limited denial of participation?

(a) Within 30 days after receiving a notice of limited denial of participation, you may request a conference with the official who issued such notice. The conference shall be held within 15 days after the Department's receipt of the request for a conference, unless you waive this time limit. The official or designee who imposed the sanction shall preside. At the conference, you may appear with a representative and may present all relevant information and materials to the official or designee. Within 20 days after the conference, or within 20 days after any agreed-upon extension of time for submission of additional materials, the official or designee shall, in writing, advise you of the decision to terminate, modify, or affirm the limited denial of participation. If all or a portion of the remaining period of exclusion is affirmed, the notice of affirmation shall advise you of the opportunity to contest the notice and to request a hearing before a Departmental Hearing Officer. You have 30 days after receipt of the notice of affirmation to request this hearing. If the official or designee does not issue a decision within the 20-day period, you may contest the sanction before a Departmental Hearing Officer. Again, you have 30 days from the expiration of the 20-day period to request this hearing. If you request a hearing before the Departmental Hearing Officer, you must submit your request to the Debarment Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., B-133 Portals 200, Washington, DC 20410-0500.

(b) You may skip the conference with the official and you may request a hearing before a Departmental Hearing Officer. This must also be done within

30 days after receiving a notice of limited denial of participation. If you opt to have a hearing before a Departmental Hearing Officer, you must submit your request to the Debarment Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., B-133 Portals 200, Washington, DC 20410-0500. The hearing before the Departmental Hearing Officer is more formal than the conference before the sanctioning official described above. The Departmental Hearing Officer will conduct the hearing in accordance with 24 CFR part 26, subpart A. The Departmental Hearing Officer will issue findings of fact and make a recommended decision. The sanctioning official will then make a final decision, as promptly as possible, after the Departmental Hearing Officer's recommended decision is issued. The sanctioning official may reject the recommended decision or any findings of fact, only after specifically determining that the decision or any of the facts are arbitrary, capricious, or clearly erroneous.

(c) In deciding whether to terminate, modify, or affirm a limited denial of participation, the Departmental official or designee may consider the factors listed at 2 CFR 180.860. The Departmental Hearing Officer may also consider the factors listed at 2 CFR 180.860 in making any recommended decision.

§ 2424.1135 Do Federal agencies coordinate limited denial of participation actions?

Federal agencies do not coordinate limited denial of participation actions. As stated in § 2424.1100, a limited denial of participation is a HUD-specific action and applies only to HUD activities.

§ 2424.1140 What is the scope of a limited denial of participation?

The scope of a limited denial of participation is as follows:

(a) A limited denial of participation generally extends only to participation in the program under which the cause arose. A limited denial of participation may, at the discretion of the authorized official, extend to other programs, initiatives, or functions within the jurisdiction of an Assistant Secretary. The authorized official, however, may determine that where the sanction is based on an indictment or conviction, the sanction shall apply to all programs throughout HUD.

(b) For purposes of this subpart, participation includes receipt of any benefit or financial assistance through

grants or contractual arrangements; benefits or assistance in the form of loan guarantees or insurance; and awards of procurement contracts.

(c) The sanction may be imposed for a period not to exceed 12 months, and shall be effective within the geographic jurisdiction of the office imposing it, unless the sanction is imposed by an Assistant Secretary or Deputy Assistant Secretary, in which case the sanction may be imposed on either a nationwide or a more restricted basis.

§ 2424.1145 May HUD impute the conduct of one person to another in a limited denial of participation?

For purposes of determining a limited denial of participation, HUD may impute conduct as follows:

(a) *Conduct imputed from an individual to an organization.* HUD may impute the fraudulent, criminal, or other improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with an organization, to that organization when the improper conduct occurred in connection with the individual's performance of duties for or on behalf of that organization, or with the organization's knowledge, approval, or acquiescence. The organization's acceptance of the benefits derived from the conduct is evidence of knowledge, approval, or acquiescence.

(b) *Conduct imputed from an organization to an individual or between individuals.* HUD may impute the fraudulent, criminal, or other improper conduct of any organization to an individual, or from one individual to another individual, if the individual to whom the improper conduct is imputed participated in, had knowledge of, or had reason to know of the improper conduct.

(c) *Conduct imputed from one organization to another organization.* HUD may impute the fraudulent, criminal, or other improper conduct of one organization to another organization when the improper conduct occurred in connection with a partnership, joint venture, joint application, association, or similar arrangement, or when the organization to whom the improper conduct is imputed has the power to direct, manage, control, or influence the activities of the organization responsible for the improper conduct. Acceptance of the benefits derived from the conduct is evidence of knowledge, approval, or acquiescence.

§ 2424.1150 What is the effect of a suspension or debarment on a limited denial of participation?

If you have submitted a request for a hearing pursuant to § 2424.1130 of this

subpart, and you also receive, pursuant to subpart G or H of this part, a notice of proposed debarment or suspension that is based on the same transaction(s) or the same conduct as the limited denial of participation, as determined by the debarring or suspending official, the following rules shall apply:

(a) During the 30-day period after you receive a proposed debarment or suspension, during which you may elect to contest the debarment under 2 CFR 180.815, or the suspension pursuant to 2 CFR 180.720, all proceedings in the limited denial of participation, including discovery, are automatically stayed.

