



U.S Department of
Transportation
Office of the Secretary
of Transportation

ORDER

DOT 4200.5E

03-15-2010

Subject: Suspension and Debarment Procedures and Ineligibility

1. **PURPOSE.** This Order prescribes standards and procedures for implementing debarment, suspension, and ineligibility procedures and ensures that the Department of Transportation (DOT) conducts a vigorous department-wide debarment, suspension, and ineligibility program.
2. **POLICY.** The public has entrusted DOT with billions of dollars for grants and acquisitions and insists that the Department will act as an effective steward of these funds to ensure a safe, efficient, secure, accessible, and convenient transportation system. As part of its stewardship obligations to the public, the Department is responsible for ensuring that these Federal funds are used responsibly and consistently with legal requirements. To carry out this responsibility, DOT officers and employees will use the debarment and suspension process to ensure that only responsible persons participate in DOT procurement (acquisitions) and nonprocurement (financial assistance, e.g. grants, cooperative agreements, loans and other transactions) programs and projects.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities or entities, its officers, employees or agents, or any other person.

3. **CANCELLATION.** DOT 4200.5D, Government-wide Debarment, Suspension and Ineligibility.
4. **REFERENCES.**
 - a. 2 C.F.R. Part 180, Government-wide Debarment and Suspension (nonprocurement), effective November 15, 2006, adopted and supplemented by DOT at 2 C.F.R. Part 1200, effective June 2, 2008, provides Office of Management and Budget (OMB) guidance for Federal agencies on the government-wide debarment and suspension system for nonprocurement transactions, programs, and activities. The Government-wide nonprocurement regulation can be accessed through the following website:
http://www.whitehouse.gov/omb/assets/omb/grants/111506_grants_full.doc.



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http://www.whitehouse.gov/omb/assets/omb/grants/111506_grants_full.doc.

- b. Federal Acquisition Regulation (FAR), 48 C.F.R. Subpart 9.4, Debarment Suspension, and Ineligibility, provides rules for a Federal-wide system of debarment and suspension for procurement actions; FAR, 48 C.F.R. Part 3, Improper Business Practices and Personal Conflicts of Interest; and 48 C.F.R. Subpart 9.1, Responsible Prospective Contractors, are also applicable and should be referenced. The FAR can be accessed through the following website:
<http://www.arnet.gov/far/>.
 - c. Department of Transportation Acquisition Manual (TAM), Subpart 1209.4, Debarment, Suspension, and Ineligibility, supplements FAR, 48 C.F.R. Subpart 9.4. The TAM, issued by the Office of the Senior Procurement Executive (OSPE), establishes uniform internal operating acquisition procedures which implement or supplement the FAR and the TAR. The TAM can be accessed through the following website: <http://www.dot.gov/ost/m60/earl/tam.htm>.
 - d. Acquisition Management System (AMS), Procurement Guidance, T3.2.2.7, provides rules for procurement debarment and suspension actions for the Federal Aviation Administration (FAA). The AMS, Procurement Guidance, can be accessed through the following website:
http://fasteditapp.faa.gov/dot/do_action?do_action=ListTOC&contentUID=1
5. **APPLICABILITY.** This Order applies to all DOT Operating Administrations (OA) (including the FAA) and Secretarial Offices that make, execute, or approve nonprocurement transactions. This Order also applies to all OAs (except the FAA) and Secretarial Offices that make, execute, or approve procurement transactions pursuant to the FAR. Though not subject to the FAR, the FAA applies similar procedures through the AMS for its procurement transactions.
6. **RESPONSIBILITIES.**
- a. The responsibilities for carrying out this Order are as follows:
 - (1) OAs and Secretarial Offices shall be proactive in ensuring that only responsible persons and organizations participate in DOT procurement and nonprocurement transactions.
 - (2) OAs and Secretarial Offices shall be proactive in responding to received information regarding potential debarment or suspension actions. Sources of information include, but are not limited to:
 - (a) Office of Inspector General (OIG) investigations. The Office of the Inspector General will report indictments and convictions to the relevant Chief Counsel and provide copies to the Office of the Senior Procurement Executive (OSPE).
 - (b) Department of Justice/U.S. Attorney investigations;
 - (c) Civil or criminal court actions arising in Federal, state, or local courts;

