

Executive Order 12549. However, in accordance with the President's stated intention in the Executive Order, exceptions shall be granted only infrequently. Exceptions shall be reported in accordance with the Executive Order.

(i) Notwithstanding the debarment, suspension, proposed debarment under 48 CFR part 9, subpart 9.4, determination of ineligibility, or voluntary exclusion of any person by an agency, agencies and participants may continue covered transactions in existence at the time the person was debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, declared ineligible, or voluntarily excluded. A decision as to the type of termination action, if any, to be taken should be made only after thorough review to ensure the propriety of the proposed action.

(j) Agencies and participants shall not renew or extend covered transactions (other than no-cost time extensions) with any person who is debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, ineligible or voluntarily excluded, except as provided in paragraph (h) of this section.

(k) Except as permitted under paragraphs (h) or (i) of this section, a participant shall not knowingly do business under a covered transaction with a person who is—

- (1) Debarred or suspended;
- (2) Proposed for debarment under 48 CFR part 9, subpart 9.4; or
- (3) Ineligible for or voluntarily excluded from the covered transaction.

(1) Violation of the restriction under paragraph (k) of this section may result in disallowance of costs, annulment or termination of award, issuance of a stop work order, debarment or suspension, or other remedies as appropriate.

(m) A participant may rely upon the certification of a prospective participant in a lower tier covered transaction that it and its principals are not debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. An agency has the burden of

proof that a participant did knowingly do business with a person that filed an erroneous certification.

#### § 400.110 Amendments.

The Board's rules in this chapter may be adopted or amended, or new rules may be adopted, only by majority vote of the Board.

[65 FR 70293, Nov. 22, 2000]

### Subpart C—Steel Guarantee Loans

#### § 400.200 Eligible Borrower.

(a) An eligible Borrower must be a Qualified Steel Company that can demonstrate:

(1) Credit is not otherwise available to it under reasonable terms or conditions sufficient to meet its financing needs, as reflected in the financial and business plans of the company;

(2) The prospective earning power of that company, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

(3) The company has agreed to permit audits by the General Accounting Office and an independent auditor acceptable to the Board prior to the issuance of the guarantee and while any such guaranteed loan is outstanding;

(4) It has experienced layoffs, production losses, or financial losses between January 1, 1998, and the date of application for the Guarantee, demonstrated as a comparison between employment, production, or net income existing on January 1, 1998 and on the date of application; and

(5) In the case of a purchaser of substantial assets of a Qualified Steel Company; the Qualified Steel Company is unable to re-organize itself.

(b) For purposes of this section, a company will be considered a purchaser of substantial assets of a Qualified Steel Company if the company's identifiable assets purchased from a Qualified Steel Company are 50 percent or more of the consolidated assets of that Qualified Steel Company and its subsidiaries.

(c) The Lender must provide with its application a letter from at least one