

**Subpart C—Responsibilities of Participants Regarding Transactions**

**§ 3485.310 What must I do if a Federal agency excludes a person with whom I am already doing business in a covered transaction?**

(a) You as a participant may continue covered transactions with an excluded person if the transactions were in existence when the agency excluded the person. However, you are not required to continue the transactions, and you may consider termination. You should make a decision about whether to terminate and the type of termination action, if any, only after a thorough review to ensure that the action is proper and appropriate.

(b) You may not renew or extend covered transactions (other than no-cost time extensions) with any excluded person, unless another Federal agency responsible for the transaction grants an exception under § 180.135 of this title or ED grants an exception under § 3485.137.

(c) If you are a title IV, HEA participant, you may not continue a title IV, HEA transaction with an excluded person after the effective date of the exclusion unless permitted by 34 CFR 668.26, 682.702, or 668.94, as applicable.

(Authority: E.O. 12549 (3 CFR 1986 Comp., p. 189); E.O. 12689 (3 CFR 1989 Comp., p. 235); sec. 2455, Pub. L. 103-355, 108 Stat. 3327 (31 U.S.C. 6101 note); 20 U.S.C. 1082, 1094, 1221e-3, and 3474)

**§ 3485.315 May I use the services of an excluded person as a principal under a covered transaction?**

(a) You as a participant may continue to use the services of an excluded person as a principal under a covered transaction if you were using the services of that person in the transaction before the person was excluded. However, you are not required to continue using that person's services as a principal. You should make a decision about whether to discontinue that person's services only after a thorough review to ensure that the action is proper and appropriate.

(b) You may not begin to use the services of an excluded person as a principal under a covered transaction

unless another Federal agency responsible for the transaction grants an exception under § 180.135 of this title or, if ED took the action, an ED deciding official grants an exception under § 3485.137.

(c) If you are a title IV, HEA participant—

(1) You may not renew or extend the term of any contract or agreement for the services of an excluded person as a principal with respect to a title IV, HEA transaction; and

(2) You may not continue to use the services of that excluded person as a principal under this kind of an agreement or arrangement more than 90 days after you learn of the exclusion or after the close of the Federal fiscal year in which the exclusion takes effect, whichever is later.

(Authority: E.O. 12549 (3 CFR 1986 Comp., p. 189); E.O. 12689 (3 CFR 1989 Comp., p. 235); sec. 2455, Pub. L. 103-355, 108 Stat. 3327 (31 U.S.C. 6101 note); 20 U.S.C. 1082, 1094, 1221e-3, and 3474)

**§ 3485.330 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?**

(a) Before entering into a covered transaction with a participant at the next lower tier, you must require that participant to—

(1) Comply with this subpart as a condition of participation in the transaction. You must do so using the method specified in paragraph (b) of this section; and

(2) Pass the requirement to comply with this subpart to each person with whom the participant enters into a covered transaction at the next lower tier.

(b) To communicate the requirements in this part to a participant, you must include a term or condition in the transaction that requires the participant's compliance with part 180, subpart C, of this title, as adopted at § 3485.12, and requires the participant to include a similar term or condition in lower-tier covered transactions.

(c) The failure of a participant to include a requirement to comply with Subpart C of 2 CFR part 180 in the

## § 3485.415

agreement with a lower tier participant does not affect the lower tier participant's responsibilities under this part.

(Authority: E.O. 12549 (3 CFR 1986 Comp., p. 189); E.O. 12689 (3 CFR 1989 Comp., p. 235); sec. 2455, Pub. L. 103-355, 108 Stat. 3327 (31 U.S.C. 6101 note); 20 U.S.C. 1082, 1094, 1221e-3, and 3474)

### Subpart D—Responsibilities of the Department's Officials Regarding Transactions

#### § 3485.415 What must I do if a Federal agency excludes the participant or a principal after I enter into a covered transaction?

(a) You as a Federal agency official may continue covered transactions with an excluded person, or under which an excluded person is a principal, if the transactions were in existence when the person was excluded. You are not required to continue the transactions, however, and you may consider termination. You should make a decision about whether to terminate and the type of termination action, if any, only after a thorough review to ensure that the action is proper.

(b) You may not renew or extend covered transactions (other than no-cost time extensions) with any excluded person, or under which an excluded person is a principal, unless you obtain an exception under § 3485.137.

(c) *Title IV, HEA transactions.* If you are a title IV, HEA participant—

(1) You may not renew or extend the term of any contract or agreement for the services of an excluded person as a principal with respect to a title IV, HEA transaction; and

(2) You may not continue to use the services of that excluded person as a principal under this kind of an agreement or arrangement more than 90 days after you learn of the exclusion or after the close of the Federal fiscal year in which the exclusion takes effect, whichever is later.

(Authority: E.O. 12549 (3 CFR 1986 Comp., p. 189); E.O. 12689 (3 CFR 1989 Comp., p. 235); sec. 2455, Pub. L. 103-355, 108 Stat. 3327 (31 U.S.C. 6101 note); 20 U.S.C. 1082, 1094, 1221e-3, and 3474)

## 2 CFR Ch. XXXIV (1-1-23 Edition)

#### § 3485.437 What method do I use to communicate to a participant the requirements described in § 180.435 of this title?

To communicate the requirements in this part to a participant, you must include a term or condition in the transaction that requires the participant's compliance with part 180, subpart C, of this title, as adopted at § 3485.12 and requires the participant to include a similar term or condition in lower-tier covered transactions.

(Authority: E.O. 12549 (3 CFR 1986 Comp., p. 189); E.O. 12689 (3 CFR 1989 Comp., p. 235); sec. 2455, Pub. L. 103-355, 108 Stat. 3327 (31 U.S.C. 6101 note); 20 U.S.C. 1082, 1094, 1221e-3, and 3474)

### Subpart E [Reserved]

### Subpart F—General Principles Relating to Suspension and Debarment Actions

#### § 3485.611 What procedures do we use for a suspension or debarment action involving a title IV, HEA transaction?

(a) If we suspend a title IV, HEA participant under Executive Order 12549, we use the following procedures to ensure that the suspension prevents participation in title IV, HEA transactions:

(1) The notification procedures in § 180.715 of this title.

(2) Instead of the procedures in §§ 180.720 through 180.760 of this title, the procedures in 34 CFR part 668, subpart G, or 34 CFR part 682, subpart D or G, as applicable.

(3) In addition to the findings and conclusions required by 34 CFR part 668, subpart G, or 34 CFR part 682, subpart D or G, the suspending official, and, on appeal, the Secretary determines whether there is sufficient cause for suspension as explained in § 180.700 of this title.

(b) If we debar a title IV, HEA participant under E.O. 12549, we use the following procedures to ensure that the debarment also precludes participation in title IV, HEA transactions:

(1) The notification procedures in §§ 180.805 and 180.870 of this title.

(2) Instead of the procedures in §§ 180.810 through 180.885 of this title,