

Memorandum

CDBG Policy Guidance

Date: March 29, 2023
Policy 23-01

SC Department of Commerce, Grants Administration, 1201 Main Street, Suite 1600, Columbia, SC 29201
www.sccommerce.com

Subject: SAM Registration Requirements for Subcontractors
Attachment: CPD HUD Requirements Chart
Effective: **Immediately**

Effectively immediately, subcontractor(s) are not required to be registered in SAM.gov. However, pursuant to 2 CFR 2424.300, the prime contractor is still responsible for determining whether they are entering into a covered transaction with an excluded or disqualified person/firm for subcontracts expected to equal or exceed \$25,000.

Methods to make the determination may include checking the Excluded Parties List System (EPLS) or collecting a certification from the participant/firm that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation. Note that if you use EPLS to check the subcontractor's unique identifier and receive a "no records" response, this is not an acceptable debarment check per HUD and a certification will be required. Please see the attached HUD CPD chart that outlines registration requirements and alternative methods if a subcontractor is not registered in SAM.gov. All documentation must be maintained in the Grantee's files to substantiate a subcontractor is not excluded/debarred for review by GA staff at project monitoring.

Summary of regulations regarding debarment and suspension:

Pursuant to 24 CFR 570.489(l), CDBG funds may not be provided to excluded or disqualified persons, and state CDBG grantees are subject to debarment and suspension requirements in 2 CFR 2424.

Pursuant to 2 CFR 2424.300 (HUD supplement to governmentwide definition at 2 CFR 180.300), each participant is responsible for determining whether they are entering into a covered transaction with an excluded or disqualified person. For example:

- The state grantee checks for the COG or UGLG (or other non-procurement or procured recipient) in SAM; then,
- The COG (or other non-procurement recipient) checks its contractor in SAM; then,
- The contractor checks its subcontractors and suppliers using the method(s) of their choice, and so on.

This policy memorandum updates the Community Development Block Grant Program and becomes effective immediately unless otherwise stated. The program documents located on the SC Department of Commerce website has the most up to date policies of the CDBG program.

<http://www.sccommerce.com/cdbgformsanddocuments/cdbgformsanddocuments.aspx>

Participants must pass the verification/determination requirement down to each subsequent tier participant (2 CFR 180.330). Pursuant to 2 CFR 2424.332, to pass the requirement down to lower tiers, participants (e.g., grantees, subgrantees, subrecipients, contractors, subcontractors, consultants, suppliers, etc.) must include a term or condition in the transaction that requires their lower-tier participant to 1) comply with subpart C of 2 CFR part 180, as supplemented by subpart C of 2 CFR part 2424, and 2) include a similar term or condition in lower-tier covered transactions.

One note is that jurisdictions may adopt more stringent standards than the related Federal regulations and statutes. So, the above summary of the requirements is based on the Federal regulations and doesn't include any additional standards that the Grantee or UGLG may prescribe.

Thank you for your immediate attention to this matter. If you have additional questions and/or concerns feel free to contact Tina Thomas, Compliance Specialist at 803-734-0709.

CPD (HUD REQUIREMENTS)

Who **MUST** register in the System for Award Management (SAM.gov):

- (A) **Grantee** - State Agency or Entitlement Community
- (B) **Sub-Recipient** - a non-federal entity that receives a subaward from a pass-through entity to carry out any part of the federal program.
- (C) **Sub-Grantee** - a non-federal entity that receives a subaward from a pass-through entity to carry out any part of the federal program.
- (D) **Contractor** - an entity that receives a contract which has been procured by the grantee, subgrantee or subrecipient.
- (E) **UGLG** - Unit of General Local Government, City, Town, County...etc

Unique Identifier
"DUNS # Required for (A-E)"
DUNS # is required to register within SAM.gov

SAM.gov Registration
Registration is required to apply for an award and for HUD to make payment. Make sure registration happens prior to award.
Required for Entities (A-E)

Debarment Check - Required for (A-E)
Check #1 (Company):
A debarment check should be generated in SAM.gov - your debarment check must show "Active" status with "No Exclusions" (the company must be registered in SAM.gov to receive this report.)
** Printouts for debarment checks are required and should be placed in the file**

Check #2 (Principals):
Debarment check is also required for all principals of the company. You can process this debarment check one of two ways (1) collect a signed certification from that person(s) using the U.S. Department of Housing and Urban Developments Certification Regarding Debarment and Suspension for all principals or (2) Add a clause or condition to the covered transaction within the contract.

Who **does not** have to register in the System for Award Management (SAM.gov):

- (F) **Beneficiaries** - (individuals who benefit from grant\loan, such as a homeowner, farmer, etc);
- (G) **Subcontractor** - used by contractor as long as contractor has been verified;
- (H) **Contractors\Subcontractors** - *selected and hired* by the beneficiary to complete scope of work awarded by grant/loan from grantee/subrecipient/subgrantee/UGLG

Unique Identifier
Taxpayer Identification, SSN, or DUNS # Required

SAM.gov Registration
Not Required for Entities (F, G, H)

Debarment Check - (Required for G and H)
(F) Beneficiary - Not Required

(G) Sub-Contractor - Since the sub-contractor is not required to register in SAM you may receive a "no records" response when searching their unique identifier which is not an acceptable debarment check according to HUD. Therefore, both a signed certification and clause in their contract is recommended for certification that the company and its principals are not debarred.

(H) Contractor\Sub-Contractor selected and hired by the beneficiary- same requirement as (G)

NOTE: Although these entities are not required to "register" in SAM.gov, a debarment check should be performed using the DUNS #. Print the resulting report and place in the file. If a "no search records" is returned make sure you obtain a signed certification and have clauses outlined in your contracts.

10/16

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS**

This certification is required by the regulations implementing Executive Orders 12549 and 12689, Debarment and Suspension, and 2 CFR Part 200, Participants' responsibilities.)

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS BELOW)

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principles are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Grant Number: _____ **Name of Participant:** _____
Address of Participant: _____

Name and Title of Authorized Representative	Signature	Date
<ol style="list-style-type: none">1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Orders 12549 and 12689.5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may check the System for Award Management (SAM).8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.		