

contract that is a covered transaction will constitute an independent covered transaction.

Comment: The commenter argued that if each salary payment is made a covered transaction, employers would be prohibited from making future salary payments to employees who happened to have been excluded since the last salary payment. In the commenter's view, because an employee's salary is paid after the work is performed, the rule would prohibit paying the employee for work he/she has already performed, notwithstanding that the exclusion may be unrelated to the employee's present activity.

HUD Response: The Department has elected to retain the provision as written. Payment for work completed prior to the current activity of the employee does not raise a compliance concern. The provision, as written, allows payment for the work previously performed (work completed before the debarment), but would not allow a continuation of payments subsequent to the imposition of a debarment or suspension absent an exception specified in the Suspension and Debarment regulations. Treating each compensation payment as a separate covered transaction ensures that public funds are adequately protected (which is one of the objectives of the Suspension and Debarment regulations), while not appreciably increasing the administrative burden on the regulated entity. (See, for example, HUD's proposed language at 24 CFR 300(d), exempting salary payments from a requirement to check the Excluded Parties List System (EPLS).)

Comment: The commenter suggested that the Department strike its detailed list of principals in § 24.995(c) accompanying the definition of "Principal." The commenter wrote that the list provided invites readers to make a mechanical comparison of individuals they (*i.e.*, the readers) may be involved with to the principals on the list, as opposed to an evaluation of whether the principals have influence or critical control over the covered transaction.

HUD Response: The Department has elected to retain the detailed list of principals. In the Department's view, the addition of paragraph (c) to the definition of the term "principal" in § 24.995 does not, in any way, expand or detract from the definition stated in the common rule on Suspensions and Debarments. Rather, the section is intended as a convenience to HUD program users to facilitate their understanding of the rule.

The Department has tracked changes to § 24.630 for the imputation

provisions found in § 24.1145 of the proposed rule. The minor modifications to § 24.1145 were made to ensure consistency with the common rule. Likewise, the Department has adopted EPLS when referring to the list of excluded parties.

List of Subjects

24 CFR Part 21

Administrative practice and procedure, Grant programs, Drug-free workplace, Reporting and recordkeeping requirements.

24 CFR Part 24

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

Dated: September 3, 2003.

Mel Martinez,
Secretary.

■ For the reasons stated in the common preamble, the Department of Housing and Urban Development amends 24 CFR Subtitle A, as follows:

■ 1. A new part 21 is added to read as follows:

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

Subpart A—Purpose and Coverage

Sec.

- 21.100 What does this part do?
- 21.105 Does this part apply to me?
- 21.110 Are any of my federal assistance awards exempt from this part?
- 21.115 Does this part affect the federal contracts that I receive?

Subpart B—Requirements for Recipients Other Than Individuals

- 21.200 What must I do to comply with this part?
- 21.205 What must I include in my drug-free workplace statement?
- 21.210 To whom must I distribute my drug-free workplace statement?
- 21.215 What must I include in my drug-free awareness program?
- 21.220 By when must I publish my drug-free workplace statement and establish my drug-free awareness program?
- 21.225 What actions must I take concerning employees who are convicted of drug violations in the workplace?
- 21.230 How and when must I identify workplaces?

Subpart C—Requirements for Recipients Who Are Individuals

- 21.300 What must I do to comply with this part if I am an individual recipient?
- 21.301 [Reserved]

Subpart D—Responsibilities of HUD Awarding Officials

- 21.400 What are my responsibilities as a HUD awarding official?

Subpart E—Violations of This Part and Consequences

- 21.500 How are violations of this part determined for recipients other than individuals?
- 21.505 How are violations of this part determined for recipients who are individuals?
- 21.510 What actions will the federal government take against a recipient determined to have violated this part?
- 21.515 Are there any exceptions to those actions?

Subpart F—Definitions

- 21.605 Award.
- 21.610 Controlled substance.
- 21.615 Conviction.
- 21.620 Cooperative agreement.
- 21.625 Criminal drug statute.
- 21.630 Debarment.
- 21.635 Drug-free workplace.
- 21.640 Employee.
- 21.645 Federal agency or agency.
- 21.650 Grant.
- 21.655 Individual.
- 21.660 Recipient.
- 21.665 State.
- 21.670 Suspension.

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

■ 2. Part 21 is further amended as follows:

- a. "[Agency noun]" is removed and "Department of Housing and Urban Development" is added in its place wherever it occurs.
- b. "[Agency adjective]" is removed and "HUD" is added in its place wherever it occurs.
- c. "[Agency head or designee]" is removed and "Secretary or designee" is added in its place wherever it occurs.
- d. "[Agency head]" is removed and "Secretary" is added in its place wherever it occurs.

■ 3. Part 24 is revised to read as set forth in instruction 1 at the end of the common preamble.

PART 24—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Sec.

- 24.25 How is this part organized?
- 24.50 How is this part written?
- 24.75 Do terms in this part have special meanings?

Subpart A—General

- 24.100 What does this part do?
- 24.105 Does this part apply to me?
- 24.110 What is the purpose of the nonprocurement debarment and suspension system?