- (d) Media reports (newspaper, magazine, newsletter, internet, etc.);
 - (e) Records, reports, and reviews/audits of DOT recipients and other Federal agencies.
- (3) Recipients of DOT assistance must review the list of parties excluded from Federal procurement or nonprocurement programs located on the Excluded Parties List System (EPLS) website: <http://www.epls.gov/> before entering into an assistance subagreement, or contract.
- (4) OAs and Secretarial Offices shall include in all nonprocurement agreements the requirement that the recipient inform the OA or Secretarial Office with which it entered into a nonprocurement agreement when the recipient suspends or debars a contractor, person, or entity.
- (5) OAs and Secretarial Offices shall appoint a representative to attend quarterly suspension and debarment meetings to be chaired by the OSPE.
- (6) OAs and Secretarial Offices shall submit all new and revised procedures, if any, which implement any of the requirements of FAR Subpart 9.4, 2 C.F.R. Parts 180 and 1200, and this Order to the OSPE for review.
- (7) OAs and Secretarial Offices shall enter all new and active cases in the DOT Tracking and Reporting System for tracking purposes. The website address is: <https://dotshare.dot.gov/sites/DOTSuspensionDebarment/default.aspx>.
- (8) OAs shall update a case listing in the DOT Tracking and Reporting website within five (5) days of OA or Secretarial Office action. All case entries must be updated monthly. If there has been no activity or change in the status of a case, this should be noted on the DOT Tracking and Reporting System website as well. OAs and Secretarial Offices without cases on the Suspension and Debarment Tracking and Reporting System website do not have to provide monthly updates.
- (9) OAs and Secretarial Offices shall prepare an annual report to the OSPE listing all cases in which debarment or suspension actions were initiated, referred, or completed and the status or outcome of each case. The submission shall include all cases entered into the DOT Tracking and Reporting System website, even if no action was initiated. If no action was initiated, the OA or Secretarial Office must explain why no action was initiated. For those OAs with no cases uploaded onto the DOT Tracking and Reporting System website, a negative report is also required. This report shall cover the preceding calendar year and shall be submitted to the OSPE on February 1st of each year.
- (10) The OSPE is responsible for forwarding the report to the Deputy Secretary with a copy provided to the General Counsel and the Inspector General.

- (11) The OSPE distributes Interagency Suspension and Debarment Committee (ISDC) lead agency coordination notices to all OAs and Secretarial Offices. The OAs and Secretarial Offices shall coordinate and cooperate with each other and Federal agencies and DOT offices to the maximum extent possible.
- (12) Prior to initiating a debarment or suspension action, OAs and Secretarial Offices shall:

 - (a) Check the EPLS to ensure that the party is not already debarred or suspended.
 - (b) Determine whether another Federal agency has an interest in initiating a debarment or suspension action against the party. If another agency has an interest in initiating action against the party, the two agencies should discuss and agree upon a lead agency and/or joint responsibilities per Executive Order 12549 under the ISDC.
 - (c) Determine whether another OA or Secretarial Office has an interest in initiating a debarment or suspension action against a party. If another DOT office has an interest in taking action against the party, the two offices should discuss and agree upon a lead office and/or joint responsibilities.
 - (d) Except for those cases originally referred to the OAs by the OIG, notify the Office of the Assistant Inspector General for Investigations before debarment or suspension action is initiated. The Office of the Assistant Inspector General will contact the appropriate U.S. Attorney's Office or the Department of Justice to ensure that there are no pending or contemplated actions that may be affected by the debarment or suspension action. To ensure continued timely processing of the debarment or suspension action, the Office of the Assistant Inspector General for Investigations will respond to the OAs within five (5) working days of receipt of OA notification.
- b. The OSPE shall be responsible for overall program oversight. Among its responsibilities, the OSPE shall:

 - (1) Provide policy, technical advice, and training.
 - (2) Chair and document suspension and debarment meetings.
 - (3) Review and post all procedures submitted in accordance with paragraph 6.a. (6).
 - (4) Monitor the Suspension and Debarment DOT Tracking and Reporting System website to ensure information is updated.
 - (5) Periodically reconcile and validate the DOT Tracking and Reporting System and EPLS data for accuracy and completeness.

