



**Rural Development
Business Center**

RD AN No. 4893(1940-M)

Chief Financial Officer

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TO: Agency Administrators
State Directors
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FROM: Tony Bainbridge
Chief Financial Officer

SUBJECT: System for Award Management (SAM) Screening
Requirements for Debarment and Suspension

PURPOSE AND INTENDED OUTCOME

This Administrative Notice (AN) clarifies who to screen for debarment and suspension in the System for Award Management (SAM) Exclusion data base as per Rural Development (RD) Instruction 1940-M, Governmentwide Debarment and Suspension (Non-Procurement) and Requirements for the Drug-Free Workplace Act.

This AN clarifies RD Instruction 1940-M with the requirements set forth in Title 2 of the Code of Federal Regulations (2 CFR), Grants and Agreements, Parts 25, 180, 200, and 417, and Office of Management and Budget (OMB) guidance as they pertain to the SAM system and debarment and suspension policies impacting RD programs. Primary tier recipients of Federal funding are responsible to screen lower tier participants. The tiers of participants are explained in this AN.

COMPARISON WITH PREVIOUS AN

This AN replaces RD AN No. 4882 (1940-M) dated July 27, 2021 and RD AN No. 23-4891 dated February 7, 2023 "System for Award Management (SAM) Screening Requirements for Debarment and Suspension." RD AN No 4882 has been split into two separate ANs to clarify the subject matter – 1) SAM Registration and 2) Screening for Debarment and Suspension.

This AN and Attachments A, Screening for Debarment and Suspension table and Attachments B, Principals table provide revisions to the suspension and debarment guidance. Please see RD AN No. 4892 and SAM Registration table for revisions to the SAM Registration guidance.

EXPIRATION DATE:
February 29, 2024

FILING INSTRUCTIONS:
Preceding Instruction 1940-M

BACKGROUND

RD Instruction 1940-M requires screening for debarment and suspension of participants of individual and entity loans (insured and guaranteed), grants, and cooperative agreements in connection with any program administered by RD. It incorporates 2 CFR Parts 180 and 417 intended to deter fraud, waste, and abuse in Federal non-procurement transactions.

IMPLEMENTATION RESPONSIBILITIES

This AN is effective immediately for the following:

- Applications in process
- Disbursements of funds from existing unliquidated balances

RD staff involved in the review of all applicants and recipients of Federal awards are responsible for reviewing and becoming familiar with the requirements of this AN.

For every loan, grant, subsidy, cooperative agreement, or guarantee, there are multiple participants, transactions, and levels or tiers of transactions. These tiers have been established within the 2 CFR guidance.

Standard Definitions

Applicant – For the purpose of this AN, person or entity requesting qualification for a direct loan, grant, subsidy, cooperative agreement, and/or guarantee from Rural Development.

Entity – For the purpose of this AN, an organization, such as a business or governmental unit, that has an identity separate from those of its members.

Intermediary – For the purpose of this AN, the entity receiving Rural Development loan funds for relending to ultimate recipients.

Lower Tier Participant – A party in a transaction with the prime recipient.

Lower Tier Recipient – A recipient of funds in a transaction from a prime recipient.

Natural Person – An individual unrelated to any business or nonprofit organization he or she may own or operate in his or her name. (2 CFR §25.110)

Participant – For the purposes of this UL, is defined as any individual or entity in a transaction supplying goods or services to the Federal award recipient, including but not limited to contractor, closing attorney, appraiser, auditor, subcontractor, architect, or engineer.

Prime Recipient – A participant receiving a Federal award directly from RD.

Principal –

- (a) An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or
- (b) A consultant or other person, whether or not employed by the participant or paid with Federal funds, who –
 - (1) Is in a position to handle Federal funds;
 - (2) Is in a position to influence or control the use of those funds; or,
 - (3) Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR §180.995).

Subaward – An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. (2 CFR §200.1)

Subrecipient – An entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. (2 CFR §200.1)

Ultimate Recipient – For the purpose of this AN, the entity receiving financial assistance from the intermediary.

Debarment and Suspension Screening

The Attachment A – Screening for Debarment and Suspension Table summarizes the RD covered transactions, per 2 CFR § 180.200. RD staff should reference the table at the RD Title 2 CFR SharePoint site > Guidance, https://usdagcc.sharepoint.com/sites/rd_cfo/icd/2CFR/. This table should be used with this AN for examples and descriptions of the RD transactions and clarification of the prime and lower tier participants requiring screening.