(b) If you do not contest the proposed debarment pursuant to 2 CFR 180.815, or the suspension pursuant to 2 CFR 180.720, the final imposition of the debarment or suspension shall also constitute a final decision with respect to the limited denial of participation, to the extent that the debarment or suspension is based on the same transaction(s) or conduct as the limited denial of participation.

(c) If you contest the proposed debarment pursuant to 2 CFR 180.815, or the suspension pursuant to 2 CFR 180.720, then:

(1) Those parts of the limited denial of participation and the debarment or suspension based on the same transaction(s) or conduct, as determined by the debarring or suspending official, shall be immediately consolidated before the debarring or suspending official;

(2) Proceedings under the consolidated portions of the limited denial of participation shall be stayed before the hearing officer until the suspending or debarring official makes a determination as to whether the consolidated matters should be referred to a hearing officer. Such a determination must be made within 90 days of the date of the issuance of the suspension or proposed debarment, unless the suspending/debarring official extends the period for good cause.

(i) If the suspending or debarring official determines that there is a genuine dispute as to material facts regarding the consolidated matter, the entire consolidated matter will be referred to the hearing officer hearing the limited denial of participation, for additional proceedings pursuant to 2 CFR 180.750 or 180.845.

(ii) If the suspending or debarring official determines that there is no dispute as to material facts regarding the consolidated matter, jurisdiction of the hearing officer under 2 CFR part 2424, subpart J, to hear those parts of the limited denial of participation based on

the same transaction[s] or conduct as the debarment or suspension, as determined by the debarring or suspending official, will be transferred to the debarring or suspending official, and the hearing officer responsible for hearing the limited denial of participation shall transfer the administrative record to the debarring or suspending official.

(3) The suspending or debarring official shall hear the entire consolidated case under the procedures governing suspensions and debarments, and shall issue a final decision as to both the limited denial of participation and the suspension or debarment.

§ 2424.1155 What is the effect of a limited denial of participation on a suspension or a debarment?

The imposition of a limited denial of participation does not affect the right of the Department to suspend or debar any person under this part.

§ 2424.1160 May a limited denial of participation be terminated before the term of the limited denial of participation expires?

If the cause for the limited denial of participation is resolved before the expiration of the 12-month period, the official who imposed the sanction may terminate it.

§ 2424.1165 How is a limited denial of participation reported?

When a limited denial of participation has been made final, or the period for requesting a conference pursuant to § 2424.1130 has expired without receipt of such a request, the official imposing the limited denial of participation shall notify the Director of the Compliance Division in the Departmental Enforcement Center of the scope of the limited denial of participation.

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle B—Regulations Relating To Housing and Urban Development

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

2. The authority citation for part 5 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437f, 1437n, 3535(d), and Sec. 327, Pub. L. 109–115, 119 Stat. 2936.

3. Revise § 5.105(c) and (d) to read as follows:

§ 5.105 Other Federal requirements.

* * * * *

(c) *Debarred, suspended, or ineligible contractors and participants.* The prohibitions at 2 CFR part 2424 on the

use of debarred, suspended, or ineligible contractors and participants.

(d) *Drug-Free Workplace.* The Drug-Free Workplace Act of 1988 (41 U.S.C. 701, *et seq.*) and HUD's implementing regulations at 24 CFR part 21.

PART 6—NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES RECEIVING ASSISTANCE UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1978

4. The authority citation for part 6 continues to read as follows:

Authority: 42 U.S.C. 3535(d); 42 U.S.C. 5309.

5. Revise § 6.12(a)(4) to read as follows:

§ 6.12 Procedure for effecting compliance.

(a) * * *

(4) Take such other actions as may be provided by law, including, but not limited to, the initiation of proceedings under 2 CFR part 2424 or any applicable proceeding under State or local law.

* * * * *

PART 8—NONDISCRIMINATION BASED ON HANDICAP IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

6. The authority citation for part 8 continues to read as follows:

Authority: 29 U.S.C. 794; 42 U.S.C. 3535(d) and 5309.

7. Revise § 8.57(a)(2) to read as follows:

§ 8.57 Procedure for effecting compliance.

(a) * * *

(2) The initiation of debarment proceedings pursuant to 2 CFR part 2424; and

* * * * *

PART 15—PUBLIC ACCESS TO HUD RECORDS UNDER THE FREEDOM OF INFORMATION ACT AND TESTIMONY AND PRODUCTION OF INFORMATION BY HUD EMPLOYEES

8. The authority citation for part 15 continues to read as follows:

Authority: 42 U.S.C. 3535(d). Subpart A also issued under 5 U.S.C. 552. Section 15.107 also issued under E.O. 12958, 60 FR 19825, 3 CFR Comp., p. 333. Subparts C and D also issued under 5 U.S.C. 301.

9. Revise § 15.109(d) to read as follows:

§ 15.109 How will HUD respond to a request for information from form HUD-92410 (Statement of Profit and Loss)?

* * * * *

(d) *What sanctions are available for improper disclosure of such information?* An eligible potential purchaser or a potential investor (who has received the information from a potential purchaser and has been notified by that entity of its obligations under paragraph (b) of this section), who discloses information from form HUD-92410 in violation of this section, may be subject to sanctions under 2 CFR part 2424.

