



Rural Development
Business Center

RD AN No. 4882 (1940-M)
July 27, 2021

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TO: Agency Administrators
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ATTN: Rural Business Cooperative Service
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FROM: Tony Bainbridge /s/ **Tony Bainbridge**
Chief Financial Officer

SUBJECT: System for Award Management Registration and
Screening Requirements for Suspension and Debarment

PURPOSE AND INTENDED OUTCOME

This Administrative Notice (AN) is issued to clarify the requirements for System for Award Management (SAM) screening for all mission areas. In addition, it addresses the new requirement for SAM.gov registration by participants of all programs, including loans and guarantees. Instruction to validate screenings and registrations is provided.

This AN clarifies who to screen for suspension and debarment in the SAM Exclusion database as per RD Instruction Part 1940 Subpart M (1940-M), Governmentwide Debarment and Suspension (Non-Procurement) and Requirements for the Drug-Free Workplace Act.

This AN incorporates Title 2 of the Code of Federal Regulations (referenced 2 CFR), Parts 25, 180 and 200, Grants and Agreements, and Office of Management and Budget (OMB) guidance as they pertain to the SAM system and suspension and debarment policies impacting Rural Development (RD) programs:

- Direct loan recipients and guaranteed lenders are now required to register in SAM.gov, in addition to grant recipients (entities only).
- SAM registrants must complete OMB directed representations and certifications in SAM.gov. These representations and certifications will replace certifications previously collected as explained below.
- Various tiers of participants are clarified. Primary tier recipients of federal funding are responsible to screen lower tier participants.

EXPIRATION DATE:
July 30, 2022

FILING INSTRUCTIONS:
Preceding Instruction 1940-M

COMPARISON WITH PREVIOUS AN

There is no previous AN on this topic.

BACKGROUND

RD Instruction 1940-M requires screening for suspension and debarment of participants of individual and entity loans (insured and guaranteed), grants, and cooperative agreements in connection with any program administered by RD. It implements 2 CFR Parts 180 and 417 intended to deter fraud, waste, and abuse in federal non-procurement transactions.

In response to the 2018 President's Management Agenda (PMA) Cross-Agency Priority (CAP) Goal #8 outlined in OMB's Memo dated September 5, 2018 (M-18-24), the General Services Administration (GSA) implemented changes in SAM.gov to collect certifications and representations required of grant recipients, removing eight forms. This reduces the burden on federal participants governmentwide.

On August 13, 2020, final guidance was published in the Federal Register for 2 CFR Parts 25 and 200 and became effective November 12, 2020, implementing changes to SAM registration requirements.

IMPLEMENTATION RESPONSIBILITIES

RD staff involved in the acceptance of prime recipients and other program participants are responsible for reviewing and becoming familiar with the requirements of this AN:

- System for Award Management (SAM) Registration
- Screening of debarment and suspension

For every loan, grant, or guarantee, there are multiple participants, transactions, and levels or tiers of transactions. These tiers have been established within the 2 CFR guidance.

Standard Definitions

Federal Award – For the purposes of this part, means an award of federal financial assistance that a non-Federal entity or Federal agency received from a federal awarding agency. (2 CFR §25.405) *Please note this definition only applies to SAM registration. It does not apply to suspension and debarment.*

Federal Financial Assistance – For the purposes of this part, means assistance that entities received or administer in the form of:

- a) Grant;
- b) Cooperative agreements {which does not include a cooperative research and development agreement pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C.3710a)};
- c) Loans;
- d) Loan guarantees;
- e) Subsidies;
- f) Insurance;

- g) Food commodities;
- h) Direct appropriations;
- i) Assessed or voluntary contributions; or
- j) Any other financial assistance transaction that authorizes the non-federal entity's expenditure of federal funds.

Financial Assistance, for the purposes of this part, does not include:

- a) Technical assistance, which provides services in lieu of money; and
- b) A transfer of title to federally owned property provided in lieu of money, even if the award is called a grant.

(2 CFR §25.406) Please note this definition only applies to SAM registration. It does not apply to suspension and debarment.

Lower Tier Participant – For the purposes of this AN, is defined as a party in a transaction with the prime recipient.

Lower Tier Recipient – For the purposes of this AN, is defined as a recipient of funds in a transaction from a prime recipient.

Natural Person – An individual unrelated to any business or nonprofit organization he or she may own or operate in his or her name. (2 CFR §25.110)

Participant – For the purposes of this AN, is defined as the applicant(s), guaranteed lender, or anyone in a transaction supplying goods or services, including but not limited to contractor, closing attorney, appraiser, auditor, subcontractor, architect, or engineer.

Prime Recipient – For the purposes of this AN, is defined as a participant receiving a federal award directly from the Agency.

Principal –

- (a) An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or
 - (b) A consultant or other person, whether or not employed by the participant or paid with federal funds, who –
 - (1) Is in a position to handle federal funds;
 - (2) Is in a position to influence or control the use of those funds; or,
 - (3) Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.
- (2 CFR §180.995).

