
TITLE 17 OFFICE OF COMMUNITY AND RURAL AFFAIRS

Proposed Rule
LSA Document #08-202

DIGEST

Adds [17 IAC](#) to establish debarment rules and procedures for programs administered by the Office of Community and Rural Affairs. Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

17 IAC

SECTION 1. [17 IAC](#) IS ADDED TO READ AS FOLLOWS:

TITLE 17 OFFICE OF COMMUNITY AND RURAL AFFAIRS

ARTICLE 1. DEBARMENT PROCEDURE

Rule 1. Scope and Definitions

[17 IAC 1-1-1](#) Scope of action

Authority: [IC 4-4-9.7-7](#)

Affected: [IC 4-4](#)

Sec. 1. These proceedings apply to any federal or state program administered by the office of community and rural affairs.

(Office of Community and Rural Affairs; [17 IAC 1-1-1](#))

[17 IAC 1-1-2](#) Definitions

Authority: [IC 4-4-9.7-7](#)

Affected: [IC 4-4](#)

Sec. 2. The following definitions apply throughout this section:

(1) "Debarment" means the exclusion from participation in such program for the period of time specified in accordance with this article.

(2) "Office" means the office of community and rural affairs.

(3) "Person", whenever used in this procedure, means any:

(A) person;

(B) firm;

(C) association;

(D) partnership; or

(E) corporation.

The term includes all political subdivisions and their affiliated entities against which any state or federal agency may make an order or determination.

(Office of Community and Rural Affairs; [17 IAC 1-1-2](#))

Rule 2. Causes for Debarment

[17 IAC 1-2-1](#) Causes for debarment

Authority: [IC 4-4-9.7-7](#)

Affected: [IC 4-4](#)

Sec. 1. A person may be debarred if any of the following have occurred within a reasonable period of time before institution of debarment proceedings:

- (1) Serious or repetitive violation of any federal or state law or office program regulation or instruction.
- (2) Serious or repetitive failure to perform contractual obligations or carry out representations or warranties to the office or to any grantee under any program administered by the office.
- (3) Acts of misconduct indicating a lack of business integrity directly affecting responsibility to participate in office programs, including, but not limited to, the following:
 - (A) False representation.
 - (B) Embezzlement.
 - (C) Theft.
 - (D) Forgery.
 - (E) Fraud.
 - (F) Negligent service.
 - (G) Bribery.
 - (H) Falsification of record.
 - (I) Receiving stolen property.
- (4) Serious or repetitive violations of any nondiscrimination or equal opportunity requirements in connection with any program.
- (5) Debarment from any agency of the federal government or of any state government.

(Office of Community and Rural Affairs; [17 IAC 1-2-1](#))

Rule 3. Procedure for Debarment

[17 IAC 1-3-1](#) Notice of recommended debarment

Authority: [IC 4-4-9.7-7](#)

Affected: [IC 4-4](#)

Sec. 1. The initial determination of the office, entitled Notice of Recommended Debarment, shall be mailed to the person against whom debarment is recommended, in writing and signed by the director, or his or her designee, and shall include the following:

- (1) A statement indicating that, as a result of an investigation made by the office, debarment is recommended and would consist of exclusion from participation in all office programs.
- (2) One (1) or more of the grounds stated in [17 IAC 1-2-1](#).
- (3) A short, plain statement of the reasons for the recommended debarment.
- (4) A statement that the person has the right to file a written objection within fifteen (15) days with the director of the office, and, if no written objection is timely filed, the determination of debarment shall be made.

(Office of Community and Rural Affairs; [17 IAC 1-3-1](#))

[17 IAC 1-3-2](#) Prehearing conference

Authority: [IC 4-4-9.7-7](#)

Affected: [IC 4-4](#)

Sec. 2. (a) Any person who has received an initial determination recommending debarment is entitled to a prehearing conference to discuss all charges, provided that the conference is requested in the objection filed under this title.

(b) The prehearing conference shall be an informal proceeding, scheduled by and involving the director of the office, or his or her designee.

(c) If, after the prehearing conference, the initial determination is settled or adjusted, a written synopsis shall be prepared by the office and submitted to the person for approval. This synopsis shall be filed with the office within ten (10) days following mailing of the synopsis. The person's failure to file the synopsis within ten (10) days of mailing by the office will be deemed approval by the person.

(d) If any person, after being duly notified, fails to appear at a prehearing conference, that person shall be deemed to have waived his or her request for a prehearing conference.

(Office of Community and Rural Affairs; [17 IAC 1-3-2](#))

[17 IAC 1-3-3](#) Hearing; recommendations

Authority: [IC 4-4-9.7-7](#)

Affected: [IC 4-4](#)

Sec. 3. (a) A hearing officer, appointed by the director of the office, shall conduct the debarment hearing.

(b) Upon conclusion of the hearing, the hearing officer shall issue recommendations to the director of the office as to the determination of debarment, which shall not exceed three (3) years.

(c) Any interested and affected person may file with the office his or her objections to the entry of such determination in writing within ten (10) days thereafter.

(Office of Community and Rural Affairs; [17 IAC 1-3-3](#))

[17 IAC 1-3-4](#) Final order

Authority: [IC 4-4-9.7-7](#)

Affected: [IC 4-4](#); [IC 4-21.5](#)

Sec. 4. The director of the office, or his or her designee, shall issue a final order under [IC 4-21.5](#).

(Office of Community and Rural Affairs; [17 IAC 1-3-4](#))

[17 IAC 1-3-5](#) Judicial review

Authority: [IC 4-4-9.7-7](#)

Affected: [IC 4-4](#); [IC 4-21.5](#)

Sec. 5. For any procedure not specifically provided in this article, the provisions of the Administrative Act, [IC 4-21.5](#), shall be followed. Any person aggrieved by the final order or determination made by the office shall be entitled to judicial review thereof in accordance with said provisions.

(Office of Community and Rural Affairs; [17 IAC 1-3-5](#))

[Notice of Public Hearing](#)

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