PART 21—GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

10. The authority citation for part 21 continues to read as follows:

Authority: 41 U.S.C. 701; 42 U.S.C. 3535(d).

11. Revise § 21.510(c) to read as follows:

§ 21.510 What actions will the Federal Government take against a recipient determined to have violated this part?

* * * * *

(c) Suspension or debarment of the recipient under 2 CFR part 2424, for a period not to exceed five years.

12. Revise § 21.605(a)(2) to read as follows:

§ 21.605 Award.

* * * * *

(a) * * *

(2) A block grant or a grant in an entitlement program, whether or not the grant is exempted from coverage under the governmentwide rule 24 CFR part 85 that implements OMB Circular A-102 and specifies uniform administrative requirements.

* * * * *

PART 24—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

13. The authority citation for part 24 would be revised to read as follows:

Authority: 42 U.S.C. 3535(d).

14. Revise part 24 to read as follows:

PART 24—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

§ 24.1 Debarment and suspension (nonprocurement).

The policies, procedures, and requirements for debarment, suspension, and limited denial of participation are set forth in 2 CFR part 2424.

PART 25—MORTGAGEE REVIEW BOARD

15. The authority citation for part 25 continues to read as follows:

Authority: 12 U.S.C. 1708(c), 1708(d), 1709(s), 1715(b) and 1715(f)-14; 42 U.S.C. 3535(d).

§ 25.2 [Amended]

16. In § 25.2, revise the reference to "part 24 of this subtitle A" to read "2 CFR part 2424."

17. Revise § 25.9(n) to read as follows:

§ 25.9 Grounds for an administrative action.

* * * * *

(n) Employing or retaining:

(1) An officer, partner, director, or principal at such time when such person was suspended, debarred, ineligible, or subject to a limited denial of participation under 2 CFR part 2424 or otherwise prohibited from participation in HUD programs, where the mortgagee knew or should have known of the prohibition;

(2) An employee who is not an officer, partner, director, or principal and who is or will be working on HUD/FHA program matters at a time when such person was suspended, debarred, ineligible, or subject to a limited denial of participation under 2 CFR part 2424 or otherwise prohibited from participation in HUD programs, where the mortgagee knew or should have known of the prohibition;

* * * * *

PART 26—HEARING PROCEDURES

18. The authority citation for part 26 continues to read as follows:

Authority: 42 U.S.C. 3535(d).

19. Revise § 26.1 to read as follows:

§ 26.1 Purpose.

This part sets forth rules of procedure in certain proceedings of the Department of Housing and Urban Development presided over by a hearing officer. These rules of procedure apply to hearings with respect to determinations by the Multifamily Participation Review Committee pursuant to 24 CFR part 200, subpart H, to hearings conducted pursuant to referrals by debarment or suspending officials under 2 CFR part 2424, and to hearings conducted pursuant to referrals by a hearing official under 24 CFR part 25, unless such regulations at 2 CFR part 2424, 24 CFR parts 25, or 200, provide otherwise. They also apply in any other case where a hearing is required by statute or regulation, to the extent that rules adopted under such

statute or regulation are not inconsistent.

20. Revise § 26.9 to read as follows:

§ 26.9 Notice of administrative action.

In every case, there shall be a notice of administrative action. The notice shall be in writing and inform the party of the determination. The notice shall state the reasons for the proposed or imposed action, except where general terms are permitted by 2 CFR part 2424. The notice shall inform the party of any right to a hearing to challenge the determination, and the manner and time in which to request such a hearing. A supplemental notice may be issued, in the discretion of the initiating official, to add to or modify the reasons for the action.

PART 84—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NON-PROFIT ORGANIZATIONS

21. The authority citation for part 84 continues to read as follows:

Authority: 42 U.S.C. 3535(d).

22. In § 84.2, revise the definition of “Suspension” to read as follows:

§ 84.2 Definitions.

* * * * *

Suspension means an action by HUD that temporarily withdraws HUD sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by HUD. Suspension of an award is a separate action from suspensions under HUD regulations implementing E.O. 12549 and E.O. 12689, “Debarment and Suspension,” at 2 CFR part 2424.

* * * * *

23. Revise § 84.13 to read as follows:

§ 84.13 Debarment and suspension; Drug-Free Workplace.

(a) Recipients and subrecipients shall comply with the governmentwide nonprocurement debarment and suspension requirements in 2 CFR part 2424. These governmentwide requirements restrict subawards and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

(b) Recipients and subrecipients shall comply with the requirements of the Drug-Free Workplace Act of 1988 (42 U.S.C. 701), as set forth at 24 CFR part 21.

24. Revise § 84.44(d) to read as follows:

§ 84.44 Procurement procedures.

* * * * *

(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity; compliance with public policy, including, where applicable, Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u); record of past performance; and financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by implementation of Executive Orders 12549 and 12689, “Debarment and Suspension,” at 2 CFR part 2424.

* * * * *

25. Revise § 84.62(d) to read as follows:

§ 84.62 Enforcement.

* * * * *

(d) *Relationship to debarment and suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under HUD’s regulations at 2 CFR part 2424 (see § 84.13).

26. Revise § 84.84(e)(4) to read as follows:

§ 84.84 Procurement standards.

