

MEMORANDUM**CDBG Policy Guidance**

This Policy remains effective until it is amended, superseded, or rescinded.

MEMO: 18-02

Date: July 1, 2018

Nebraska Department of Economic Development, 301 Centennial Mall South, Lincoln, NE 68509, opportunity.nebraska.gov

SUBJECT: System for Award Management (SAM) and Federal Debarment, Suspension, and Ineligibility

The Department of Economic Development has received questions regarding which entities involved in a project that uses CDBG funding need to be registered in the System for Award Management (SAM) and how SAM relates to the federal debarment, suspension, and ineligibility list.

This policy memorandum encompasses the Department's interpretation of the federal rules and regulations regarding the System for Award Management (SAM) and is intended to provide guidance on which participants in a CDBG funded project need to be registered.

This memorandum shall be effective July 1, 2018, and any prior statements, positions, or policies by the Department that conflict with this memorandum are hereby superseded by the policies contained herein.

QUESTIONS PRESENTED

- I. What entities need to be registered in the System for Award Management (SAM)?
 - a. Do businesses that are receiving an award of CDBG funds need to be registered in SAM?
 - b. Do administrative and professional service providers, suppliers, construction contractors, and the like need to be registered in SAM?
 - c. Do individuals who are receiving an award of CDBG funds need to be registered in SAM?
- II. How does the federal debarment, suspension, and ineligibility list relate to SAM?

SHORT ANSWERS

- I. All entities, except for individual persons, that apply for or receive awards of CDBG funds from the Department or that receive subawards directly from recipients of those awards must have and maintain an active SAM registration until closeout of their program or project.
 - a. **Yes.** All types of business entity formations, including sole proprietorships and non-profit organizations, are considered entities under the federal regulations and must be registered in SAM.

- b. **No.** Administrative and professional service providers, suppliers, construction contractors, and the like do not need to be registered in SAM because no award or subaward of CDBG funds is being made to them.
 - c. **No.** None of the SAM registration requirements apply for individuals who apply for or receive an award or subaward of CDBG assistance as a natural person (*i.e.*, unrelated to any business or non-profit organization he or she may own or operate in his or her name).
- II. The federal debarment, suspension, and ineligibility list was merged into SAM and can be found at www.sam.gov; however, an active SAM registry is not required for an entity to be on the list nor is it required to search the records to see if any entity is on the list.

DISCUSSION

I. **What entities need to be registered in the System for Award Management (SAM)?**

As mentioned above, all entities, except for individual persons, must have an active registration in the System for Award Management (SAM) in order to apply for or receive an award of CDBG funds from the Department. This requirement also applies to any subrecipients who receive a subaward from the Department's recipients, but it does not apply to entities who are providing property, goods, and/or services needed to carry out a project or program for which CDBG funds have been awarded. These service or procurement contracts are not considered awards or subawards under the federal regulations governing SAM registration.

Each entity that applies for or receives an award of CDBG funds from the Department or that applies for or receives a subaward directly from the recipient of an award of CDBG funds from the Department must:

- 1) Be registered in SAM prior to submitting an application;
 - 2) Maintain an active SAM registration with current information at all times during which it has an active CDBG award or an application under consideration by the Department; and,
 - 3) Provide its unique entity identifier in each application it submits to the Department.
- a. *Do businesses that are receiving an award of CDBG funds need to be registered in SAM?*

Yes. All business entities that are receiving an award or subaward of CDBG funds must be registered in SAM prior to submitting an application for funds. This includes all forms of for-profit and non-profit organizations and sole proprietorships.

Example: The Department awards the City of Columbus funds for its commercial rehabilitation program. Columbus then contracts with a downtown business to rehab the store front of the business. The business hires a contractor to do the work.

In this example, the City of Columbus and the downtown business need to have active SAM registrations before submitting applications, and both need to maintain an active registration until closeout of the award. The contractor hired to perform the actual rehabilitation work does not need to have an active SAM registration.

