

**Texas Education Agency**  
**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—**  
**Lower-Tier Covered Transactions**

“Non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR §180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.”(2 CFR §200.212)

This certification is required by US Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, for all lower-tier transactions meeting the threshold and tier requirements. (2 CFR §3485.220)

**Terms defined:** As used in these Provisions and Assurances

- *Nonprocurement Transaction:* A transaction under federal non-procurement programs, which can be either a primary covered transaction or a lower-tier covered transaction. (2 CFR §180.970)
  - *Lower-Tier Covered Transaction:* (1) Any transaction between a participant and a person other than a procurement contract for goods or services, regardless of type, under a primary covered transaction; (2) any procurement contract for goods or services between a participant and a person, regardless of type, expected to equal or exceed \$25,000; (3) any procurement contract for goods or services between a participant and a person under a covered transaction, regardless of amount
  - *Participant:* Any person who submits a proposal for or who enters into a covered transaction, including an agent or representative of a participant. (2 CFR §180.980)
  - *Principal:* An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or 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)
  - *System for Award Management (SAM) Exclusions:* The list maintained and disseminated by the General Services Administration (GSA) containing names and other information about persons who are ineligible. (2 CFR §180.945)
  - *Debarment:* Action taken by a debarring official to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred. (2 CFR §180.925)
  - *Suspension:* Action taken by a suspending official that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 CFR §180.1015)
  - *Ineligible or Ineligibility:* A person or commodity is prohibited from covered transactions because of an exclusion or disqualification. (2 CFR §180.960)
  - *Person:* Any individual, corporation, partnership, association, unit of government, or legal entity, however organized. (2 CFR §180.985)
  - *Proposal:* A solicited or unsolicited bid, application, request, invitation to consider, or similar communication by or on behalf of a person seeking to participate or to receive a benefit, directly or indirectly, in or under a covered transaction
  - *Voluntary Exclusion:* A person's agreement to be excluded under the terms of a settlement between the person and one or more agencies. Voluntary exclusion must have governmentwide effect. (2 CFR §180.1020)
  - *Voluntarily Excluded:* The status of a person who has agreed to a voluntary exclusion. (2 CFR §180.1020)
1. By signing or certifying and submitting this application, 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.

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3. The prospective lower-tier participant shall provide immediate written notice to the person to whom 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 Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower-tier participant agrees by signing or certifying and submitting this application 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 signing or certifying and submitting this application 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 it 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 but is not required to, check the non-procurement list.
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.

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1. The prospective lower-tier participant certifies, by signing or certifying and submitting this application, that neither it nor its principals 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.

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By signing Schedule #1—General Information of the paper application or by certifying and submitting the eGrants application, the applicant indicates acceptance of and compliance with all requirements described herein.