* * * * *

(e) * * *

(4) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity; compliance with public policy, including, where applicable, Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u); record of past performance; and financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted, as set forth at 2 CFR part 2424.

* * * * *

27. Revise § 84.86(b)(4) to read as follows:

§ 84.86 Termination and enforcement.

* * * * *

(b) * * *

(4) *Relationship to debarment and suspension.* The enforcement remedies identified in this section, including suspension and termination, do not

preclude a recipient from being subject to debarment and suspension under HUD’s regulations at 2 CFR part 2424 (see § 84.13).

Appendix A to Part 84 [Amended]

28. Remove paragraphs 8 and 9 from Appendix A.

PART 85—ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE, LOCAL AND FEDERALLY RECOGNIZED INDIAN TRIBAL GOVERNMENTS

29. The authority citation for part 85 continues to read as follows:

Authority: 42 U.S.C. 3535(d).

30. In § 85.3, revise the definition of “Suspension” to read as follows:

§ 85.3 Definitions.

* * * * *

Suspension means, depending on the context, either: temporary withdrawal of the authority to obligate grant funds pending corrective action by the grantee or subgrantee or a decision to terminate the grant, or an action taken by a suspending official in accordance with 2 CFR part 2424, to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.

* * * * *

31. Revise § 85.35 to read as follows:

§ 85.35 Subawards to debarred and suspended parties.

Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs subject to 2 CFR part 2424.

32. Revise § 85.43(d) to read as follows:

§ 85.43 Enforcement.

* * * * *

(d) *Relationship to debarment and suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude a grantee or subgrantee from being subject to 2 CFR part 2424 (see § 85.35).

PART 91—CONSOLIDATED SUBMISSIONS FOR COMMUNITY PLANNING AND DEVELOPMENT PROGRAMS

33. The authority citation for part 91 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 3601–3619, 5301–5315, 11331–11388, 12701–12711, 12741–12756, and 12901–12912.

§ 91.225 [Amended]

34. Remove § 91.225(a)(3) and redesignate paragraphs (a)(4), (5), (6), (7), and (8) as (a)(3), (4), (5), (6), and (7), respectively.

§ 91.325 [Amended]

35. Remove § 91.325(a)(3) and redesignate paragraphs (a)(4), (5), (6), (7), and (8) as (a)(3), (4), (5), (6), and (7), respectively.

§ 91.425 [Amended]

36. Remove § 91.425(a)(1)(iii) and redesignate paragraphs (a)(1)(iv), (v), (vi), (vii), and (viii) as (a)(1)(iii), (iv), (v), (vi), and (vii), respectively.

PART 92—HOME INVESTMENT PARTNERSHIP PROGRAM

37. The authority citation for part 92 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12701–12839.

§ 92.61 [Amended]

38. Remove § 92.61(c)(6) and redesignate (c)(7) as (c)(6).

39. In § 92.508, revise paragraph (a)(7)(viii) to read as follows:

§ 92.508 Recordkeeping.

- (a) * * *
(7) * * *

(viii) Records demonstrating compliance with debarment and suspension requirements in 2 CFR part 2424.

* * * * *

PART 103—FAIR HOUSING COMPLAINT PROCESS

40. The authority citation for part 103 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 3600–3619.

41. Revise § 103.510(b) to read as follows:

§ 103.510 Other action by HUD.

* * * * *

(b) Take appropriate steps to initiate proceedings leading to the debarment of the respondent under 2 CFR part 2424, or initiate other actions leading to the imposition of administrative sanctions, where HUD determines that such actions are necessary to the effective operation and administration of Federal programs or activities.

* * * * *

PART 107—NONDISCRIMINATION AND EQUAL OPPORTUNITY IN HOUSING UNDER EXECUTIVE ORDER 11063

42. The authority citation for part 107 continues to read as follows:

Authority: 42 U.S.C. 3535(d); E.O. 11063, 27 FR 11527, 3 CFR, 1958–1963 Comp., p. 652; E.O. 12892, 59 FR 2939, 3 CFR, 1994 Comp., p. 849.

43. Revise § 107.60(b) to read as follows:

§ 107.60 Sanctions and penalties.

* * * * *

(b) Such sanctions as are specified by E.O. 11063, the contract through which federal assistance is provided, and such sanctions as are specified by the rules or regulations of the Department governing the program under which federal assistance to the project is provided, shall be applied in accordance with the relevant regulations. Actions that may be taken include: cancellation or termination, in whole or in part, of the contract or agreement; refusal to approve a lender or withdrawal of approval; or a determination of ineligibility, suspension, or debarment from any further assistance or contracts; provided, however, that sanctions of debarment, suspension, and ineligibility are subject to the Department's regulations under 2 CFR part 2424, and, further, that no sanction under section 302 (a), (b), and (c) of Executive Order 11063 shall be applied by the Assistant Secretary for Fair Housing and Equal Opportunity without the concurrence of the Secretary.

* * * * *

PART 135—ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS

44. The authority citation for part 135 continues to read as follows:

Authority: 12 U.S.C. 1701u; 42 U.S.C. 3535(d)

45. Revise § 135.72(b) to read as follows:

§ 135.72 Cooperation in achieving compliance.

