

**§ 1209.105**

part satisfies the requirements in section 3 of Executive Order 12549, "Debarment and Suspension" (3 CFR 1986 Comp., p. 189), Executive Order 12689, "Debarment and Suspension" (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

**§ 1209.105 Does this part apply to me?**

Portions of this part (see table at § 1209.25(b)) apply to you if you are a(n)—

(a) Person who has been, is, or may reasonably be expected to be, a participant or principal in a covered transaction;

(b) Respondent (a person against whom the NARA has initiated a debarment or suspension action);

(c) NARA debarring or suspending of official; or

(d) NARA official who is authorized to enter into covered transactions with non-Federal parties.

**§ 1209.110 What is the purpose of the nonprocurement debarment and suspension system?**

(a) To protect the public interest, the Federal Government ensures the integrity of Federal programs by conducting business only with responsible persons.

(b) A Federal agency uses the nonprocurement debarment and suspension system to exclude from Federal programs persons who are not presently responsible.

(c) An exclusion is a serious action that a Federal agency may take only to protect the public interest. A Federal agency may not exclude a person or commodity for the purposes of punishment.

**§ 1209.115 How does an exclusion restrict a person's involvement in covered transactions?**

With the exceptions stated in §§ 1209.120, 1209.315, and 1209.420, a person who is excluded by the NARA or any other Federal agency may not:

(a) Be a participant in a(n) NARA transaction that is a covered transaction under subpart B of this part;

(b) Be a participant in a transaction of any other Federal agency that is a covered transaction under that agen-

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cy's regulation for debarment and suspension; or

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

**§ 1209.120 May we grant an exception to let an excluded person participate in a covered transaction?**

(a) The Archivist of the United States or designee may grant an exception permitting an excluded person to participate in a particular covered transaction. If the Archivist of the United States or designee 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.

**§ 1209.125 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.

**§ 1209.130 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.

**§ 1209.135 May the NARA 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