RD staff are responsible for screening prime recipients only. All recipients of Federal awards must verify the individual and/or entity they intend to do business with is not excluded or disqualified per 2 CFR §180.300 by,

- (a) Checking SAM Exclusions (<https://sam.gov>); or
- (b) Collecting a certification from that person; or
- (c) Adding a clause or condition to the covered transaction with that person.

RD staff are responsible for notifying recipients of the requirements for debarment and suspension. As individuals or entities receive funds and use those funds to complete an RD project, it is their responsibility to abide by debarment and suspension requirements per 2 CFR, Part 180.

Disbursements from a Supervised Bank Account (SBA) do not require screening by the agency. The borrower/recipient is responsible as explained above. Please see an

exception for Single Family Housing (SFH) SBA lower tier recipients in the attached table.

An entity must be screened as well as its principals. This is to include for-profit entities, nonprofit organizations, states, local governments, and Federally recognized tribes. Refer to the definition of principals to determine who is applicable to screen. For further clarification, please see Attachment B – Principals Table for guidance:

2 CFR §180.405, “As a Federal agency official, you may not enter into a covered transaction with a participant if you know that a principal of the transaction is excluded, unless you obtain an exception under 2 CFR §180.135.”

2 CFR §180.430, “You [Federal agency official] check to see if a person is excluded or disqualified in two ways:

- (a) You as a Federal agency official must check SAM Exclusions when you take any action listed in §180.425.
- (b) You must review information that a participant gives you, as required by §180.335, about its status or the status of the principals of a transaction.

Previously, staff obtained the prime recipient’s signature on the Form AD 1047, Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions. The form collected evidence of representations and certifications from participants of RD programs. As of February 1, 2020, representations and certifications are collected electronically from Federal award recipients as they complete registrations in SAM. To reduce governmentwide recipient burdens, the collection of several forms, including the AD 1047, is no longer required for SAM registrants. Specifically, OMB guidance states agencies are not allowed to request the Form AD 1047 from SAM registrants to support reduced burden on the public. RD will continue to use the form for those participating as a natural person, as they are not required to register in SAM.

RD staff previously collected Form AD 1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions, from lower tier recipients. The collection of this document by RD staff is no longer required. The responsibility of this certification is placed on the participant per 2 CFR §180.300 as explained above.

Do Not Pay Portal

RD’s Chief Financial Officer designated the Department of Treasury’s Do Not Pay (DNP) Portal as the approved one-stop-shop system at <https://fiscal.treasury.gov/DNP/>. Specifically, RD staff will conduct applicable screening for debarment and suspension using the SAM Exclusion Records - Restricted data source (SAM-EXCL-Res).

Required Documentation

Documentation of the screening for debarment and suspension is to be placed in the casefile. The following details must be included:

- Do Not Pay Portal User Who Conducted the Screening
- Do Not Pay Access Group

- Date of Screening
- Applicable Factors Used to Conduct the Screening
 - First and Last Name
 - TIN/SSN/EIN
 - Business Name
 - UEI
 - Data Sources Screened
 - Results of the Screening

These details will be included when using the print function of the DNP Portal. Include all pages. If complete details are not included, screen prints/grabs from the DNP Portal are acceptable. See the USDA RD DNP Portal Guide or RD DNP Training for further guidance to obtain documentation from the DNP Portal, https://usdagcc.sharepoint.com/sites/rd_cfo/icd/DoNotPay/. RD must inform the participants of their requirement to comply with 2 CFR, Part 180, Subpart C as a condition of the transaction and their responsibilities to persons at the next lower tier with whom they enter transactions. {2 CFR §180.435(b)}. Documentation of this notification to the participant is to be recorded and placed in the casefile.

RESOURCES

Multiple resources, to include Useful Links, Training, and Frequently Asked Questions (FAQs), have been developed for RD staff. They may be found on the *Title 2 CFR at Rural Development* site, https://usdagcc.sharepoint.com/sites/rd_cfo/icd/2CFR/ (a subsite of the Internal Compliance Division SharePoint site).

If there are any questions, please contact Heather Honkomp, Program Analyst, at 515-284-4486 or heather.honkomp@usda.gov, or Janet Stouder, Compliance Specialist, at 202-720-9278 or janet.stouder@usda.gov.

Attachments:

Attachment A – Screening for Debarment and Suspension Table

Attachment B – Principals Table

Available at https://usdagcc.sharepoint.com/sites/rd_cfo/icd/2CFR/

Sent by Electronic Mail on _____ at _____ a.m./p.m. by the Office of Compliance, Internal Compliance Division. The Agency Administrators, State Directors and National Office Officials should advise other personnel as appropriate.