* * * * *

(b) The recipient shall refrain from entering into a contract with any contractor after notification to the recipient by HUD that the contractor has been found in violation of the regulations in this part. The provisions of 2 CFR part 2424 apply to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension or otherwise ineligible status.

46. Revise § 135.74(d) to read as follows:

§ 135.74 Section 3 compliance review procedures.

* * * * *

(d) Continuing noncompliance by recipient or contractor. A continuing failure or refusal by the recipient or contractor to comply with the regulations in this part may result in the application of sanctions specified in the contract through which HUD assistance is provided, or the application of sanctions specified in the regulations governing the HUD program under which HUD financial assistance is provided. HUD will notify the recipient of any continuing failure or refusal by the contractor to comply with the regulations in this part for possible action under any procurement contract between the recipient and the contractor. Where appropriate, debarment, suspension, and limited denial of participation may be applied to the recipient or the contractor, pursuant to HUD's regulations at 2 CFR part 2424.

* * * * *

PART 200—INTRODUCTION TO FHA PROGRAMS

47. The authority citation for part 200 continues to read as follows:

Authority: 12 U.S.C. 1702–1715z–21; 42 U.S.C. 3535(d).

48. Revise § 200.31 to read as follows:

§ 200.31 Debarment and suspension.

The requirements set forth in 2 CFR part 2424 apply to these programs.

49. Revise § 200.172(d) to read as follows:

§ 200.172 Removal from the Inspector Roster.

* * * * *

(d) Other action. Nothing in this section prohibits HUD from taking such other action against an inspector, as provided in 2 CFR part 2424, or from seeking any other remedy against an inspector, available to HUD by statute or otherwise.

50. Revise § 200.192(d) to read as follows:

§ 200.192 Removal of 203(k) consultant.

* * * * *

(d) Other action. Nothing in this section prohibits HUD from taking such other action against a consultant, as provided in 2 CFR part 2424, or from seeking any other remedy against a consultant, available to HUD by statute or otherwise.

51. Revise § 200.195(d) to read as follows:

§ 200.195 Removal of nonprofit organization from Nonprofit Organization Roster.

* * * * *

(d) *Other action.* Nothing in this section prohibits HUD from taking such other action against a nonprofit organization, as provided in 2 CFR part 2424, or from seeking any other remedy against a nonprofit organization, available to HUD by statute or otherwise.

52. Revise § 200.204(a) introductory text and (e) to read as follows:

§ 200.204 What actions may HUD take against unsatisfactory appraisers on the Appraiser Roster?

* * * * *

(a) *Removal from the Appraiser Roster.* HUD officials, as designated by the Secretary, may at any time remove a listed appraiser from the Appraiser Roster for cause, in accordance with paragraphs (a)(1) through (a)(3) of this section. The provisions of paragraphs (a)(1) through (a)(3) of this section do not apply to removal actions taken under any section in 2 CFR part 2424 or to any other remedy against an appraiser, available to HUD by statute or otherwise.

* * * * *

(e) *Other action.* Nothing in this section prohibits HUD from taking any other action against an appraiser, as provided under 2 CFR part 2424, or from seeking any other remedy against an appraiser, available to HUD by statute or otherwise.

§ 200.226 [Amended]

53. In § 200.226(a)(2)(i), revise the reference to “24 CFR part 24” to read “2 CFR part 2424.”

§ 200.230 [Amended]

54. In § 200.230(a), revise the reference to “part 24 of this title” to read “2 CFR part 2424.”

55. Revise § 200.236 to read as follows:

§ 200.236 Modification or withdrawal of certain approvals.

Approvals will not be modified or withdrawn except in cases where the principal is subsequently suspended or debarred from further participation in any HUD programs under 2 CFR part 2424, or is found by the Review Committee to have obtained approval based upon submission to HUD of a false, fraudulent, or incomplete report or certificate. In such cases, the Review Committee may take such action, including modification or withdrawal of approval, as it determines to be in the best interest of the Department and the public. For the purpose of this section,

the term “approval” includes conditional approval.

56. Revise § 200.243(b) to read as follows:

§ 200.243 Hearing rules—How and when to apply.

* * * * *

(b) Hearings and review of determination by the Hearing Officer shall be governed by the procedures contained in 2 CFR part 2424, except as modified in paragraph (a) of this section and by § 200.245.

57. Revise § 200.935(c)(3) to read as follows:

§ 200.935 Administrator qualifications and procedures for HUD building products certification programs.

* * * * *

(c) * * *
(3) *Acceptance.* HUD shall review each submission and notify the applicant whether or not they are accepted or rejected. HUD shall be notified immediately of any change(s) in the administrator’s submission regarding program procedures and/or major personnel associated with the program. HUD reserves the right to suspend or debar an administrator in accordance with 2 CFR part 2424.

* * * * *

58. Revise § 200.1500(b) to read as follows:

§ 200.1500 Sanctions against a MAP lender.

* * * * *

(b) The actions listed in paragraphs (a)(1) through (a)(4) of this section are carried out in accordance with the requirements of this subpart. An LDP is a sanction applied in accordance with subpart J of 2 CFR part 2424 to participants in loan transactions other than FHA-insured lenders. The Mortgagee Review Board procedures are found at 24 CFR part 25.

59. Revise § 200.1530(b)(14) and (15) to read as follows:

§ 200.1530 Bases for sanctioning a MAP lender.

