

## § 32.120

covered transaction under that agency's regulation for debarment and suspension; or

(c) Act as a principal of a person participating in one of those covered transactions.

### § 32.120 May we grant an exception to let an excluded person participate in a covered transaction?

(a) The EPA Debarring Official may grant an exception permitting an excluded person to participate in a particular covered transaction. If the EPA Debarring Official grants an exception, the exception must be in writing and state the reason(s) for deviating from the governmentwide policy in Executive Order 12549.

(b) An exception granted by one agency for an excluded person does not extend to the covered transactions of another agency.

### § 32.125 Does an exclusion under the nonprocurement system affect a person's eligibility for Federal procurement contracts?

If any Federal agency excludes a person under its nonprocurement common rule on or after August 25, 1995, the excluded person is also ineligible to participate in Federal procurement transactions under the FAR. Therefore, an exclusion under this part has reciprocal effect in Federal procurement transactions.

### § 32.130 Does exclusion under the Federal procurement system affect a person's eligibility to participate in nonprocurement transactions?

If any Federal agency excludes a person under the FAR on or after August 25, 1995, the excluded person is also ineligible to participate in nonprocurement covered transactions under this part. Therefore, an exclusion under the FAR has reciprocal effect in Federal nonprocurement transactions.

### § 32.135 May the EPA exclude a person who is not currently participating in a nonprocurement transaction?

Given a cause that justifies an exclusion under this part, we may exclude any person who has been involved, is currently involved, or may reasonably be expected to be involved in a covered transaction.

## 40 CFR Ch. I (7-1-04 Edition)

### § 32.140 How do I know if a person is excluded?

Check the *Excluded Parties List System (EPLS)* to determine whether a person is excluded. The General Services Administration (GSA) maintains the *EPLS* and makes it available, as detailed in subpart E of this part. When a Federal agency takes an action to exclude a person under the nonprocurement or procurement debarment and suspension system, the agency enters the information about the excluded person into the *EPLS*.

### § 32.145 Does this part address persons who are disqualified, as well as those who are excluded from nonprocurement transactions?

Except if provided for in Subpart J of this part, this part—

(a) Addresses disqualified persons only to—

(1) Provide for their inclusion in the *EPLS*; and

(2) State responsibilities of Federal agencies and participants to check for disqualified persons before entering into covered transactions.

(b) Does not specify the—

(1) EPA transactions for which a disqualified person is ineligible. Those transactions vary on a case-by-case basis, because they depend on the language of the specific statute, Executive order, or regulation that caused the disqualification;

(2) Entities to which the disqualification applies; or

(3) Process that the agency uses to disqualify a person. Unlike exclusion, disqualification is frequently not a discretionary action that a Federal agency takes.

## Subpart B—Covered Transactions

### § 32.200 What is a covered transaction?

A covered transaction is a nonprocurement or procurement transaction that is subject to the prohibitions of this part. It may be a transaction at—

(a) The primary tier, between a Federal agency and a person (see appendix to this part); or

(b) A lower tier, between a participant in a covered transaction and another person.