- (6) Monitor and address any issues related to lack of compliance or failure to demonstrate progress on active cases by the OA's or Secretarial Offices.
 - (7) The OSPE will assign a case number for each new case.
 - a. In the case of a proposed suspension/debarment based upon OIG notice of indictment, conviction, or civil judgment, the 45 day processing will begin upon proper notification of the indictment, conviction, or civil judgment. Upon receipt of proper notification the OA, or Secretarial Office must promptly load the required documentation onto the DOT Tracking and Reporting System website.
 - b. In all other proposed actions, a case number will be generated by the DOT Tracking and Reporting System website based upon the submission and supporting documentation provided by the cognizant OA, or Secretarial Office.
- 7. **IMPLEMENTATION.** The policies and procedures contained in this Order are effective immediately. Pursuant to paragraph 6.a.(6), OAs and Secretarial Offices shall submit any additional guidance to implement this Order to the OSPE within 60 days following the issuance of this Order.
- 8. **DEBARMENT PROCEDURES FOR DOT PROCUREMENT AND NONPROCUREMENT TRANSACTIONS.**
 - a. All debarment proceedings must comply with the requirements of the FAR, 48 C.F.R. Subpart 9.4, Debarment, Suspension, and Ineligibility, and with TAM, Subpart 1209.4, Debarment, Suspension, and Ineligibility, for procurement transactions, or with the AMS Procurement Guidance, T3.2.2.7 for FAA procurement actions, and with 2 C.F.R. Parts 180 and 1200 for nonprocurement transactions. Any inconsistency or ambiguity shall be resolved by the following order of precedence: the FAR or the AMS for procurement transactions or 2 C.F.R. Parts 180 and 1200 for nonprocurement actions, the TAM and this Order.
 - b. A debarment action is initiated by mailing, emailing, or faxing written notification (See 2 C.F.R. 180.725(b)) of a proposed debarment to a party. A copy of the written notification informing the party that a debarment has been proposed shall be placed on the Suspension and Debarment Tracking and Reporting System website by the OA or Secretarial Office.
 - c. If the debarring official determines not to take action as provided in 8.e, or determines after initiating action that a debarment will not be imposed, then the debarring official shall document the reasons for the decision on the Suspension and Debarment Tracking and Reporting System site as soon as practical but no later than 5 days following the decision. This explanation shall include an analysis of the factors considered in paragraph 8.h or 8.i.

- d. For the purposes of this order, “proper notification” of conviction or civil judgment is defined as: a notification from the OIG that includes either a copy of the conviction order, a copy of the sentencing order, a copy of an order of a judgment, or other official correspondence or documentation evidencing the conviction or judgment from the Department of Justice/United States Attorney or other law enforcement entity or court.
- e. **Post Conviction or Civil Judgment.** Within 45 days of proper notification, OAs and Secretarial Offices shall either initiate a debarment proceeding or make a decision that a debarment is not appropriate, against any contractor, person, or entity, or any principal thereof, that has been convicted of a criminal offense, or has been the subject of a civil judgment for:
 - (1) Fraud in obtaining, attempting to obtain, or performing a public contract or subcontract;
 - (2) Violation of Federal or State antitrust statutes relating to the submission of offers;
 - (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;
 - (4) Intentionally affixing a label bearing a “Made in America” inscription (or any inscription having the same meaning) to a product sold in or shipped to the United States or its outlying areas, when the product was not made in the United States or its outlying areas (see Section 202 of the Defense Production Act (Public Law 102-558));
 - (5) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a Government contractor or subcontractor.
- f. **Post Indictment.** See Suspension Procedures for Procurement and Nonprocurement Transactions, Post Indictment or Civil Complaint, paragraph 9.b. of this Order.
- g. **Investigation and Referral.** Where there is no conviction, civil judgment or indictment and an OA or any Secretarial Office receives information from any source that a party's actions or activities, or failure to act, may be a cause for debarment, it must evaluate the information within 45 days of receipt of the information, and if warranted, refer the case to the Office of the Assistant Inspector General for Investigations who will review the case. If the OA or Secretarial Office determines that no investigation is warranted by the OIG or other relevant law enforcement agency, no action shall be initiated against the party and the OA or Secretarial Office shall document the decision in the Suspension and Debarment Tracking and Reporting System website.
- h. **Causes for Debarment.** Causes for debarment in procurement actions are located in the FAR at 48 C.F.R. 9.406-2; for FAA procurement actions in AMS Procurement Guidance at T3.2.2.7 (A)(2)(b)(I); and for nonprocurement actions at 2 C.F.R. 180.800 and 2 C.F.R. Part 1200.