* * * * *

(b) * * *
(14) Employing or retaining an officer, partner, director, or principal at the time when the person was suspended, debarred, ineligible, or subject to an LDP under 2 CFR part 2424, or otherwise prohibited from participation in HUD programs, when the MAP lender knew or should have known of the prohibition;

(15) Employing or retaining an employee who is not an officer, partner, director, or principal, and who is or will be working on HUD-FHA program

matters, at a time when that person was suspended, debarred, ineligible, or subject to an LDP under 2 CFR part 2424, or otherwise prohibited from participation in HUD programs, when the MAP lender knew or should have known of the prohibition;

* * * * *

PART 202—APPROVAL OF LENDING INSTITUTIONS AND MORTGAGEES

60. The authority citation for part 202 continues to read as follows:

Authority: 12 U.S.C. 1703, 1709, and 1715b; 42 U.S.C. 3535(d).

61. Revise § 202.5(j)(1) to read as follows:

§ 202.5 General approval standards.

* * * * *

(j) * * *
(1) Be suspended, debarred, or otherwise restricted under 2 CFR part 2424 or part 25 of this title, or under similar procedures of any other Federal agency;

* * * * *

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

62. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, 1715z–16, and 1715u; 42 U.S.C. 3535(d).

63. Revise § 203.202(b) and (d) to read as follows:

§ 203.202 Plan acceptability and acceptance renewal criteria—general.

* * * * *

(b) In evaluating applications for renewal of Plan acceptance, HUD will take into consideration such reliable evidence, as is made available to the Department, of a Plan issuer’s failure to fulfill its obligations. Where HUD has credible evidence of a Plan issuer’s failure to correct covered homeowner problems, or there are justifiable homeowner complaints about untimely problem resolution by a Plan issuer, HUD will consider this as cause for termination of a Plan’s acceptance and as grounds for initiation of sanctions against a Plan issuer or insurance backer, in accordance with 2 CFR part 2424. If HUD proposes to terminate a Plan’s acceptance, the issuer of the Plan will be advised of the reason therefore, and the procedural safeguards of 2 CFR part 2424 will apply.

* * * * *

(d) After a Plan has been accepted by HUD, there shall be no change in, or modification to, its provisions, or in its insurance backers or insurance contract(s), without prior written HUD

acceptance of such change or modification, except that changes mandated by other applicable laws may not require HUD's prior approval. A violation of this condition may be cause for termination of a Plan's acceptance, and may be grounds for initiation of sanctions against the Plan issuer, in accordance with 2 CFR part 2424. Insofar as practicable, HUD will respond to a Plan issuer's request for acceptance of a change within 30 days of receipt of the request. Plan acceptance by HUD will be for a two-year period.

PART 206—HOME EQUITY CONVERSION MORTGAGE INSURANCE

64. The authority citation for part 206 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715z–1720; 42 U.S.C. 3535(d).

65. Revise § 206.201(b) to read as follows:

§ 206.201 Mortgage servicing generally; sanctions.

(b) *Importance of timely payments.* The paramount servicing responsibility is the need to make timely payments in full as required by the mortgage. Any failure of a mortgagee to make all payments required by the mortgage in a timely manner will be grounds for administrative sanctions authorized by regulations, including 2 CFR part 2424 (Debarment, Suspension and Limited Denial of Participation), and part 25 of this title (Mortgagee Review Board).

PART 245—TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS

66. The authority citation for part 245 continues to read as follows:

Authority: 12 U.S.C. 1715z–1b; 42 U.S.C. 3535(d).

67. Revise § 245.135 to read as follows:

§ 245.135 Enforcement.

(a) Owners of housing identified in § 245.10, and their agents, as well as any principals thereof (as defined in 2 CFR part 2424), who violate any provision of this subpart so as to interfere with the organizational and participatory rights of tenants, may be liable for sanctions under 2 CFR part 2424. Such sanctions may include:

(1) *Debarment.* A person who is debarred is prohibited from future participation in federal programs for a period of time. The specific rules and

regulations relating to debarment are found at 2 CFR part 2424.

(2) *Suspension.* Suspension is a temporary action with the same effect as debarment, to be taken when there is adequate evidence that a cause for debarment may exist and immediate action is needed to protect the public interest. The specific rules and regulations relating to suspension are found at 2 CFR part 2424.

(3) *Limited Denial of Participation.* An LDP generally excludes a person from future participation in the federal program under which the cause arose. The duration of an LDP is generally up to 12 months. The specific rules and regulations relating to LDPs are found at 2 CFR part 2424, subpart J.

(b) These sanctions may also apply to affiliates (as defined in 2 CFR part 2424) of these persons or entities.

(c) The procedures in 2 CFR part 2424 shall apply to actions under this subpart.

PART 291—DISPOSITION OF HUD-ACQUIRED SINGLE FAMILY PROPERTY

68. The authority citation for part 291 continues to read as follows:

Authority: 12 U.S.C. 1701 *et seq.*; 42 U.S.C. 1441, 1441a, 1551a, and 3535(d).

69. Revise § 291.200(b) to read as follows:

§ 291.200 Future REO acquisition method.