All business entities that receive funds from a locally operated commercial rehabilitation program funded through the CDBG DTR program or that receive a direct subaward from a local unit of government under any other CDBG program must be registered in SAM at all times throughout the project. This applies even if a local program is structured in such a way that the benefitted entity does not possess or control the CDBG funds. The arrangement between the local government and the benefitted entity is still considered a subaward.

- b. *Do administrative and professional service providers, suppliers, construction contractors, and the like need to be registered in SAM?*

No. Subawards are defined as legal agreements to provide support for the performance of any portion of the *substantive* project or program for which the original award from the Department was made. Contracts for the procurement of property, goods, and/or services needed to carry out a project or program are not considered subawards for which SAM registration is required.

Example: The Department awards the City of Pender funds to construct a new library. Pender hires a general administrator, an engineering firm, and a general contractor to carry out the project. The general contractor hires seven subcontractors to carry out various parts of the project.

In this example, the City of Pender needs to have an active SAM registration throughout the project. Although they are receiving a financial benefit from the project and being paid with CDBG funds, the general administrator, engineering firm, general contractor, and the subcontractors do not need to have SAM registrations as they are simply providing property, goods, and/or services needed to carry out the project.

- c. *Do individuals who are receiving an award of CDBG funds need to be registered in SAM?*

No. Individuals who apply for or receive CDBG subawards as a natural person (*i.e.*, unrelated to any business or non-profit organization he or she may own or operate in his or her name) are expressly excluded from the SAM registration requirements.

Example: The Department awards the City of Lexington funds to establish an owner-occupied rehabilitation program with the goal of rehabilitating eight houses. Lexington contracts with a general administrator and a housing management organization to carry out this program. The housing management organization takes applications and accepts homeowners to participate in the program. The homeowners contract with construction contractors to rehabilitate their homes.

In this example, the City of Lexington is receiving an award of CDBG funds and the homeowners are receiving subawards. Lexington needs to have an active SAM registration, but because the homeowners are individuals applying for CDBG funds as natural persons, they are expressly excluded from the SAM registration requirements. Again, the general administrator and the housing management organization do not need to have SAM registrations because they are only providing services needed to carry out the project.

II. **How does the federal debarment, suspension, and ineligibility list relate to SAM?**

In 2012, the federal government combined all of its various award management systems into the System for Award Management (SAM), and this included the federal debarment, suspension, and ineligibility

list. Although accessed from the same portal (www.sam.gov) and part of the overall SAM system, the excluded parties list is separate from the registration system.

No entity involved in any part of a federally funded project may receive federal funds if it has an active exclusion on the federal debarment, suspension, and ineligibility list. This includes every entity that receives federal funds, whether in the form of an award, subaward, or procurement contract.

Entities do not need to have had a SAM registration to be put on the list, and a SAM registration is not required to search the list. Potential administrative and professional service providers, suppliers, or construction contractors do not need to have an active SAM registration to prove they are not debarred, suspended, or declared ineligible.

CONCLUSION & BEST PRACTICES

All units of local government and non-profit organizations that receive awards from the Department to carry out CDBG programs or projects must have active SAM registrations. Likewise, all entities that receive subawards from the Department's awardees need to have active SAM registrations.

SAM registration needs to be renewed yearly, so awardees and subawardees are encouraged to be mindful about when their registrations will expire and to not let them lapse, as their programs and projects are ineligible for CDBG funding without active registrations.

Procurement contracts with program and project administrators, design and engineering firms, construction contractors and subcontractors, and the like are not considered subawards, and entities providing those services do not need to be registered.

Keep in mind that the policy contained herein is the *minimum* standard as to which entities need to have active registrations for federal regulation compliance. The Department's awardees may be more restrictive, so if in doubt as to whether SAM registration is required, the best practice would be to err on the side of requiring it.

For projects that are currently underway, awardees and subawardees do not need to stop construction or progress on the project, but rather they should take reasonable efforts to comply with this guidance prior to closeout of the project.