Causes for a debarment may include, but are not limited to:

- (1) Conviction of or civil judgment for:
 - (a) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
 - (b) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
 - (c) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
 - (d) Intentionally affixing a label bearing a "Made in America" inscription (or any inscription having the same meaning) to a product sold in or shipped to the United States or its outlying areas, when the product was not made in the United States or its territories (See, Section 202 of the Defense Production Act Amendments of 1992 (Public Law 102-558));
 - (e) Violations of the Buy American Act (41 U.S.C. 10a-10c), which restricts the purchase of foreign made supplies and use of foreign-made construction materials:
 - (i) Pursuant to the Consolidated Appropriations Act, 2010 (Pub. L. No. 111-117, Division A, Title IV, Section 413), if a contracting officer determines that a contractor, person or entity does not comply with the Buy American Act, the contractor or entity is automatically ineligible to receive appropriated funds of any kind;
 - (ii) Section 413 is not permanent and must be enacted each fiscal year. If Section 413 or a similar provision is not enacted in future years, but a contracting officer determines that a contractor or entity does not comply with the Buy American Act, then the OA or Secretarial Office shall initiate debarment proceedings in accordance with the procedures established in this Order and Subpart 9.4 of the FAR.
 - (f) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a contractor, person or entity.
- (2) Violation of the terms of a public agreement or transaction so serious as to justify debarment, such as;

- (a) A willful failure to perform in accordance with the terms of one or more public agreements, or transactions;
 - (b) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
 - (c) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction.
- (3) Knowingly doing business with a debarred, suspended, ineligible, or voluntarily excluded person or entity, in connection with a DOT nonprocurement transaction, except as permitted in 2 C.F.R. 180.120 and 1200.137.
- (4) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code), owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted.
- (5) Violation of a material provision of a voluntary exclusion agreement entered into under 2 C.F.R. 180.640 or of any settlement of a debarment or suspension action.
- (6) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701).
- (7) Knowing failure by a principal, until 3 years after final payment on any Government contract awarded to the contractor, to timely disclose to the Government, in connection with the award, performance, or closeout of the contract or a subcontract there under, credible evidence of:
 - (a) Violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code;
 - (b) Violation of the False Claims Act (31 U.S.C. 3729–3733);
 - (c) Significant overpayment(s) on the contract, other than overpayments resulting from contract financing payments as defined in FAR 32.001.(vi)
- (8) Based on a determination by the Secretary of Homeland Security or the Attorney General of the United States, that the contractor is not in compliance with Immigration and Nationality Act employment provisions (see Executive Order 12989, as amended by Executive Order 13286). Such determination is not reviewable in the debarment proceedings.

- (9) Any other cause of so serious or compelling a nature that it affects the present responsibility of a person or entity.

i. **Remedial Measures and Mitigating Factors.** In determining whether to impose a debarment, the debarring official must evaluate the party's present responsibility. The party that is proposed for debarment has the burden of demonstrating to the satisfaction of the debarring official that it is presently responsible. In evaluating a party's present responsibility, the debarring official may consider, but is not limited to, the following factors:

- (1) Whether the party had effective standards of conduct and internal control systems in place at the time of the activity which constitutes cause for debarment or had adopted such procedures prior to any Government investigation of the activity cited as a cause for debarment;
- (2) Whether the party brought the activity cited as a cause for debarment to the attention of the appropriate Government agency in a timely manner;
- (3) Whether the party has fully investigated the circumstances surrounding the cause for debarment and, if so, made the result of the investigation available to the debarring official;
- (4) Whether the party cooperated fully with Government agencies during the investigation and any court or administrative action;
- (5) Whether the party has paid or has agreed to pay all criminal, civil, and administrative liability costs for the improper activity, including any investigative or administrative costs incurred by the Government, and has made or agreed to make full restitution;
- (6) Whether the party has taken appropriate disciplinary action against the individuals responsible for the activity which constitutes cause for debarment;
- (7) Whether the party has implemented or agreed to implement remedial measures, including any identified by the Government;
- (8) Whether the party has instituted or agreed to institute new or revised review and control procedures and ethics training programs;
- (9) Whether the party has had adequate time to eliminate the circumstances within the party's organization that led to the cause for debarment;
- (10) Whether the party's management recognizes and understands the seriousness of the misconduct giving rise to the cause for debarment and has implemented programs to prevent recurrence.

j. **Fact Finding.** In actions not based upon a conviction or civil judgment, and when the debarment official finds that there is a genuine dispute over facts material to the proposed debarment, he or she shall:

- (1) Request that a DOT Administrative Law Judge conduct fact finding and provide a report to the debarment official;
 - (2) Request that the head of a DOT OA or Secretarial Office, other than the one in which the debarment action is being initiated, designate a fact finder to conduct fact finding and provide a report to the debarment official; or
 - (3) Designate an independent fact finder to conduct fact finding and provide a report to the debarment official. The designated fact finder must be independent and, therefore, may not be supervised by the debarring official. The designated fact finder on any case may not, in that or any other factually related case, participate or advise in the decision.
- k. Affiliates. In imposing any debarment, the debarment official shall consider debarring any affiliates as appropriate.
- l. Length of Debarment. Generally, debarment periods are limited to three years; however, a longer or shorter debarment period may be imposed pursuant to FAR 9.406-4 and 2 C.F.R. 180.145.