(b) *Eligible entities.* An individual, partnership, corporation, or other legal entity will not be eligible to participate in this process if at the time of the sale, that individual or entity is debarred, suspended, or otherwise precluded from doing business with HUD under 2 CFR part 2424.

70. Revise § 291.303 to read as follows:

§ 291.303 Eligible bidders.

HUD will provide information on the eligibility of bidders in the bid package, a notice in the **Federal Register**, or other means, at the Secretary's full discretion. However, an individual, partnership, corporation, or other legal entity will not be eligible to bid for any loan pool, either as an individual or a participant, if, at the time of the sale, that individual or entity is debarred or suspended from doing business with HUD under 2 CFR part 2424.

PART 401—MULTIFAMILY MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING PROGRAM (MARK-TO-MARKET)

71. The authority citation for part 401 continues to read as follows:

Authority: 12 U.S.C. 1715z–1 and 1735f–19(b); 42 U.S.C. 1437(c)(8), 1437f(t), 1437f note, and 3535(d).

72. Revise § 401.101(a) and (b)(1) to read as follows:

§ 401.101 Which owners are ineligible to request Restructuring Plans?

(a) Mandatory rejection. The request of an owner of an eligible project will not be considered for a Restructuring Plan if the owner is debarred or suspended under 2 CFR part 2424.

(b) * * * (1) An affiliate is debarred or suspended under 2 CFR part 2424; or

73. Revise § 401.403(b)(1) and (b)(2)(i) to read as follows:

§ 401.403 Rejection of a request for a Restructuring Plan because of actions or omissions of owner, or affiliate or project condition.

(1) *Suspension or debarment.* Neither a PAE nor HUD will continue to develop or consider a Restructuring Plan if, at any time before a closing under § 401.407, the owner is debarred or suspended under 2 CFR part 2424.

(i) An affiliate is debarred or suspended under 2 CFR part 2424;

PART 402—SECTION 8 PROJECT-BASED CONTRACT RENEWAL UNDER SECTION 524 OF MAHRA

74. The authority citation for part 402 continues to read as follows:

Authority: 42 U.S.C. 1437(c)(8), 1437f note, and 3535(d).

75. In § 402.7, revise the introductory text of paragraph (a) and paragraph (a)(1) to read as follows:

§ 402.7 Refusal to consider an owner's request for a section 8 contract renewal because of actions or omissions of owner or affiliate.

(a) *Determination of eligibility.* Notwithstanding 2 CFR part 2424, HUD may elect to not consider a request for renewal of project-based assistance, if at any time before contract renewal:

(1) The owner or an affiliate is debarred or suspended under part 2 CFR part 2424;

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

76. The authority citation for part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301–5320.

77. Revise § 570.489(l) to read as follows:

§ 570.489 Program administrative requirements.

* * * * *

(l) *Debarment and suspension.* The requirements in 2 CFR part 2424 are applicable. CDBG funds may not be provided to excluded or disqualified persons.

* * * * *

§ 570.704 [Amended]

78. Remove and reserve § 570.704(b)(5) and (6).

PART 572—HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES PROGRAM (HOPE 3)

79. The authority citation for part 572 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12891.

80. Revise § 572.225(b)(2)(v) to read as follows:

§ 572.225 Grant agreements; corrective and remedial actions.

* * * * *

(b) * * *

(2) * * *

(v) Taking action against the recipient under 2 CFR part 2424 with respect to future HOPE 3, HUD, or Federal grant awards; and

* * * * *

PART 585—YOUTHBUILD PROGRAM

81. The authority citation for part 585 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 8011.

§ 585.502 [Amended]

82. In § 585.502, remove paragraph (c) and redesignate paragraphs (d) through (j) as (c) through (i), respectively.

83. Revise § 585.504 to read as follows:

§ 585.504 Use of debarred, suspended, or ineligible contractors.

The provisions of 2 CFR part 2424 apply to the employment of, engagement of services from, awarding of contracts to, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

PART 941—PUBLIC HOUSING DEVELOPMENT

84. The authority citation for part 941 continues to read as follows:

Authority: 42 U.S.C. 1437b, 1437c, 1437g, and 3535(d).

85. Revise § 941.205(d) to read as follows:

§ 941.205 PHA contracts.

* * * * *

(d) Each PHA shall certify before executing any contract with a contractor that the contractor is not suspended, debarred, or otherwise ineligible under 2 CFR part 2424. Each PHA also shall ensure that all subgrantees, contractors, and subcontractors select only contractors who are not listed as suspended, debarred, or otherwise ineligible under 2 CFR part 2424.

PART 954—INDIAN HOME PROGRAM

86. The authority citation for part 954 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12701–12839.

§ 954.4 [Amended]

87. Remove § 954.4(i).

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

88. The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

89. Revise § 982.306(a) to read as follows:

§ 982.306 PHA disapproval of owner.

(a) The PHA must not approve an assisted tenancy if the PHA has been informed (by HUD or otherwise) that the owner is debarred, suspended, or subject to a limited denial of participation under 2 CFR part 2424.

* * * * *

90. Revise § 982.628(c) to read as follows:

§ 982.628 Homeownership option: Eligible units.

* * * * *

(c) *PHA disapproval of seller.* The PHA may not commence homeownership assistance for occupancy of a home if the PHA has been informed (by HUD or otherwise) that the seller of the home is debarred, suspended, or subject to a limited denial of participation under 2 CFR part 2424.