Subaward – An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. (2 CFR §200.1)

Subrecipient – An entity, usually but not limited to non-federal entities, that receives a subaward from a pass-through entity to carry out part of a federal award; but does not include

an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency. (2 CFR §200.1)

SYSTEM FOR AWARD MANAGEMENT (SAM) REGISTRATION

This section for SAM Registration is effective for all applications received on or after October 1, 2021. This will allow time for notification to RD customers.

RD requires staff to validate SAM registration of the prime recipients not exempted under 2 CFR §25.110(b), "None of the requirements in this part apply to an individual who applies for or receives federal financial assistance as a natural person".

The following is required for SAM registration per 2 CFR § 25.200(b):

- (1) Be registered in SAM prior to submitting an application or plan;
- (2) Maintain an active SAM registration with current information during which it has an active federal award (loan, grant, guarantee, subsidies, etc.) or an application or plan under consideration;
- (3) Provide its Unique Entity Identifier (UEI) in each application or plan.

The Data Universal Numbering System (DUNS) is to be replaced by the Unique Entity Identifier (UEI) number for SAM. GSA and Dun and Bradstreet are working together to ensure continuity of services during the transition to UEI, also known as the SAM Number. The DUNS will remain the official SAM number until April 2022. New registrants must continue to obtain a DUNS until April 2022.

Staff must verify the registration status utilizing the Do Not Pay (DNP) Portal, <https://fiscal.treasury.gov/DNP/> - SAM Entity Registration Records data source (SAMENT) when completing DNP screening. At a minimum RD staff must validate and document an active SAM registration status *prior to complete* application and obligation. Each program provides the definitions of "complete application" and obligation stages.

File documentation is required and readily available from the DNP Portal. Agency staff are to print the evidence of the SAM registration from the DNP Portal and place in the case file, electronic or hard copy as applicable. Please reference the accompanying table on the Rural Development Title 2 CFR SharePoint site, https://usdagcc.sharepoint.com/sites/rd_cfo/icd/2CFR/, which summarizes guidance to Agency staff for SAM registration, validation, and documentation.

The following forms collect evidence of representation and certifications from participants of RD programs. As of February 1, 2020, the representations and certifications are collected from participants as they complete registration in SAM.gov. To reduce governmentwide recipient burdens, the collection of the forms is no longer required for SAM.gov registrants. RD will continue to use the forms for those participating as a natural person, as they are not required to register in SAM.

- Standard Form 424B – Assurances – Non-Construction Programs (Discontinued effective February 1, 2020)
- Form AD 1047 – Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions

- Form AD 1048 – Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions
- Form AD 1049 – Certificate Regarding Drug-Free Workplace Requirements (Grants) Alternative I – For Grantees Other Than Individuals
- Form AD 1050 – Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative II – For Grantees Who Are Individuals
- Form AD 1052 – Certification Regarding Drug-Free Workplace States and State Agencies, Federal Fiscal Year _
- Form AD 3030 – Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants
- Form AD 3031 – Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicant

Prime Recipient Responsibilities

Per 2 CFR §25.200(b)(2) referenced above, prime recipients are required to maintain an active SAM registration with current information during which it has an active loan, grant, or guarantee.

It is not the burden of the agency to validate the continual maintenance of an active registration.

GSA emails reminders to the designated entity point of contact on record with SAM.gov to renew SAM registration at 60, 30, and 15 days prior to expiration, plus at expiration.

Subawards

The National Office staff of each mission area will determine the specific programs that are subawards as defined by 2 CFR Part 200.

This is only for a few specific programs. See definitions for subaward and subrecipient above.

Per 2 CFR § 25.300, a prime recipient may not disburse to a subrecipient unless the subrecipient has obtained and provided to the prime recipient a UEI. Any subrecipient to receive disbursements or payments from a prime recipient in a transaction that does not have an exemption under 2 CFR § 25.110(b), as referenced previously, must obtain and provide the prime recipient a unique entity identifier prior to receiving disbursement. RD staff are not obligated to verify or document the collection of the UEI by other participants.

Registration Implementation for Existing Participants

According to 2 CFR § 25.110(a), the requirement to register in SAM applies to all loan and grant recipients and guaranteed lenders, other than those exempted (recipients participating as natural persons). The above provides guidance for participants of new applications, but clarification below is provided for existing loan, grant, and guarantee recipients:

Loans – 2 CFR Part 25 required loan recipients to register in SAM effective November 12, 2020. Recipients of loans closed prior to November 12, 2020, are not required to register

in SAM.gov. SAM registration is required if they apply for or receive a new loan on or after this date. As stated above per this AN, RD staff must begin to validate the SAM registration for loan applications received on or after October 1, 2021.

Multi-Family Housing (MFH) Section 521 Rental Assistance Program (RA) – This grant program issues units of RA to MFH Section 514/515 Loan Program borrowers. The RA units are renewed each year without an application after the first year. Those recipients (who are not exempt as described above) must be registered in SAM.gov as per 2 CFR Part 25. Notification and requiring SAM registration of existing recipients of the Section 521 RA units will be phased in over a 3-year period beginning with the date of this AN. Validation of the SAM registration should be completed and documented during the Triennial Supervisory Visits beginning October 1, 2021.

