

- 76.850 What is the standard of proof in a debarment action?
- 76.855 Who has the burden of proof in a debarment action?
- 76.860 What factors may influence the debarring official's decision?
- 76.865 How long may my debarment last?
- 76.870 When do I know if the debarring official debars me?
- 76.875 May I ask the debarring official to reconsider a decision to debar me?
- 76.880 What factors may influence the debarring official during reconsideration?
- 76.885 May the debarring official extend a debarment?

Subpart I—Definitions

- 76.900 Adequate evidence.
- 76.905 Affiliate.
- 76.910 Agency.
- 76.915 Agent or representative.
- 76.920 Civil judgment.
- 76.925 Conviction.
- 76.930 Debarment.
- 76.935 Debarring official.
- 76.940 Disqualified.
- 76.945 Excluded or exclusion.
- 76.950 Excluded Parties List System.
- 76.955 Indictment.
- 76.960 Ineligible or ineligibility.
- 76.965 Legal proceedings.
- 76.970 Nonprocurement transaction.
- 76.975 Notice.
- 76.980 Participant.
- 76.985 Person.
- 76.990 Preponderance of the evidence.
- 76.995 Principal.
- 76.1000 Respondent.
- 76.1005 State.
- 76.1010 Suspending official.
- 76.1015 Suspension.
- 76.1020 Voluntary exclusion or voluntarily excluded.

Subpart J—Reserved

Appendix to Part 76—Covered Transactions

Authority: 5 U.S.C. 301; 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 76 is further amended as set forth below.
- a. “[Agency noun]” is removed and “HHS” is added in its place wherever it occurs.
- b. “[Agency adjective]” is removed and “HHS” is added in its place wherever it occurs.
- c. “[Agency head or designee]” is removed and “HHS Debarring/Suspension Official” is added in its place wherever it occurs.
- 3. Section 76.220 is further amended by adding a paragraph (c) to read as follows:

§ 76.220 Are any procurement contracts included as covered transactions?

* * * * *

(c) The contract is a subcontract at any tier below a procurement

transaction that is covered under paragraph (a) of this section, and the value of the contract exceeds or is expected to exceed the “simplified acquisition threshold” defined at 42 U.S.C. 403(11). This extends the coverage of paragraph (a) of this section to all lower tiers of contracts that exceed the simplified acquisition threshold (see optional lower tier coverage shown in the diagram in the appendix to this part).

■ 4. Section 76.230 is added to read as follows:

§ 76.230 What is the relationship between covered transactions and exclusions from participation in Federal health care programs under Title XI of the Social Security Act?

Any individual or entity excluded from participation in Medicare, Medicaid and other Federal health care programs under Title XI of the Social Security Act, 42 U.S.C. 1320a–7, will be subject to the prohibitions against participating in covered transactions, as set forth in this part. In addition, these excluded parties are also prohibited from participating in all Executive Branch procurement programs and activities. (Public Law 103–355, section 2455) For example, if an individual or entity is excluded by the HHS Office of Inspector General from participation in Medicare, Medicaid and all other Federal health care programs, in accordance with 42 U.S.C. 1320a–7, then that individual or entity is prohibited from participating in all Federal Government procurement and nonprocurement programs (42 CFR part 1001).

■ 5. Section 76.440 is added to read as follows:

§ 76.440 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.

■ 6. Section 76.460 is added to read as follows:

§ 76.460 What are the obligations of Medicare carriers and intermediaries?

Because Medicare carriers, intermediaries and other Medicare contractors undertake responsibilities on behalf of the Medicare program (Title XVIII of the Social Security Act), these entities assume the same obligations and responsibilities as Medicare agency

officials with respect to actions under 45 CFR part 76. This would include these entities checking the EPLS and taking necessary steps to effectuate this part.

■ 7. Section 76.940 is further amended by adding a paragraph (d) to read as follows:

§ 76.940 Disqualified.

* * * * *

(d) The program exclusion authorities under Title XI of the Social Security Act (42 U.S.C. 1320a–7) and enforced by the HHS Office of Inspector General.

■ 8. Section 76.995 is further amended by adding a paragraph (c) to read as follows:

§ 76.995 Principal.

* * * * *

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

- (1) Principal investigators;
- (2) Providers of Federally-required audit services; and
- (3) Researchers.

■ 9. Part 82 is added to read as set forth in instruction 2 at the end of the common preamble.

PART 82—GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

Subpart A—Purpose and Coverage

Sec.

- 82.100 What does this part do?
- 82.105 Does this part apply to me?
- 82.110 Are any of my Federal assistance awards exempt from this part?
- 82.115 Does this part affect the Federal contracts that I receive?

Subpart B—Requirements for Recipients Other Than Individuals

- 82.200 What must I do to comply with this part?
- 82.205 What must I include in my drug-free workplace statement?
- 82.210 To whom must I distribute my drug-free workplace statement?
- 82.215 What must I include in my drug-free awareness program?
- 82.220 By when must I publish my drug-free workplace statement and establish my drug-free awareness program?
- 82.225 What actions must I take concerning employees who are convicted of drug violations in the workplace?
- 82.230 How and when must I identify workplaces?

Subpart C—Requirements for Recipients Who Are Individuals

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