

Suspension and Debarment and Drug Free Workplace Requirements

The revised suspension/debarment and Drug Free Workplace Rules (DFW) rules were published on November 26, 2003. USDA has codified the suspension/debarment rules at 7 CFR Part 3017 and the DFW rules at 7CFR Part 3021.

Debarment and suspension actions result in the exclusion of companies or individuals from participating in certain procurement transactions involving federal programs at both the state and local levels, including Local Education Agencies (LEAs) operating the National School Lunch Program and using nonprofit school food service funds. These actions are not imposed as punishments, but rather are initiated in the public interest to protect the use of funds governed by federal requirements, including the nonprofit school food service fund.

The rule applies to new contracts and to the extension or renewal of existing contracts of \$25,000 or more (previous threshold was \$100,000) and to contracts for auditing services to meet federal audit requirements, regardless of the amount. Before a bid may be accepted, the vendor or auditing service must certify that it and its principals are not debarred or suspended from contracting to provide services in exchange for funds from federal grant programs.

The rule provided three options for obtaining satisfaction that prospective subgrantees and contractors are not suspended, debarred or disqualified. They are:

1. Check the Excluded Parties List System (EPLS), currently at <http://epls.gov>
2. Collect a statement from the bidder/contractor that neither it nor its principal managers and employees are excluded or disqualified. Since the federal certification form is no longer available, an LEA electing this method must devise its own form.
3. Include a clause in all new contracts to the effect that neither the company or its principal managers and employees are excluded or disqualified in the procurement contract. The following clause may be used: "The contractor certifies that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or Agency."

The DFW certification requirements have been abolished. However, DFW compliance requirements continue to apply. As a condition of receiving a federal grant award the grantee must: A) make a good-faith effort, on a continuing basis, to maintain a DFW; and B) identify all workplace locations where work under the federal award will be performed.