Rural Housing Voucher Demonstration Section 542 Program – This grant program issues Section 542 Vouchers to eligible tenants. The landlord becomes the prime recipient. Those recipients (who are not exempt as natural persons) must be registered in SAM.gov as per 2 CFR Part 25. Notification and requiring SAM registration of the existing recipients of the Section 542 Vouchers will be phased in over a 3-year period beginning with the date of this AN. Validation of the SAM registration should be completed and documented according to the 3-year plan beginning October 1, 2021.

Guaranteed Lenders – Beginning with the date of this AN, all existing guaranteed lenders to be recertified are to be registered in SAM. The validation will occur at the time of RD's lender recertification or renewal process. For those programs that do not complete lender recertification, RD must validate the lender's SAM registration prior to approving the lender's application. Validation should be completed and documented by RD beginning October 1, 2021.

SUSPENSION AND DEBARMENT SCREENING

This section for Suspension and Debarment is effective for all applications received on or after the date of this AN.

A table summarization of the RD covered transactions, per 2 CFR § 180.200, for screening of suspension and debarment should be referenced at the Rural Development Title 2 CFR SharePoint site, https://usdagcc.sharepoint.com/sites/rd_cfo/icd/2CFR/. This table should be used along with the AN for examples and descriptions of the RD transactions and clarification of the prime and lower tier participants requiring screening.

RD staff involved with the acceptance of participants are responsible for notifying prime recipients of the requirements for suspension and debarment. As individuals or entities receive funds and use those funds to complete an RD project, it is their responsibility to abide to suspension and debarment requirements per 2 CFR, Part 180.

Previously, staff obtained the prime recipient's signature on the Form AD 1047 (referenced above). This document is no longer required of Agency staff *for entities* as the certifications contained in the form are now completed by the prime recipient at <https://sam.gov> via the representations and certifications during registration and renewal.

Agency staff must collect the Form AD 1047 for those participating *as individuals* (natural

persons) as they do not register in SAM.gov.

Agency staff previously collected Form AD 1048 (referenced above) from lower tier recipients. This document is no longer required of Agency staff. The responsibility is placed on the prime recipient per 2 CFR §180.300.

Agency staff conduct applicable screening for suspension and debarment utilizing the Do Not Pay Portal at <https://fiscal.treasury.gov/DNP/>. The SAM Exclusion Records - Restricted data source (SAM-EXCL- Res) is used to complete this screening.

An entity must be screened as well as its principals. This is to include for-profit entities, nonprofit organizations, states, local governments, and federally recognized tribes:

2 CFR §180.405, "As a federal agency official, you may not enter into a covered transaction with a participant if you know that a principal of the transaction is excluded, unless you obtain an exception under 2 CFR §180.135."

2 CFR §180.430, "You [Federal Agency Official] check to see if a person is excluded or disqualified in two ways:

- (a) You as a federal agency official must check SAM Exclusions when you take any action listed in §180.425.
- (b) You must review information that a participant gives you, as required by §180.335, about its status or the status of the principals of a transaction.

REQUIRED DOCUMENTATION

Documentation of the screening for SAM registration and suspension and debarment is to be placed in the casefile. The following details must be included:

- Do Not Pay Portal User Who Conducted the Screening
- Do Not Pay Access Group
- Date of Screening
- Applicable Factors Used to Conduct the Screening
 - First and Last Name
 - TIN/SSN/EIN
 - Business Name
 - DUNS
 - Data Sources Screened
 - Results of the Screening

These details will be included when using the print function of the DNP Portal. Include all pages. If not, screen prints/grabs from the DNP Portal are acceptable. See the USDA RD DNP Portal Guide or RD DNP Training for further guidance to obtain documentation from the DNP Portal, https://usdagcc.sharepoint.com/sites/rd_cfo/icd/DoNotPay/.

The agency must inform the prime recipients of their requirement to comply with 2 CFR, Part 180, Subpart C as a condition of the transaction and their responsibilities to persons at the next lower tier with whom they enter into transactions. {2 CFR §180.435(b)}. Documentation of this notification to the prime recipients is to be recorded and placed in the casefile.

RESOURCES

Multiple resources, to include Useful Links, Training, and Frequently Asked Questions (FAQs), have been developed for RD staff. They may be found on the *Title 2 CFR at Rural Development* site, https://usdagcc.sharepoint.com/sites/rd_cfo/icd/2CFR/ (a subsite of the Internal Compliance Division SharePoint site).

Training Opportunities - Multiple opportunities for live training will be offered via AgLearn for all RD staff following the issuance of this AN. All program staff are encouraged to participate. Details and registration may be found on the site listed above. In addition, the follow up questions and answers will be posted on the site after each session.

Questions regarding this AN may be directed to Heather Honkomp, Program Analyst for the Office of Compliance, Internal Compliance Division, Program Internal Control Branch, at heather.honkomp@usda.gov or 515-284-4486,

Attachment:

System for Award Management (SAM) Registration Table & Screening for Suspension and Debarment Table available at https://usdagcc.sharepoint.com/sites/rd_cfo/icd/2CFR/