

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

CERTIFICATION REGARDING NONPROCUREMENT DEBARMENT AND SUSPENSION

This certification is required by the rules implementing Executive Order 12549, "Debarment and Suspension," 2 CFR Part 180, as adopted and modified by the United States Department of Agriculture (USDA) at 2 CFR Part 417. The United States Office of Management and Budget (OMB) published its interim final guidance on August 31, 2005 in Volume 70, No. 168 of the Federal Register, pages 51863 through 51880, and its final rule adopting and supplementing its interim final guidance with changes on November 15, 2006 in Volume 71, No. 220 of the Federal Register, pages 66431 through 66432. The USDA published its interim final rule implementing the OMB guidance on nonprocurement debarment and suspension on May 25, 2010 in Volume 75, No. 100 of the Federal Register, pages 29183 through 29189. Assistance in securing copies of these rules and regulations may be obtained by contacting the New Mexico Public Education Department, Federal Programs Division, 120 South Federal Place, Santa Fe, New Mexico 87501.

(BEFORE COMPLETING THIS CERTIFICATION, READ THE INSTRUCTIONS BELOW)

1. The prospective participant or principal named below certifies, to the best of its knowledge, information, and belief that both it and its authorized representatives:
 - (a) Are **not** presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this covered transaction by any Federal agency or department;
 - (b) Have **not** within the three-year period preceding the signing and submission of this certification, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects their present responsibility;
 - (c) Have **not** within the three-year period preceding the signing and submission of this certification, violated the terms of a public agreement or transaction so seriously as to affect the integrity of a Federal, State, or local governmental agency program, such as a willful failure to perform in accordance with the terms of one or more public agreements or transactions; a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;
 - (d) Have **not** within the three-year period preceding the signing and submission of this certification, been debarred by a Federal agency or department for any of these causes: a nonprocurement debarment by any Federal agency or department taken before March 1, 1989, or a procurement debarment by any Federal agency or department taken pursuant to 48 CFR Part 9, Subpart 9.4, before August 25, 1995; knowingly doing business with an ineligible person, except as permitted under 2 CFR 180.135; failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt was

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uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; violation of a material provision of a voluntary exclusion agreement entered into under 2 CFR 180.640 or of any settlement of a debarment or suspension action; or violation of the provisions of the Drug-Free Workplace Act of 1988;

(e) Are **not** presently indicted for or otherwise criminally or civilly charged by a Federal, State, or local governmental entity with the commission of any of the crimes or civil offenses enumerated in paragraph (1)(b) of this certification; and

(f) Have **not** within the three-year period preceding the signing and submission of this certification, had one or more Federal, State or local public transactions terminated for cause or default.

2. Where the prospective participant or principal is unable to certify to any of the statements in this certification, that prospective participant or principal **must** attach to its proposal an explanation for that inability.

Full Name of Prospective Participant or Principal

Name(s) and Title(s) of Authorized Representative(s)

Signatures(s)

Date

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this certification, the prospective participant or principal is providing the certification set forth above in accordance with these instructions.

2. The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. The prospective participant or principal is required to submit an explanation of why it cannot provide the certification set forth in this form. The certification or explanation will be considered in connection with the Federal agency or department's determination as to whether to enter into this covered transaction. However, failure of the prospective participant or principal to furnish a certification or an explanation shall disqualify that person from participation in this covered transaction.

3. The certification in this form is a material representation of fact upon which the Federal agency or department relied when it made the determination to enter into this covered transaction. If it is later determined that the prospective participant or principal knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the Federal agency or department may terminate this transaction for cause or default.

4. The prospective participant or principal shall provide immediate written notice to the Federal agency or department to which this completed form is submitted, if at any time the prospective participant or principal learns or discovers that its certification was erroneous when submitted or has since become

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erroneous by reason of changed circumstances.

5. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “nonprocurement transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this certification, have the meanings set forth in the definitions and coverage sections of the rules and regulations implementing Executive Order 12549. The prospective participant or principal may contact the Federal or State agency or department to which this certification is being submitted, for assistance in obtaining a copy of those rules and regulations.

6. The prospective participant or principal agrees by signing and submitting this certification that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with any person who is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the proposed covered transaction by any Federal agency or department, unless authorized beforehand by the Federal agency or department entering into this transaction.

7. The prospective participant or principal agrees by signing and submitting this certification that, should the proposed covered transaction be entered into, it shall include a term or condition in each lower tier covered transaction requiring a lower tier participant or principal to comply with Subpart C of the OMB guidance in 2 CFR Part 180, as supplemented by Subpart C of 2 CFR 417, as set forth in 2 CFR 417.332.

8. Nothing contained in the foregoing paragraphs shall be construed to require establishment of a system of records in order to render in good faith the certification required in this form. The knowledge and information of a participant or principal is not required to exceed that which normally is possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 6 of these instructions, if a participant or principal in a covered transaction knowingly enters into a lower tier covered transaction with a person who is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the covered transaction, in addition to other remedies available to the Federal government, the Federal agency or department may terminate that transaction for cause or default.

10. Debarment or suspension of a participant or principal in a covered transaction by one Federal agency or department shall have government-wide effect.

(Version 1 - 12/18/2015)