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Appendix to Part 24—Covered Transactions

Authority: 41 U.S.C. 701 *et seq.*; 42 U.S.C. 3535(d); Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235).

■ 4. Part 24 is further amended as set forth below.

■ a. “[Agency noun]” is removed and “the 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.

■ 5. Section 24.200 is further amended by adding a paragraph (c) to read as follows:

§ 24.200 What is a covered transaction?

* * * * *

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

■ 6. Section 24.300 is further amended by adding paragraphs (d) and (e) to read as follows:

§ 24.300 What must I do before I enter into a covered transaction with another person at the next lower tier?

* * * * *

(d) 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. You may, but are not required to, check the EPLS.

(e) 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.

■ 7. Section 24.440 is added to read as follows:

§ 24.440 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 participants’ compliance with subpart C of this part and requiring them to include a similar term or condition in lower tier covered transactions.

■ 8. Section 24.750 is further amended by adding a paragraph (c) to read as follows:

§ 24.750 What does the suspending official consider in deciding whether to continue or terminate my suspension?

* * * * *

(c) The official receiving the referral for findings of fact regarding disputed material facts must be a hearing officer in all HUD suspensions.

■ 9. Section 24.845 is further amended by adding a paragraph (d) to read as follows:

§ 24.845 What does the debarring official consider in deciding whether to debar me?

* * * * *

(d) The official receiving the referral for findings of fact regarding disputed material facts must be a hearing officer in all HUD debarments.

■ 10. Section 24.947 is added to read as follows:

§ 24.947 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.

■ 11. Section 24.995 is further amended by adding a paragraph (c) to read as follows:

§ 24.995 Principal.

* * * * *

(c) 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:

- (1) Loan officers;
- (2) Staff appraisers and inspectors;
- (3) Underwriters;
- (4) Bonding companies;
- (5) Borrowers under programs financed by HUD or with loans guaranteed, insured, or subsidized through HUD programs;
- (6) Purchasers of properties with HUD-insured or Secretary-held mortgages;
- (7) Recipients under HUD assistance agreements;
- (8) Ultimate beneficiaries of HUD programs;
- (9) Fee appraisers and inspectors;
- (10) Real estate agents and brokers;
- (11) Management and marketing agents;
- (12) 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;
- (13) Contractors involved in the construction or rehabilitation of