9. **SUSPENSION PROCEDURES FOR PROCUREMENT AND NONPROCUREMENT TRANSACTIONS.**

- a. Suspension is a serious action to be imposed on the basis of adequate evidence, pending the completion of investigation or legal proceedings, when it has been determined that immediate action is necessary to protect the Government's interest. All suspension proceedings must comply with the requirements of the FAR, 48 C.F.R. Subpart 9.4, Debarment, Suspension, and Ineligibility, and with TAM, Subpart 1209.4, Debarment, Suspension, and Ineligibility, for procurement transactions, or with the AMS Procurement Guidance, T3.2.2.7 for FAA procurement actions, and with 2 C.F.R. Parts 180 and 1200 for nonprocurement transactions. Any inconsistency or ambiguity shall be resolved by the following order of precedence: the FAR or the AMS for procurement transactions or 2 C.F.R. Parts 180 and 1200 for nonprocurement actions, the TAM and this Order.
- b. Post Indictment or Civil Complaint. Within 45 days of proper notification, OAs and Secretarial Offices shall either initiate a suspension proceeding or make a decision that a suspension is not appropriate, against any recipient, or entity, contractor, subcontractor, or supplier or any principal thereof, that has been indicted for a criminal offense, or is the subject of a civil complaint action. The causes for suspension are listed in 2 C.F.R. Part 180 and in FAR Subpart 9.4.
- (1) An indictment shall constitute adequate evidence for purposes of suspension actions.
 - (2) A suspension action shall be initiated within 45 days of proper notification of the indictment or proper notification that the company, person or entity is the subject of a complaint filed by or on behalf of the United States.

- (a) A suspension action is initiated by e-mailing, faxing or mailing a written suspension (see 2 C.F.R. 180.725 (b)) notice to a party. A copy of the written suspension notice shall be placed on the Suspension and Debarment Tracking and Reporting System website.
 - (b) For the purposes of this section, “proper notification” is defined as: a referral from the OIG that includes either a copy of the Federal, State, or local, indictment or civil complaint or other official correspondence or documentation evidencing the indictment or civil complaint from the Department of Justice/United States Attorney. (Internet sources and local newspaper articles as well as unverified news sources are unacceptable for documentation).
- (3) If the suspending official determines that a suspension should not be initiated, as indicated in 9.b. then the suspending official shall document the reasons for the decision on the Suspension and Debarment Tracking and Reporting System site as soon as practical but no later than 5 days following the decision.
- c. **Investigation and Referral.** Where there is no indictment and an OA or Secretarial Office receives information from any source that a party's actions or activities, or failure to act, may be a cause for suspension, it must promptly evaluate the information. Refer to section 8.g., page 6 for procedures.
- d. **Causes for Suspension.** Causes for suspension in procurement actions are located in the FAR at 48 C.F.R. 9.407.2; for FAA procurement actions in the AMS Procurement Guidance at T3.2.2.7 (A)(2)(c)(2); and for nonprocurement actions at 2 C.F.R. 180.700/2 and C.F.R. 1200. The suspending official may suspend a contractor, person or entity, suspected upon adequate evidence of violating the causes listed in the appropriate authorities above.
- e. **Immediate Need.** In deciding whether to impose a suspension, the suspending official must determine whether immediate action is necessary to protect the public interest. The determination of immediate need does not require a separate finding. Immediate need is a conclusion that a suspending official may draw from inferences made from the facts and circumstances. Also, immediate need does not connote that future misconduct, loss, or injury is probable. The need for immediate action is based on what a reasonably prudent business person would be expected to do given the potential risk under the circumstances. Additionally, even where the suspending official may initially find that immediate action is necessary, a suspended party, in its response, may address the immediate need. If the party can demonstrate to the satisfaction of the suspending official that it has taken protective action to eliminate, or reduce to an acceptable level, the Government's risk pending the completion of the investigation or legal proceedings, then the suspending official may terminate or modify a suspension even though there is adequate evidence to support a suspension.