* * * * *

§ 982.631 [Amended]

91. Remove § 982.631(c)(2)(v).

PART 983—PROJECT-BASED VOUCHER (PBV) PROGRAM

92. The authority citation for part 983 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

93. In § 983.4, revise the undesignated paragraph captioned “Debarment” to read as follows:

§ 983.4 Cross-reference to other Federal requirements.

* * * * *

Debarment. Prohibition on use of debarred, suspended, or ineligible contractors. See 24 CFR 5.105(c) and 2 CFR part 2424.

* * * * *

PART 1000—NATIVE AMERICAN HOUSING ACTIVITIES

94. The authority citation for part 1000 continues to read as follows:

Authority: 25 U.S.C. 4101 *et seq.*; 42 U.S.C. 3535(d).

95. Revise § 1000.44 to read as follows:

§ 1000.44 What prohibitions on the use of debarred, suspended, or ineligible contractors apply?

In addition to any tribal requirements, the prohibitions in 2 CFR part 2424 on the use of debarred, suspended, or ineligible contractors apply.

96. Revise § 1000.46 to read as follows:

§ 1000.46 Do drug-free workplace requirements apply?

Yes. In addition to any tribal requirements, the Drug-Free Workplace Act of 1988 (41 U.S.C. 701, *et seq.*) and HUD’s implementing regulations in 24 CFR part 21 apply.

PART 1003—COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKA NATIVE VILLAGES

97. The authority citation for part 1003 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301 *et seq.*

98. Revise § 1003.608 to read as follows:

§ 1003.608 Debarment and suspension.

The requirements in 2 CFR part 2424 are applicable. ICDBG funds cannot be provided to excluded or disqualified persons.

PART 1005—LOAN GUARANTEES FOR INDIAN HOUSING

99. The authority citation for part 1005 continues to read as follows:

Authority: 12 U.S.C. 1715z-13a; 42 U.S.C. 3535(d).

100. Revise § 1005.107(b)(5)(ii) to read as follows:

§ 1005.107 What is eligible collateral?

* * * * *

(b) * * *

(5) * * *

(ii) Review. If the Department ceases to issue guarantees in accordance with paragraph (b)(5)(i) of this section, HUD will notify the tribe of the reasons for such action and that the tribe may, within 30 days after notification of HUD's action, file a written appeal with the Director, Office of Loan Guarantee (OLG), Office of Native American Programs (ONAP). Within 30 days after notification of an adverse decision by the OLG Director, the tribe may file a written request for review with the Deputy Assistant Secretary for ONAP. Upon notification of an adverse decision by the Deputy Assistant Secretary, the tribe has 30 additional days to file an appeal with the Assistant Secretary for Public and Indian Housing. The determination of the Assistant Secretary shall be final, but the tribe may resubmit the issue to the Assistant Secretary for review at any subsequent time, if new evidence or changed circumstances warrant reconsideration. (Any other administrative actions determined to be necessary to debar a tribe from participating in this program will be subject to the formal debarment procedures contained in 2 CFR part 2424.)

PART 1006—NATIVE HAWAIIAN HOUSING BLOCK GRANT PROGRAM

101. The authority citation for part 1006 continues to read as follows:

Authority: 25 U.S.C. 4221 et seq.; 42 U.S.C. 3535(d).

102. Revise § 1006.375(b) to read as follows:

§ 1006.375 Other Federal requirements.

* * * * *

(b) Drug-free workplace. The Drug-Free Workplace Act of 1988 (41 U.S.C. 701, et seq.) and HUD's implementing regulations in 24 CFR part 21 apply to the use of assistance under this part.

* * * * *

PART 3282—MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

103. The authority citation for part 3282 continues to read as follows:

Authority: 28 U.S.C. 2461 note; 42 U.S.C. 5424; and 42 U.S.C. 3535(d).

104. Revise § 3282.151(d) to read as follows:

§ 3282.151 Applicability and scope.

* * * * *

(d) To the extent that these regulations provide for Formal or Informal Presentations of Views for parties that would otherwise qualify for hearings under 2 CFR part 2424, the procedures of 2 CFR part 2424 shall not be available and shall not apply.

PART 3500—REAL ESTATE SETTLEMENT PROCEDURES ACT

105. The authority citation for part 3500 continues to read as follows:

Authority: 12 U.S.C. 2601 et seq.; 42 U.S.C. 3535(d).

106. Revise § 3500.19(a) to read as follows:

§ 3500.19 Enforcement.

(a) Enforcement policy. It is the policy of the Secretary regarding RESPA enforcement matters to cooperate with Federal, State, or local agencies having supervisory powers over lenders or other persons with responsibilities under RESPA. Federal agencies with supervisory powers over lenders may use their powers to require compliance with RESPA. In addition, failure to comply with RESPA may be grounds for administrative action by the Secretary under 2 CFR part 2424 concerning debarment, suspension, ineligibility of contractors and grantees, or under part 25 of this title concerning the HUD Mortgage Review Board. Nothing in this paragraph is a limitation on any other form of enforcement that may be legally available.

* * * * *

Dated: February 20, 2007.

Roy A. Bernardi, Deputy Secretary.

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