

- 145.975 Notice.
- 145.980 Participant.
- 144.985 Person.
- 145.990 Preponderance of the evidence.
- 145.995 Principal.
- 145.1000 Respondent.
- 145.1005 State.
- 145.1010 Suspending official.
- 145.1015 Suspension.
- 145.1020 Voluntary exclusion or voluntarily excluded.

Subpart J—[Reserved]

Appendix to Part 145—Covered Transactions

Authority: 5 U.S.C. 301 *et seq.*; 15 U.S.C. 631 *et seq.*; Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 11738, 3 CFR, 1973 Comp., p. 799; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

■ 2. Part 145 is further amended as set forth below.

■ a. “[Agency noun]” is removed and the “SBA” is added in its place wherever it occurs.

■ b. “[Agency adjective]” is removed and the “SBA” is added in its place wherever it occurs.

■ c. “[Agency head or designee]” is removed and the “SBA Debarbing Official” is added in its place wherever it occurs.

■ 3. Section 145.220 is further amended by adding a paragraph (c) to read as follows:

§ 145.220 Are any procurement contracts included as covered transactions?

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(c) The contract is awarded by any contractor, subcontractor, supplier, consultant or its agent or representative in any transaction, regardless of tier, to be funded or provided by the SBA under a nonprocurement transaction that is expected to equal or exceed \$25,000. (See optional lower tier coverage shown in the diagram in the appendix to this part.)

■ 4. Section 145.440 is added to read as follows:

§ 145.440 What method do I use to communicate those requirements to participants?

To communicate the requirements to participants, you must include a term or condition in the transaction requiring the participant's compliance with subpart C of this part and requiring them to include a similar term or condition in lower tier covered transactions.

■ 5. Section 145.765 is added to subpart G to read as follows:

§ 145.765 How may I appeal my suspension?

(a) If the SBA suspending official issues a decision under § 145.755 to

continue your suspension after you present information in opposition to that suspension under § 145.720, you can ask for review of the suspending official's decision in two ways:

(1) You may ask the suspending official to reconsider the decision for material errors of fact or law that you believe will change the outcome of the matter; and/or

(2) You may request that the SBA Office of Hearings and Appeals (OHA), review the suspending official's decision to continue your suspension within 30 days of your receipt of the suspending official's decision under § 145.755 or paragraph (a)(1) of this section. However, OHA can reverse the suspending official's decision only where OHA finds that the decision is based on a clear error of material fact or law, or where OHA finds that the suspending official's decision was arbitrary, capricious, or an abuse of discretion.

(b) A request for review under this section must be in writing; state the specific findings you believe to be in error; and include the reasons or legal bases for your position.

(c) OHA, in its discretion, may stay the suspension pending review of the suspending official's decision.

(d) The SBA suspending official and OHA must notify you of their decisions under this section, in writing, using the notice procedures at §§ 145.615 and 145.975.

■ 6. Section 145.890 is added to subpart H to read as follows:

§ 145.890 How may I appeal my debarment?

(a) If the SBA debarbing official issues a decision under § 145.870 to debar you after you present information in opposition to a proposed debarment under § 145.815, you can ask for review of the debarbing official's decision in two ways:

(1) You may ask the debarbing official to reconsider the decision for material errors of fact or law that you believe will change the outcome of the matter; and/or

(2) You may request that the SBA Office of Hearings and Appeals (OHA), review the debarbing official's decision to debar you within 30 days of your receipt of the debarbing official's decision under § 145.870 or paragraph (a)(1) of this section. However, OHA can reverse the debarbing official's decision only where OHA finds that the decision is based on a clear error of material fact or law, or where OHA finds that the debarbing official's decision was arbitrary, capricious, or an abuse of discretion.

(b) A request for review under this section must be in writing; state the specific findings you believe to be in error; and include the reasons or legal bases for your position.

(c) OHA may, in its discretion, stay the debarment pending review of the debarbing official's decision.

(d) The SBA debarbing official and OHA must notify you of their decisions under this section, in writing, using the notice procedures at §§ 145.615 and 145.975.

■ 7. Section 145.935 is further amended by adding a paragraph (b) to read as follows:

§ 145.935 Debarbing official.

* * * * *

(b) For SBA, the debarbing official for financial assistance programs means the Assistant Administrator for Lender Oversight; for all other programs, the debarbing official means the Assistant Administrator for Administration.

■ 8. Section 145.995 is further amended by adding a paragraph (c) to read as follows:

§ 145.995 Principal.

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(c) Other examples of individuals who are principals in SBA covered transactions include:

(1) Principal investigators.

(2) Securities brokers and dealers under the section 7(a) Loan, Certified Development Company (CDC) and Small Business Investment Company (SBIC) programs.

(3) Applicant representatives under the section 7(a) Loan, Certified Development Company (CDC), Small Business Investment Company (SBIC), Small Business Development Center (SBDC), and section 7(j) programs.

(4) Providers of professional services under section 7(a) Loan, Certified Development Company (CDC), Small Business Investment Company (SBIC), Small Business Development Center (SBDC), and section 7(j) programs.

(5) Individuals that certify, authenticate or authorize billings.

■ 9. Section 145.1010 is further amended by adding a paragraph (b) to read as follows:

§ 145.1010 Suspending official.

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(b) For SBA, the suspending official for financial assistance programs means the Assistant Administrator for Lender Oversight; for all other programs, the suspending official means the Assistant Administrator for Administration.

■ 10. Part 147 is added to read as set forth in instruction 2 at the end of the common preamble.