- f. **Fact Finding.** In actions not based upon an indictment, and when the suspension official finds that there is a genuine dispute over facts material to the proposed suspension, he or she may:
- (1) Request that a DOT Administrative Law Judge conduct fact finding and provide a report to the suspension official;
 - (2) Request that the head of a DOT OA or Secretarial Office, other than the one in which the suspension action is being initiated, designate a fact finder to conduct fact finding and provide a report to the suspension official; or
 - (3) Designate an independent fact finder to conduct fact finding and provide a report to the suspension official. The designated fact finder must be independent and, therefore, may not be supervised by the suspension official. The designated fact finder on any case may not, in that or any other factually related case, participate or advise in the decision.
- g. **Length of Suspension.** A suspension is for a temporary period, pending the completion of legal proceedings or the debarment process. Generally, suspensions will not exceed 12 months where no related civil, criminal, or administrative proceeding has been initiated. If a related civil, criminal, or administrative proceeding is not initiated within 12 months of the effective date of the suspension, then the suspension will be terminated, unless an Assistant Attorney General in the Department of Justice or a United States Attorney requests an extension in writing, in which case it may be extended for an additional 6 months. In no event will a suspension be extended beyond 18 months, unless a related civil, criminal, or administrative proceeding is initiated.
10. **GSA NOTIFICATION.** The OAs and Secretarial Offices shall promptly notify the OSPE after making a determination of debarment or suspension; modifying or rescinding such action; or entering into an agreement for a voluntary exclusion. The OSPE shall notify the General Services Administration, <https://www.epls.gov/> within five (5) working days of the determination. The notification must include the information required in the FAR, 48 C.F.R. Section 9.404(c) for procurement actions or 2 C.F.R. Section 180.520 and 2 C.F.R. 1200 for nonprocurement actions.

Each OA, when having an entity to place into the EPLS, will:

- a. Fill out an EPLS Template at:
http://www.dot.gov/ost/m60/Financial_Assistance_Management_Home/template_for_dot_epls_submission.htm.
- b. Send an e-mail to the OSPE designated website for EPLS submissions at EPLS@dot.gov.

The OSPE designated personnel will check the department-wide EPLS mailbox to ensure timely placement of suspended or debarred entities. Within two (2) working days from EPLS-mailbox notification, the placement of suspended or debarred entities will be sent to: <https://www.epls.gov/>. The referring OA will receive e-mail verification from the OSPE that the affected party has been placed into the EPLS system. Each OA will be responsible for verifying the accuracy of information referred to the EPLS system and will notify the OSPE of any errors.

11. EFFECT OF DEBARMENT OR SUSPENSION - PROCUREMENT.

- a. **New Contracts.** OAs and Secretarial Offices may not solicit offers, award contracts to, or consent to subcontracts with contractors on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, unless the Secretary or his or her designee determines that there is a compelling reason for such action.
- b. **Continuation of Current Procurement Transactions.** OAs and Secretarial Offices may continue transactions in existence at the time the party was debarred, suspended, or proposed for debarment, unless the Secretary or his or her designee directs otherwise. However, unless the Secretary or his or her designee makes a written determination of the compelling reasons for doing so, ordering activities (contracting offices) may not:
 - (1) Place orders exceeding the guaranteed minimum under indefinite quantity contracts;
 - (2) Place orders under optional use Federal Supply Schedule contracts, blanket purchase agreements, or basic ordering agreements; or
 - (3) Add new work or scope, exercise options, or otherwise extend the duration of current contract orders.
- c. A debarred or suspended procurement contractor is considered debarred or suspended government-wide for purposes of nonprocurement transactions.

12. EFFECT OF DEBARMENT OR SUSPENSION - NONPROCUREMENT

- a. **New Nonprocurement Transactions.** OAs and Secretarial Offices shall not enter into any nonprocurement transaction (i.e., grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan guarantees, subsidies, insurance payments for specified use, federal competitions, donation agreements or other transaction agreements) with persons or entities who have been debarred, suspended, or proposed for debarment, unless the Secretary or his or her designee directs otherwise.
- b. **Continuation of Current Nonprocurement Transactions.** OAs and Secretarial Offices may continue with nonprocurement transactions that were already in existence at the time the party was debarred, suspended, or proposed for debarment. However, continuation of a transaction is not required and termination may be considered. The decision to terminate and the type of termination action, if any, shall be taken only after a thorough review to ensure that the action is proper and appropriate.

- c. An individual or organization debarred or suspended pursuant to 2 C.F.R. Parts 180 and 1200 is considered debarred or suspended for purposes of procurement transactions.



Ray H. LaHood
Secretary of Transportation